

the Secretary, that assures the faithful performance of the responsibilities of the mortgagee.

§ 202.7 Nonsupervised lenders and mortgagees.

(a) *Definition.* A nonsupervised lender or mortgagee is a lending institution which has as its principal activity the lending or investing of funds in real estate mortgages, consumer installment notes, or similar advances of credit, or the purchase of consumer installment contracts, and which is not approved under any other section of this part. A nonsupervised mortgagee may submit applications for mortgage insurance. A nonsupervised lender or mortgagee may originate, purchase, hold, service or sell insured loans or mortgages, respectively.

(b) *Additional requirements.* In addition to the general approval requirements in § 202.5, a nonsupervised lender or mortgagee shall meet the following requirements:

(1) *Net worth.* The net worth requirements appear in § 202.5(n).

(2) *Liquid assets.* The mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of \$100,000.

(3) *Credit source—(i) Title I.* A lender shall have and maintain a reliable warehouse line of credit or other funding program acceptable to the Secretary of not less than \$500,000 for use in originating or purchasing Title I loans.

(ii) *Title II.* Except for multifamily mortgagees, a mortgagee shall have a warehouse line of credit or other mortgage funding program acceptable to the Secretary which is adequate to fund the mortgagee's average 60 day origination operations, but in no event shall the warehouse line of credit or funding program be less than \$1,000,000.

(4) *Audit report.* (i) A lender or mortgagee must comply with the financial reporting requirements in 24 CFR part 5, subpart H. Audit reports shall be based on audits performed by a certified public accountant, or by an independent public accountant licensed by a regulatory authority of a State or other political subdivision of the

United States on or before December 31, 1970, and shall include:

(A) A financial statement in a form acceptable to the Secretary, including a balance sheet and a statement of operations and retained earnings, a statement of cash flows, an analysis of the mortgagee's net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds; and

(B) Such other financial information as the Secretary may require to determine the accuracy and validity of the audit report.

(ii) A mortgagee must submit a report on compliance tests prescribed by the Secretary.

(5) *Fidelity bond.* A Title II mortgagee shall have fidelity bond coverage and errors and omissions insurance acceptable to the Secretary and in an amount required by the Secretary, or alternative insurance coverage approved by the Secretary, that assures the faithful performance of the responsibilities of the mortgagee.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 65182, Dec. 10, 1997; 63 FR 9742, Feb. 26, 1998; 63 FR 44361, Aug. 18, 1998; 67 FR 53451, Aug. 15, 2002]

§ 202.8 Loan correspondent lenders and mortgagees.

(a) *Definitions.*

Loan correspondent. (1) A loan correspondent lender does not hold a Title I Contract of Insurance and may not purchase or hold loans but may be approved to originate Title I direct loans for sale or transfer to a sponsor or sponsors which holds a valid Title I Contract of Insurance and is not under suspension.

(2) A loan correspondent mortgagee is a mortgagee that has as its principal activity the origination of mortgages for sale or transfer to its sponsor or sponsors or that meets the definition of a supervised mortgagee in § 202.6(a) but applies for approval as a loan correspondent mortgagee. A loan correspondent mortgagee may originate mortgages and submit applications for mortgage insurance but it may not hold, purchase or service insured mortgages, except that a loan correspondent mortgagee meeting the definition of a supervised mortgagee in § 202.6(a) may

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service insured mortgages in its own portfolio.

Sponsor. (1) With respect to Title I programs, a sponsor is a lender that holds a valid Title I Contract of Insurance and meets the net worth requirement for the class of lender to which it belongs.

(2) With respect to Title II programs, a sponsor is a mortgagee which holds a valid origination approval agreement, is approved to participate in the Direct Endorsement program, and meets the net worth requirement for the class of mortgagee to which it belongs.

(b) *Additional requirements.* In addition to the general approval requirements in § 202.5, a loan correspondent lender or mortgagee shall meet the following requirements:

(1) *Net worth.* A loan correspondent lender or mortgagee shall have a net worth of not less than \$63,000 in assets acceptable to the Secretary, plus an additional \$25,000 for each branch office authorized by the Secretary, up to a maximum requirement of \$250,000, except that a multifamily mortgagee shall have a net worth of not less than \$250,000 in assets acceptable to the Secretary.

(2) *Notification.* A loan correspondent lender or mortgagee and each of its sponsors shall provide prompt notification to the Secretary if their loan correspondent agreement is terminated.

(3) *Audit report.* A loan correspondent lender or mortgagee must comply with the financial reporting requirements in 24 CFR part 5, subpart H except that a loan correspondent mortgagee meeting the definition of a supervised lender or mortgagee in § 202.6(a) need not file annual audit reports. Audit reports shall be based on audits performed by a certified public accountant, or by an independent public accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970, and shall include:

(i) A financial statement in a form acceptable to the Secretary, including a balance sheet, statement of operations and retained earnings, a statement of cash flows, an analysis of the net worth adjusted to reflect only assets acceptable to the Secretary and an analysis of escrow funds; and

(ii) Such other financial information as the Secretary may require to determine the accuracy and validity of the audit report.

(4) *Liquid assets.* A loan correspondent mortgagee shall maintain liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of \$100,000.

(5) A loan correspondent lender or mortgagee may sell or transfer loans or mortgages only to its sponsors, although a loan correspondent mortgagee may sell to a mortgagee that is not a sponsor with the Secretary's approval. There is no limitation on the number of sponsors that a loan correspondent lender or mortgagee may have and no limitation on the number of loan correspondents that a lender or mortgagee may sponsor.

(6) Each sponsor must obtain approval of its loan correspondent lenders or mortgagees from the Secretary.

(7) Each sponsor shall be responsible to the Secretary for the actions of its loan correspondent lenders or mortgagees in originating loans or mortgages, unless applicable law or regulation requires specific knowledge on the part of the party to be held responsible. If specific knowledge is required, the Secretary will presume that a sponsor has knowledge of the actions of its loan correspondent lenders or mortgagees in originating loans or mortgages and the sponsor is responsible for those actions unless it can rebut the presumption with affirmative evidence.

(8) A loan correspondent mortgagee shall comply with the warehouse line of credit requirements of § 202.7(b)(3)(ii), unless there is a written agreement by its sponsor to fund all mortgages originated by the loan correspondent mortgagee.

(9) For mortgages processed through Direct Endorsement under §§ 203.5 and 203.255(b) of this chapter, or through Lender Insurance under §§ 203.6 and 203.255(f) of this chapter, underwriting shall be the responsibility of the Direct Endorsement sponsor or Lender Insurance sponsor (respectively), and the mortgage shall be closed in the loan correspondent mortgagee's own name or the name of the sponsor that will

purchase the loan. For mortgages not processed through Direct Endorsement or through Lender Insurance, the mortgage must be both underwritten and closed in the loan correspondent's own name.

(10) A loan correspondent lender shall close all loans in its own name prior to sale or transfer of the loans to its sponsor.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 30225, June 2, 1997; 67 FR 56420, Nov. 7, 2002; 67 FR 53451, Aug. 15, 2002]

§ 202.9 Investing lenders and mortgagees.

(a) *Definition.* An investing lender or mortgagee is an organization that is not approved under any other section of this part. An investing lender or mortgagee may purchase, hold or sell Title I loans or Title II mortgages, respectively, but may not originate Title I loans or Title II mortgages in its own name or submit applications for the insurance of mortgages. An investing lender or mortgagee may not service Title I loans or Title II mortgages without prior approval of the Secretary. An investing lender or mortgagee is not required to meet a net worth requirement.

(b) *Additional requirements.* In addition to the general approval requirements in § 202.5, an investing lender or mortgagee shall meet the following requirements:

(1) *Funding arrangements.* An investing lender or mortgagee shall have, or have made arrangements for, funds sufficient to support a projected investment of at least \$1,000,000 in property improvement, manufactured home or real estate loans or mortgages.

(2) *Officers and staff.* In lieu of the staffing and facilities requirements in § 202.5(b), an investing lender or mortgagee shall have officers or employees who are capable of managing its activities in purchasing, holding, and selling Title I loans or Title II mortgages.

(3) *Fidelity bond.* An investing mortgagee shall maintain fidelity bond coverage and errors and omissions insurance acceptable to the Secretary and in an amount required by the Secretary, or alternative insurance coverage approved by the Secretary, that assures

the faithful performance of the responsibilities of the mortgagee.

[62 FR 20082, Apr. 24, 1997, as amended at 63 FR 9742, Feb. 26, 1998]

§ 202.10 Governmental institutions, Government-sponsored enterprises, public housing agencies and State housing agencies.

(a) *Definition.* A Federal, State or municipal governmental agency, a Federal Reserve Bank, a Federal Home Loan Bank, the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association may be an approved lender or mortgagee. A mortgagee approved under this section may submit applications for Title II mortgage insurance. A lender or mortgagee approved under this section may originate, purchase, service or sell Title I loans and insured mortgages, respectively. A mortgagee or lender approved under this section is not required to meet a net worth requirement. A mortgagee shall maintain fidelity bond coverage and errors and omissions insurance acceptable to the Secretary and in an amount required by the Secretary, or alternative insurance coverage approved by the Secretary, that assures the faithful performance of the responsibilities of the mortgagee. There are no additional requirements beyond the general approval requirements in § 202.5 or as provided under paragraph (b) of this section.

(b) *Public housing agencies and State housing agencies.* Under such terms and conditions as the Secretary may prescribe and notwithstanding the general requirements of § 202.5 or the requirements of paragraph (a) of this section, a public housing agency or its instrumentality or a State housing agency may be approved as a mortgagee for the purpose of originating and holding multifamily mortgages funded by issuance of tax exempt obligations by the agency.

(c) *Audit requirements.* The insuring of loans and mortgages under the Act constitutes "financial assistance" for purposes of audit requirements set out in part 44 of this title. State and local governments (as defined in 24 CFR 44.2) that receive insurance as lenders and