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HUD field office, or other area designated by the Secretary, in which a mortgagee originates mortgages.

Origination approval agreement means the Secretary's agreement that a mortgagee is approved to originate single family insured mortgages.

Title I program(s) means an insurance program or programs authorized by Title I of the Act.

Title II program(s) means an insurance program or programs authorized by Title II or Title XI of the Act.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 65181, Dec. 10, 1997]

§ 202.3 Approval status for lenders and mortgagees.

(a) *Initial approval.* A lender or mortgagee may be approved for participation in the Title I or Title II programs upon filing a request for approval on a form prescribed by the Secretary and signed by the applicant. The approval form shall be accompanied by such documentation as may be prescribed by the Secretary.

(1) Approval is signified by:

(i) The Secretary's agreement that the lender or mortgagee is considered approved under the Title I or Title II programs, except as otherwise ordered by the Mortgagee Review Board or an officer or subdivision of the Department to which the Mortgagee Review Board has delegated its power, unless the lender or mortgagee voluntarily relinquishes its approval;

(ii) Consent by the lender or mortgagee to comply at all times with the general approval requirements of § 202.5, and with additional requirements governing the particular class of lender or mortgagee for which it was approved as described under subpart B at §§ 202.6–202.10; and

(iii) Under the Title I program, the issuance of a Contract of Insurance or approval as a loan correspondent lender which constitutes an agreement between the Secretary and the lender and which governs participation in the Title I program.

(2) Limitations on approval:

(1) Separate approval as lender or mortgagee is required for participation in the Title I or Title II programs, respectively. Application must be made, and approval will be granted, on the

basis of one or both categories of programs, as is appropriate.

(ii) Separate approval as mortgagee is required for the Single Family Mortgage Insurance Programs and for the Multifamily Mortgage Insurance Programs. Application must be made, and approval will be granted, on the basis of either or both categories, as is appropriate.

(iii) In addition to the requirements for approval as a Title II mortgagee, the Secretary may from time to time issue eligibility requirements for participation in specific programs, such as the Direct Endorsement program.

(iv) A Title II mortgagee may be approved to operate either on a nationwide basis or on a geographically restricted basis in only those areas designated by the Secretary.

(v) A Title I lender may originate loans or purchase advances of credit only within a geographic lending area approved by the Secretary. Expansion of this lending area shall be subject to a determination by the Secretary that the lender is able to originate loans in compliance with part 201 of this chapter within such expanded area.

(3) *Authorized agents.* A mortgagee approved under § 202.6, § 202.7 or § 202.10 as a nonsupervised mortgagee, supervised mortgagee or governmental or similar institution may, with the approval of the Secretary, designate a nonsupervised or supervised mortgagee as authorized agent for the purpose of submitting applications for mortgage insurance in its name and on its behalf.

(b) *Recertification.* On each anniversary of the approval of a lender or mortgagee, the Secretary will determine whether recertification, i.e., continued approval, is appropriate. The Secretary will review the yearly verification report required by § 202.5(n)(2) and other pertinent documents, ascertain that all application and annual fees have been paid, and request any further information needed to decide upon recertification.

(c) *Termination*—(1) *Termination of the Title I Contract of Insurance*—(i) *Notice.* A Contract of Insurance may be terminated in accordance with its terms by the Secretary or by the Secretary's designee upon giving the lender at least 5 days prior written notice.

(ii) *Informal meeting.* If requested, and before expiration of the 5-day notice period, a lender shall be entitled to an informal meeting with the Department official taking action to terminate the Contract of Insurance.

(iii) *Effect of termination.* Termination of a Contract of Insurance shall not affect:

(A) The Department's obligation to provide insurance coverage with respect to eligible loans originated before the termination, unless there was fraud or misrepresentation;

(B) A lender's obligation to continue to pay insurance charges or premiums and meet all other obligations, including servicing, associated with eligible loans originated before termination; or

(C) A lender's right to apply for and be granted a new Title I Contract of Insurance, provided that the requirements for approval under this part are met.

(2) *Termination of the origination approval agreement—(i) Scope and frequency of review.* Every three months, the Secretary will review the number of defaults and claims on mortgages originated by each mortgagee in the geographic area served by a HUD field office. For this purpose and for all other purposes under paragraph (c) of this section, a mortgage is considered to be originated in the same Federal fiscal year in which it is insured. The Secretary may also review the performance of a mortgagee's branch offices individually and may impose the sanctions provided for in this section on a branch as well as on a mortgagee's overall operation.

(ii) *Effect of default and claim rate determination.* (A) The Secretary may notify a mortgagee that its origination approval agreement will terminate 60 days after notice is given, if the mortgagee had a rate of defaults and claims on insured mortgages originated in an area which exceeded 200 percent of the normal rate, and exceeded the national default and claim rate for insured mortgages. The notice may be given without action by the Mortgagee Review Board even if the Secretary previously had the right to issue a credit watch notice to the mortgagee under this section but did not do so.

(B) Before the Secretary sends the termination notice, the Secretary shall review the census tract area concentrations of the defaults and claims. If the Secretary determines that the excessive rate is the result of mortgage lending in under-served areas, the Secretary may determine not to terminate the origination approval agreement.

(C) Prior to termination the mortgagee may request an informal conference with the Deputy Assistant Secretary for Single Family Housing or that official's designee. After considering relevant reasons and factors beyond the mortgagee's control that contributed to the excessive default and claim rates, the Deputy Assistant Secretary for Single Family Housing or designee may withdraw the termination notice and notify the mortgagee that it is being placed on credit watch status.

(iii) *Credit watch status.* The Secretary may notify a mortgagee that it is on credit watch status if the mortgagee had a rate of defaults and claims on insured mortgages originated in an area which exceeded 150 percent, but not 200 percent, of the normal rate. Before the credit watch notice is sent, the Secretary shall review the census tract area concentrations of the defaults and claims. If the Secretary determines that the excessive rate is the result of mortgage lending in under-served areas, the Secretary may determine not to place the mortgagee on credit watch status.

(iv) *Effect of credit watch status.* Insured mortgages originated during a 6 month period from the date of the credit watch notice will be reviewed for excessive default rates. A mortgagee will be removed from credit watch status if the rate of defaults and claims for the 6 month tracking period decreases to 150 percent or less of the normal rate 1 year after that 6 month tracking period. The origination approval agreement for a mortgagee on credit watch status may be terminated if the mortgagee's rate of defaults and claims on insured mortgages originated in an area during the 6 month tracking period is more than 150 percent of the normal rate 1 year after that 6 month tracking period. The Secretary shall

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provide 60 days notice and an opportunity for an informal conference, as required by paragraph (c)(2)(ii)(C) of this section, to a mortgagee which will have its origination approval agreement terminated subsequent to a credit watch.

(v) *Rights and obligations in the event of termination.* If a mortgagee's origination approval agreement is terminated, it may not originate single family insured mortgages unless a new origination approval agreement is accepted by the Secretary, notwithstanding any other provision of this part except § 202.3(c)(2)(v)(A). Termination of the origination approval agreement shall not affect:

(A) The eligibility of the mortgage for insurance, absent fraud or misrepresentation, if the mortgagor and all terms and conditions of the mortgage had been approved before the termination by the Direct Endorsement or Lender Insurance mortgagee or were covered by a firm commitment issued by the Secretary; however, no other mortgages originated by the mortgagee shall be insured unless a new originated approval agreement is accepted by the Secretary;

(B) A mortgagee's obligation to continue to pay insurance premiums and meet all other obligations, including servicing, associated with insured mortgages;

(C) A mortgagee's right to apply for a new origination approval agreement if it continues to be an approved mortgagee meeting the general standards of § 202.5 and the specific requirements of §§ 202.6, 202.7, 202.8 or 202.10, and 202.12, if the mortgagee has had no origination approval agreement for at least 6 months, and if the Secretary determines that the underlying causes for termination have been satisfactorily remedied; or

(D) A mortgagee's right to purchase insured mortgages or to service its own portfolio or the portfolios of other mortgagees with which it has a servicing contract.

(d) *Withdrawal and suspension of approval.* Lender or mortgagee approval may be suspended or withdrawn by the

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Mortgagee Review Board as provided in part 25 of this title.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 30225, June 2, 1997; 62 FR 65181, Dec. 10, 1997]

§ 202.4 Request for determination of compliance.

Pursuant to section 539(a) of the Act, any person may file a request that the Secretary determine whether a lender or mortgagee is in compliance with § 202.12(a) or with provisions of this chapter implementing sections 223(a)(7) and 535 of the Act such as §§ 201.10(g), 203.18d and 203.43(c)(5) of this chapter (only section 535 applies to lenders). The request for determination shall be made to the following address: Department of Housing and Urban Development, Office of Lender Activities and Program Compliance, 451 Seventh Street SW., Washington, DC, 20410. The Secretary shall inform the requestor of the disposition of the request. The Secretary shall publish in the FEDERAL REGISTER the disposition of any case referred by the Secretary to the Mortgagee Review Board.

§ 202.5 General approval standards.

To be approved for participation in the Title I or Title II programs, and to maintain approval, a lender or mortgagee shall meet and continue to meet the general requirements of paragraphs (a)-(n) of this § 202.5 (except as provided in § 202.10(b)) and the requirements for one of the eligible classes of lenders or mortgagees in §§ 202.6 through 202.10.

(a) *Business form.* The lender or mortgagee shall be a corporation or other chartered institution, a permanent organization having succession or a partnership. A partnership must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) Each general partner must be a corporation or other chartered institution consisting of two or more persons.

(2) One general partner must be designated as the managing general partner. The managing general partner shall comply with the requirements of paragraphs (b), (c) and (f) of this section. The managing general partner must have as its principal activity the