

of this title, or under similar procedures of any other Federal agency;

(2) Be indicted for, or have been convicted of, an offense which reflects upon the responsibility, integrity or ability of the lender or mortgagee to participate in the Title I or Title II programs;

(3) Be subject to unresolved findings as a result of HUD or other governmental audits or investigations; or

(4) Be engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility.

(k) *Branch offices.* A lender may, upon approval by the Secretary, maintain branch offices for the origination of Title I loans. A branch office of a mortgagee must be registered with the Department in order to originate mortgages or submit applications for mortgage insurance. The lender or mortgagee shall remain fully responsible to the Secretary for the actions of its branch offices.

(l) *Conflict of interest.* A mortgagee may not pay anything of value, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person or entity if such person or entity has received any other consideration from the mortgagor, seller, builder, or any other person for services related to such transactions or related to the purchase or sale of the mortgaged property, except that consideration approved by the Secretary may be paid for services actually performed. The mortgagee shall not pay a referral fee to any person or organization.

(m) *Reports.* Each lender and mortgagee must submit a yearly verification report on a form prescribed by the Secretary. Upon application for approval and with each annual recertification, each lender and mortgagee must submit a certification that it has not been refused a license and has not been sanctioned by any State or States in which it will originate insured mortgages or Title I loans. In addition, each mortgagee shall file the following:

(1) An audited or unaudited financial statement, within 30 days of the end of each fiscal quarter in which the mortgagee experiences an operating loss of

20 percent of its net worth, and until the mortgagee demonstrates an operating profit for two consecutive quarters or until the next recertification, whichever is the longer period; and

(2) A statement of net worth within 30 days of the commencement of voluntary or involuntary bankruptcy, conservatorship, receivership or any transfer of control to a Federal or State supervisory agency.

(n) *Net worth.* (1) Each supervised or nonsupervised lender or mortgagee approved under §§202.6 and 202.7 shall have a net worth of not less than \$250,000 in assets acceptable to the Secretary. Each supervised or nonsupervised mortgagee, except a multifamily mortgagee, shall have additional net worth in excess of \$250,000 of not less than one percent of the mortgage volume exceeding \$25,000,000 in value, but total net worth is not required to exceed \$1,000,000. Mortgage volume is calculated as of the end of the fiscal year being audited and equals the sum of:

(i) The aggregate original amount of insured mortgages that the mortgagee originated and that were insured during the fiscal year, or that the mortgagee purchased as a sponsor from its loan correspondent(s) during the fiscal year; and

(ii) The aggregate principal amount, as of the end of the fiscal year, of all mortgages that are serviced by the mortgagee at the end of the fiscal year but were not counted as mortgages originated by the mortgagee or purchased from its loan correspondent(s).

(2) Net worth requirements for loan correspondent lenders or mortgagees approved under §202.8 are described in that section.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 65181, Dec. 10, 1997; 63 FR 9742, Feb. 26, 1998]

Subpart B—Classes of Lenders and Mortgagees

§202.6 Supervised lenders and mortgagees.

(a) *Definition.* A supervised lender or mortgagee is a financial institution which is a member of the Federal Reserve System or an institution whose accounts are insured by the Federal Deposit Insurance Corporation or the

National Credit Union Administration. A supervised mortgagee may submit applications for mortgage insurance. A supervised lender or mortgagee may originate, purchase, hold, service or sell loans or insured mortgages, respectively.

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

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

(2) *Liquid assets.* A Title II 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) *Notification.* A lender or mortgagee shall promptly notify the Secretary in the event of termination of its supervision by its supervising agency.

(4) *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.

§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 shall file an audit report with the Secretary within 90 days of the close of its fiscal year (or within an extended time if an extension is granted in the sole discretion of the Secretary) and at such other times as may be requested. 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, 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