

CHAPTER 2. GENERAL LENDER APPROVAL REQUIREMENTS

2-1 GENERAL APPROVAL REQUIREMENTS. All financial institutions must meet the following general requirements to be approved, and to maintain approval, for participation in the Title I program. A financial institution must also meet the specific requirements that apply to the type of financial institution for which it seeks approval. These additional requirements are described in Chapter 3 of this Handbook.

2-2 APPLICATION AND RECERTIFICATION FEES. Financial institutions other than Government Institutions and Nonprofit Institutions must pay the following application and annual recertification fees.

A. APPLICATION FEES.

1. New Approval: \$1,000
2. Branch Approval: \$300

This applies to each branch a financial institution wishes to get approved.

3. Additional Sponsor for Loan Correspondent: \$300

This fee applies to each sponsor a loan correspondent wishes to add beyond the first sponsor. The fee for the first sponsor is considered part of the initial application fee.

B. RECERTIFICATION FEES.

1. Main Office: \$150
2. Branch Office: \$50

C. CONVERSION FROM ONE LENDER TYPE TO ANOTHER. Financial institutions who are already approved and wish to change to another lender type must pay a fee of \$300. If a financial institution is approved as a Title II mortgagee also and wishes to convert both its lender and mortgagee types, the conversion fee will cover both conversions. It is not necessary for a financial institution to convert its status under both Title I and II. The financial institution should submit a letter explaining what it wants to do. Because each

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situation may be different, a financial institution may wish to consult with the staff of the Lender Approval and Recertification Division prior to submission. The Division's telephone number is listed in Paragraph 3-2A.

D. STREAMLINE PROCESSING. Title II mortgagees that wish to become approved as Title I lenders need not pay a fee for their main

office or branch office approvals.

E. EXTRA-TERRITORY APPROVAL. There is no fee for requesting extra-territory approval.

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BUSINESS FORM. A financial institution seeking approval as a Title I lender or loan correspondent must be a corporation or other chartered institution, a permanent organization having succession, or a partnership meeting the requirements noted below. It must be authorized under Federal or State law or regulation to originate or purchase consumer or mortgage loans, or it shall be a Federal, State or municipal agency.

A. PARTNERSHIPS. Each general partner must be a corporation or other chartered financial institution consisting of two or more persons.

1. MANAGING GENERAL PARTNER. One general partner must be designated as the managing general partner. The managing general partner can not be a financial institution that is already approved by HUD/FHA as a Title I lender or Title II mortgagee. The managing general partner must meet the requirements with respect to employees, officers and reporting business changes as described in this Chapter and Chapter 5. It must have as its principal activity the managing of one or more partnerships all of which are property improvement or manufactured home lenders. It must have exclusive authority to deal directly with HUD/FHA on behalf of the partnership. If the managing general partner withdraws or is removed from the partnership for any reason, a new managing general partner must be substituted, and HUD/FHA must be notified immediately of the substitution.

2. PARTNERSHIP AGREEMENT. The agreement must specify that the partnership will exist for a minimum term of 10 years. The partnership must specifically be authorized

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to continue its existence if a partner withdraws.

3. AMENDMENTS TO PARTNERSHIP AGREEMENT. HUD/FHA must be notified immediately of any amendments to the partnership agreement which would affect the partnership's actions under the Title I program.

4. TERMINATION OF PARTNERSHIP. All Title I loans held by the partnership must be transferred to an approved Title I lender prior to termination of the partnership.

B. LIMITED LIABILITY COMPANIES. Limited liability companies (LLC) are business entities that possess characteristics of both corporations and partnerships. Depending on the laws of the state in which the entity is organized, such entities may or may not

qualify for approval as a Title I lender. The Lender Approval and Recertification Division will review the organization of each LLC that applies for approval to ensure the interests of the Department are adequately protected.

1. ORGANIZATION. To be approved as a Title I lender, an LLC must meet the following organizational requirements:
 - a. LLC's are typically organized as a collection of members. The members may be either individuals, partnerships or corporations. In order to become approved, an LLC must have one member designated as the managing member that will have as its principal activity the management of the LLC and be authorized to deal directly with the Department on behalf of the LLC. The managing member must have at least three years experience in consumer lending. Newly admitted members must agree to the management of HUD transactions by the designated manager.
 - b. The LLC must be a permanent organization having succession. The LLC's articles of organization must provide for the existence of the entity for a period of not less than 10 years. The articles must also establish a method of determining succession for the manager.
2. ARTICLES OF ORGANIZATION. The LLC must submit a copy of its articles with its application.
3. AMENDMENTS TO ARTICLES OF ORGANIZATION. HUD/FHA must be

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notified immediately of any amendments to the articles which would affect the LLC's actions under the Title I program.

4. DISSOLUTION OF THE LLC. All Title I loans held by the LLC must be transferred to an approved Title I lender prior to termination of the LLC.

2-4 NET WORTH REQUIREMENTS. A financial institution must meet the following adjusted net worth requirements. Adjusted net worth is determined by subtracting unacceptable assets from the financial institution's net worth. Refer to Appendix 1 for a list of unacceptable assets.

- A. SUPERVISED INSTITUTIONS. A Supervised Lender shall have and an adjusted net worth of not less than \$250,000.
- B. NONSUPERVISED INSTITUTIONS. A Nonsupervised Lender shall have and maintain an adjusted net worth of not less than \$250,000.
- C. LOAN CORRESPONDENTS. A Loan Correspondent shall have and maintain an adjusted net worth of not less than \$50,000. Additional net worth of \$25,000 is required for each approved branch up to a maximum of \$250,000.

- D. GOVERNMENT INSTITUTIONS. There is no specific net worth requirement for this type of lender.
- E. INVESTING LENDERS. There is no specific net worth requirement for this type of lender.

2-5 BRANCH OFFICES. Supervised Lenders, Nonsupervised Lenders, Loan Correspondents and Supervised Loan Correspondents are permitted to operate branch offices in addition to their main offices. Each branch office must be approved by the Lender Approval and Recertification Division before it is permitted to take applications for and process Title I loans. To become approved, a lender must submit Form HUD 92001-LB for each branch and the appropriate fee.

Branch offices may be located in any field office jurisdiction regardless of whether the lender already has a main or branch office in a particular jurisdiction.

Lenders must keep the Department advised of any change of

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address or manager. The Title I lender is fully responsible for the actions of its branch offices.

2-6 SATELLITE OFFICES. A lender may operate a satellite office in any field office jurisdiction in which it already has an approved main or branch office. Satellite offices need not be approved by HUD and lenders do not need to notify the Department of their location. However, lenders are fully responsible for the actions of their satellite offices.

2-7 DISCLOSURE OF GOVERNMENT SANCTIONS. A financial institution must submit with its application for approval and annual recertification, a certification that it and its officers and principals have not been sanctioned within the last three years by any State in which it holds a license or in which it intends to make Title I loans. If the financial institution has been subject to such an action, it must submit a copy of the documents pertaining to the action together with a written explanation. Financial institutions that have been sanctioned by a Federal agency must make the same disclosure as discussed above and submit the same documentation.

2-8 STATE LICENSING REQUIREMENT. A financial institution must submit a copy of its operating license when it applies for approval. The financial institution must certify as a part of the annual recertification process that the license remains in effect. If the state where a financial institution operates does not have a licensing process, it must so state in the cover letter that accompanies its application and submit evidence it is approved to do business in that state.

2-9 EMPLOYEES. Financial institutions shall employ trained personnel competent to perform their assigned responsibilities in consumer and

mortgage lending activities. All employees of the financial institution except receptionists, whether full-time or part-time employees, must be employed exclusively by the financial institution, and conduct only the business affairs of the financial institution during normal business hours.

In compliance with the Rehabilitation Act of 1973 and the Americans with Disabilities Act, lenders are expected to make reasonable accommodations in the workplace, upon request, for qualified personnel with disabilities so that they will be able to perform their duties.

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- A. OFFICERS AND BRANCH MANAGERS. Financial institutions are required to have one or more senior corporate officers with a minimum of three years of experience in consumer lending. A senior corporate officer is defined as the corporation's President, Chief Executive Officer, Chairman or Vice President. Branch managers are also required to have at least three years experience.

Managing members of an LLC and the managing general partner of a partnership must also meet the minimum experience requirement.

- B. COMPANIES WITH JOINT OFFICERS. If a financial institution has any of the same officers and/or stockholders as another corporate entity, the corporate officers may represent more than one entity provided that:

1. There is a clear and effective separation of the two entities so that borrowers know, at all times, exactly with which entity they are doing business; and
2. There is at least one duly constituted senior corporate officer designated to conduct exclusively the affairs of the financial institution during normal business hours. This officer must qualify for the experience requirement noted in paragraph 2-9A. above.

- C. FULL-TIME AND PART-TIME EMPLOYEES. Lenders are permitted to employ individuals on a part-time basis (less than the normal 40 hour work week). However, during the time when an employee is not on duty at the lender, he/she is not permitted to be employed (including self-employed) in the mortgage lending, consumer lending, home improvement, manufactured housing or real estate industries. There is no restriction on employment in any other field. These restrictions also apply to full-time employees who may be working part-time during the hours when they are not at the approved lender.
- D. CONTRACT EMPLOYEES. The Department has no objection to financial institutions employing contract employees to perform clerical duties on a temporary basis, especially during periods of heavy volume. However, lenders are reminded that they are expected to

originate, close and fund loans and not perform only a part of the loan origination process. For this reason, it is not permissible to contract out part of the origination process, for example, the taking of the application.

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- 2-10 EMPLOYEE COMPENSATION. The Department does not specify how a lender must compensate its employees. Compensation based on salaries, commissions, fees or a combination of these is acceptable. It is not uncommon in the industry to pay employees, especially loan officers, on the basis of Internal Revenue service Form 1099. We have no objection to this practice. However, such employees must be employed solely by a particular lender. Loan officers are strictly prohibited from taking applications for several lenders and claiming to be employed by each or being self-employed as an independent contractor.
- 2-11 STAFFING REQUIREMENTS. A financial institution must have a staff of at least two employees, with at least one on duty during normal business hours. Branch offices are also required to have at least two employees. This requirement may be lessened for lenders located in rural or underserved areas. When applying for main or branch office approval a financial institution must request permission to have fewer than two employees and must provide justification for the smaller staff.
- 2-12 CONTROL AND SUPERVISION OF STAFF. Financial institutions are required to exercise control and responsible management supervision over their employees. The requirement regarding control and supervision must include, at a minimum, regular and ongoing reviews of employee performance and of work performed.
- 2-13 BRANCH OFFICE MANAGERS. A branch manager must be located at the office he/she manages and may not operate or manage more than one branch office at the same time. The branch manager must have at least three year's experience in consumer lending.
- 2-14 SIGNATORY AUTHORITY. Financial institutions shall ensure that a corporate officer or other person authorized to bind the financial institution shall be responsible for reporting all originations, purchases and sales of Title I loans to HUD/FHA for the purpose of obtaining or transferring insurance coverage.
- 2-15 OFFICE FACILITIES.

A. A financial institution's main office must be its

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designated facility to which HUD/FHA directs all communications about the management affairs of the financial institution. A

financial institution may conduct Title I activities from any of its approved offices. A financial institution is fully responsible for the actions of its branch office(s).

B. A financial institution's main office and branch office facilities must:

1. Have adequate space, clerical assistance and office equipment so that employees may perform their duties in a responsible business-like manner.
2. Be in a location conducive to performing the financial institution's business. A financial institution's employees are not permitted to use their signatory authority to bind the financial institution in a home, car or similar space that is not a part of the financial institution's office facilities.
3. Be located in a space that is separate and apart from any other entity. However, a financial institution may share receptionists, entrances or lobbies with other business entities.
4. Be clearly identified to the public so that borrowers will know, at all times, exactly with whom they are doing business.
5. Be located in a space that, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

2-16 OPERATING EXPENSES. A financial institution must pay all of its own operating expenses including the compensation of all employees of its main and branch offices. The operating expenses that must be paid by the financial institution include, but are not limited to, equipment, furniture, office rent, overhead, and other similar expenses incurred in operating a consumer lending business.

2-17 GEOGRAPHIC RESTRICTIONS FOR LOAN ORIGINATION. Financial institutions may transact Title I business only in the geographic area for which they are approved.

A. Home and branch offices may transact Title I business only

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within their "approved lending areas." Please refer to Appendix 3 for a list of HUD field office jurisdictions comprising each approved lending area around the country. In parts of the country where lenders can reasonably be expected to adequately serve an area consisting of more than one HUD field office's jurisdiction, HUD has combined these areas into one approved lending area. For example, a lender located in Southern California will be approved to make loans in the jurisdictions of the Los Angeles, Santa Ana, Fresno and San Diego Offices.

B. Lenders that want to do business beyond the areas covered by their approved main or branch offices have the following options:

1. A Supervised Lender or a Nonsupervised Lender may become a Sponsor for a Loan Correspondent located in the area in which it wishes to purchase loans. This area may be outside the approved lending areas of its main or branch offices. Please refer to Paragraphs 3-SC. and 5-4 for information on Sponsoring Loan Correspondents.
2. A lender, including a Loan Correspondent, may apply to the Department for Extra-Territory approval. Please refer to Paragraph 5-3 for procedures pertaining to Extra-Territory approval.
3. A lender or Loan Correspondent may open a new branch in the new area in which it wishes to do business.

2-18 YEARLY VERIFICATION REPORT. All approved lenders are required to submit a Yearly Verification Report to the Department as part of the Annual recertification procedure for continued lender approval. (See Chapter 7).

2-19 REPORTING BUSINESS CHANGES. Lenders must notify HUD within 10 days of any change that affects their standing as an approved institution or which changes the information on which they were originally approved. This includes, but is not limited to: changes in name, senior corporate officers, corporate conversions, mergers, consolidations, successions, liquidations, terminations, and changes in charter provisions. Further information on reporting business changes is found in Paragraph 5-6 of this Handbook.

2-20 QUALITY CONTROL PLAN. All lenders must have and implement a Quality control Plan covering the origination and servicing of Title I

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loans. The Plan must meet the specifications of Chapter 6 of this Handbook.

2-21 INELIGIBLE PARTICIPANTS. To be approved and to maintain lender approval, neither the lender nor any officer, director, principal or employee shall:

A. Be under suspension, debarment or other restrictions under 24 CFR Part 24 or 25 or under similar procedures of any other Federal agency; or

B. Be indicted for or convicted of an offense which reflects adversely upon the financial institution's integrity or its ability to participate in the Title I program; or

C. Be subject to unresolved findings as a result of HUD or other

government audits or investigations; or

D. Be engaged in business practices that do not conform to generally accepted practices of prudent financial institutions or that demonstrate irresponsibility.

2-22 COMPLIANCE WITH FAIR HOUSING LAWS. All lenders must comply with Title VIII of the Civil Rights Act of 1968, as amended, Executive Order 11063, the Equal Credit Opportunity Act, and other Federal laws relating to consumer lending activities. Lenders must also comply with the provisions of the Americans with Disabilities Act and the Rehabilitation Act of 1973. Financial institutions are required to make their facilities readily accessible to and usable by persons with disabilities who may wish to apply for Title I loans.

2-23 HOME MORTGAGE DISCLOSURE ACT. Approved lenders are required to comply with the reporting requirements of the Home Mortgage Disclosure Act (HMDA). Refer to 12 USC 2801 et seq. and 12 CFR Part 203. Financial institutions exempt from HMDA reporting requirements must report to HUD/FHA all Title I loans for which they made the underwriting decision. Further details concerning the HMDA reporting requirements are contained in Title I Letter 430.

2-24 SUBMISSION OF SUBSEQUENT INFORMATION. Lenders may be required to submit copies of their latest financial statements and such other information as the Department may request, and shall submit to an examination of that portion of its records which relates to its Title I lending activities.

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