

## § 120.642

## 13 CFR Ch. I (1–1–10 Edition)

in paragraph (a) of this section to investors through a prospectus and other promotional material if an Individual Certificate or Pool Certificate is placed into or used as the backing for the investment vehicle.

### § 120.642 Requirements before the FTA issues Pool Certificates.

Before the FTA issues any Pool Certificate, the Pool Assembler must deliver to it the following documents:

- (a) A properly completed Pool application form;
- (b) Either:
  - (1) Individual Certificates evidencing the guaranteed portions comprising the Pool; or
  - (2) An executed SPGA and related documentation for the loans whose guaranteed portions are to be part of the Pool; and
- (c) Any other documentation which SBA may require.

### § 120.643 Requirements before the FTA issues Individual Certificates.

(a) *FTA issuance of initial Certificate.* Before the FTA can issue the Individual Certificate for a guaranteed portion of a loan, the original seller must provide the following documents to the FTA:

- (1) An executed SPGA;
  - (2) A copy of the note representing the guaranteed loan; and
  - (3) Any other documentation which SBA may require.
- (b) Review of documentation. SBA may review or require the FTA to review any documentation before the FTA issues a Certificate.

### § 120.644 Transfers of Certificates.

(a) *General rule.* Certificates are transferable. Transfers in the Secondary Market must comply with Article 8 of the Uniform Commercial Code of the State of New York. The seller must use the detached form of assignment (SBA Form 1088), unless the seller and purchaser choose to use another form which the SBA approves. The FTA may refuse to issue a Certificate until it is satisfied that the documents of transfer are complete.

(b) *Transfer on FTA records.* In order for the transfer of a Certificate to be

effective the FTA must reflect it on its records.

(c) *Contents of letter of transmittal accompanying the transfer of Certificates.*

(1) A letter of transmittal must accompany each Certificate which a Registered Holder submits to the FTA for transfer. The Registered Holder must supply the following information in the letter:

- (i) Pool number, if applicable;
  - (ii) Certificate number;
  - (iii) Name of purchaser of Certificate;
  - (iv) Address and tax identification number of the purchaser;
  - (v) Name and telephone number of the person handling or facilitating the transfer;
  - (vi) Instructions for the delivery of the new Certificate.
- (2) The Registered Holder must also send the fee which the FTA charges for this service. The FTA will supply fee information to the Registered Holder.

(d) *Lender cannot purchase guaranteed portion of loan it made.* The Lender (or its Associate) that made a 7(a) guaranteed loan cannot purchase the guaranteed portion of that loan in the Secondary Market. If a Lender does purchase the guaranteed portion of one of its own loans, it shall not have the unconditional guarantee of SBA.

### § 120.645 Redemption of Certificates.

(a) *Redemption of Individual Certificate.* The prepayment of the underlying loan or a default on such loan will trigger the redemption of the Certificate by FTA/SBA in accordance with the procedures prescribed in the SPGA.

(b) *Redemption of Pool Certificate.* The FTA and SBA may redeem a Pool Certificate because of prepayment or default of all loans in a Pool.

### § 120.650 Registration duties of FTA in Secondary Market.

The FTA registers all Certificates. This means it issues, transfers title to, and redeems them. All financial transactions relating to a guaranteed portion of a loan flow through the FTA. In fulfilling its obligation to keep the central registry current, the FTA may, with SBA's approval, obtain any necessary information from the parties involved in the Secondary Market.