§ 203.433 Assignments, pledges and transfers by approved mortgagee.

(a) An assignment, pledge, or transfer of an insured mortgage or group of insured mortgages, not constituting a final sale, may be made by an approved mortgagee to another approved mortgagee provided the following requirements are met:

(1) The assignor, pledgor or transferor shall remain the mortgagee of record.

(2) The Commissioner shall have no obligation to recognize or deal with any party other than the mortgagee of record with respect to the rights, benefits and obligations of the mortgagee under the contract of insurance.

(b) An assignment or transfer of an insured mortgage or group of insured mortgages may be made by an approved mortgagee to other than an approved mortgagee provided the requirements under paragraphs (a)(1) and (2) of this section are met and the following additional requirements are met:

(1) The assignee or transferee shall be a corporation, trust or organization (including but not limited to any pension trust or profit-sharing plan) which certifies to the approved mortgagee that:

(i) It has assets of $100,000 or more; and

(ii) It has lawful authority to hold an insured mortgage or group of insured mortgages.

(2) The assignment or transfer shall be made pursuant to an agreement under which the transferor or assignor is obligated to take one of the following alternate courses of action within 1 year from the date of the assignment or within such additional period of time as may be approved by the Commissioner:

(i) The transferor or assignor shall repurchase and accept a reassignment of such mortgage or group of mortgages.

(ii) The transferor or assignor shall obtain a sale and transfer of such mortgage or group of mortgages to an approved mortgagee.

(c) Notice to or approval of the Commissioner is not required in connection with assignments, pledges or transfers pursuant to this section.

§ 203.434 Declaration of trust.

A sale of a beneficial interest in a group of insured mortgages, where the interest to be acquired is related to all of the mortgages as an entirety, rather than an interest in a specific mortgage shall be made only pursuant to a declaration of trust, which has been approved by the Commissioner prior to any such sale.

§ 203.435 Transfers of partial interests.

A partial interest in an insured mortgage may be transferred under a participation agreement without obtaining the approval of the Commissioner, if the following conditions are met:

(a) Principal mortgagee. The insured mortgage shall be held by an approved mortgagee which, for the purposes of this section, shall be referred to as the principal mortgagee.

(b) Interest of principal mortgagee. The principal mortgagee shall retain and hold for its own account a financial interest in the insured mortgage.

(c) Qualification for holding partial interest. A partial interest in an insured mortgage shall be issued to and held only by:

(1) A mortgagee approved by the Commissioner; or

(2) A corporation, trust or organization (including, but not limited to any pension fund, pension trust, or profit-sharing plan) which certifies to the principal mortgagee that:

(i) It has assets of $100,000 or more; and

(ii) It has lawful authority to acquire a partial interest in an insured mortgage.

(d) Participation agreement provisions. The participation agreement shall include provisions that:

(1) The principal mortgagee shall retain title to the mortgage and remain the mortgagee of record under the contract of mortgage insurance.

(2) The Commissioner shall have no obligation to recognize or deal with anyone other than the principal mortgagee with respect to the rights, benefits and obligations of the mortgagee under the contract of insurance.

(3) The mortgage documents shall remain in the custody of the principal mortgagee.