to, loan closing, the loan must not be in default.

(a) *Assignment.* Any sale or assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in the Lender's Agreement.

(b) *Participation.* The lender may obtain participation in the loan under its normal operating procedures.

(c) *Minimum retention.* The lender is required to hold in its own portfolio or retain a minimum of 5 percent of the total loan amount. This amount must be of the non-guaranteed portion of the loan and cannot be participated to another. The lender may sell the remaining amount of the non-guaranteed portion of the loan only through participation.

§§ 1779.66–1779.68 [Reserved]

§ 1779.69 Loan servicing.

(a) *Lender responsibilities.* The lender is responsible for servicing the entire loan in accordance with the lender's loan agreement. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan. The lender is responsible for taking all servicing actions that a prudent lender would perform in servicing a portfolio of loans that are not guaranteed. This responsibility includes, but is not limited to, the collection of payments; obtaining compliance with the covenants and provisions in the note, loan agreement, security instrument, or any supplemental agreements; obtaining and analyzing financial statements; verifying the payment of taxes and insurance premiums; and maintaining liens on collateral. The lender must notify the Agency of any violation of the loan agreement with the borrower within 30 days of such violation.

(b) *Financial reports.* The lender must obtain the financial statements required by the Loan Agreement. The lender must submit the borrower's annual financial statements to the Agency within 120 days of the end of the borrower's fiscal year. The lender must analyze the financial statements and provide the Agency with a written summary of the lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the borrower. Additionally, when applicable, the lender will require an audit in accordance with Office of Management and Budget (OMB) circulars (available in any Agency office). Additionally, when applicable, the lender will require an audit in accordance with subpart F of 2 CFR part 200, as adopted by USDA through 2 CFR part 400.

(c) *Delinquent loans.* The lender will service delinquent loans in accordance with the Lender's Agreement and reasonable and prudent lending standards.

(d) *Loan balances.* The lender must report to the Agency the outstanding principal and interest balance on each guaranteed loan semiannually.

(e) *Collateral inspections.* The lender will inspect the collateral as often as necessary to properly service the loan.

[66 FR 23138, May 8, 2001, as amended at 79 FR 76006, Dec. 19, 2014]

§§ 1779.70–1779.72 [Reserved]

§ 1779.73 Replacement of loss, theft, destruction, mutilation, or defacement of Loan Note Guarantee or Assignment Guarantee Agreement.

(a) *Replacement.* The Agency may issue a replacement Loan Note Guarantee or Assignment Guarantee Agreement which may have been lost, stolen, destroyed, mutilated, or defaced to the lender or holder upon receipt of a certificate of loss and an indemnity bond in accordance with this section.

(b) *Lender responsibilities.* When a Loan Note Guarantee or Assignment Guarantee Agreement is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to the Agency for processing. The requirements for replacement are as follows:

(1) A certificate of loss properly notarized which includes:

(i) Legal name and present address of either the lender or the holder who is requesting the replacement forms;

(ii) Legal name and address of the lender of record;