

or misrepresentation by the lender or the lender's participation in or condoning of such material fraud, negligence or misrepresentation, the lender will be liable for payments made by the Agency to any holder.

(c) *Payments.* A lender will receive all payments of principal and interest on account of the entire loan and will promptly remit to the holder its *pro rata* share thereof, determined according to its respective interest in the loan, less only the lender's servicing fee.

§§ 4279.73–4279.74 [Reserved]

§ 4279.75 Sale or assignment of guaranteed loan.

The lender may sell all or part of the guaranteed portion of the loan on the secondary market or retain the entire loan. The lender shall not sell or participate any amount of the guaranteed or unguaranteed portion of the loan to the borrower or members of the borrower's immediate families, officers, directors, stockholders, other owners, or a parent, subsidiary or affiliate. If the lender desires to market all or part of the guaranteed portion of the loan at or subsequent to loan closing, such loan must not be in default. Loans made with the proceeds of any obligation the interest on which is excludable from income under 26 U.S.C. 103 (interest on State and local banks) or any successor section will not be guaranteed.

(a) *Single note system.* The entire loan is evidenced by one note, and one Loan Note Guarantee is issued. The lender may assign all or part of the guaranteed portion of the loan to one or more holders by using the Agency's Assignment Guarantee Agreement. The holder, upon written notice to the lender and the Agency, may reassign the unpaid guaranteed portion of the loan sold under the Assignment Guarantee Agreement. Upon notification and completion of the assignment through the use of Form 4279-6, the assignee shall succeed to all rights and obligations of the holder thereunder. If this option is selected, the lender may not at a later date cause any additional notes to be issued.

(b) *Multinote system.* Under this option the lender may provide one note for the unguaranteed portion of the loan and no more than 10 notes for the guaranteed portion. When this option is selected by the lender, the holder will receive one of the borrower's executed notes and a Loan Note Guarantee. The Agency will issue a Loan Note Guarantee for each note, including the unguaranteed note, to be attached to the note. An Assignment Guarantee Agreement will not be used when the multinote option is utilized.

(c) *After loan closing.* If a loan is closed using the multinote option and at a later date additional notes are desired, the lender may cause a series of new notes, so that the total number of notes issued does not exceed the total number provided for in paragraph (b) of this section, to be issued as replacement for previously issued guaranteed notes, provided:

- (1) Written approval of the Agency is obtained;
- (2) The borrower agrees and executes the new notes;
- (3) The interest rate does not exceed the interest rate in effect when the loan was closed;
- (4) The maturity date of the loan is not changed;
- (5) The Agency will not bear or guarantee any expenses that may be incurred in reference to such reissuances of notes;
- (6) There is adequate collateral securing the notes;
- (7) No intervening liens have arisen or have been perfected and the secured lien priority is better or remains the same; and
- (8) All holders agree.

(d) *Termination of lender servicing fee.* The lender's servicing fee will stop when the Agency purchases the guaranteed portion of the loan from the secondary market. No such servicing fee may be charged to the Agency and all loan payments and collateral proceeds received will be applied first to the guaranteed loan and, when applied to the guaranteed loan, will be applied on a pro rata basis.

§ 4279.76 Participation.

The lender may obtain participation in the loan under its normal operating