

CHAPTER 21: TRANSFERS AND PLEDGES

21-1: OVERVIEW OF CHAPTER

This chapter describes the requirements that an Issuer must satisfy in order to transfer P&I, central P&I, and escrow custodial accounts from one funds custodian to another. The chapter also sets forth provisions that an Issuer must include in a security agreement in which it pledges its servicing income, without Ginnie Mae approval, and it describes the requirements that an Issuer must satisfy in order to pledge its servicing rights to a secured party with Ginnie Mae approval. In addition, this chapter describes how an Issuer transfers servicing responsibility to a subcontract servicer or transfers Issuer responsibility for some or all of its Ginnie Mae pools or loan packages to another Issuer.

Provisions governing the transfer of document custodian responsibilities from one institution to another are set forth in Section 13-10.

Special requirements related to the transfer and pledge of servicing rights and other interests in HECM loans related to Participations in HMBS pools may be found in Chapter 35.

21-2: APPROVAL BY GINNIE MAE

Each transfer addressed in this chapter and in Chapter 35, and each pledge addressed in Section 21-6, must first receive Ginnie Mae's prior written approval, and is subject to Ginnie Mae's determination, in its sole discretion, that the transfer or pledge complies with the requirements of the applicable Guaranty Agreement, this Guide, and any other requirement of the applicable Ginnie Mae MBS Program, and that it will not harm the Ginnie Mae MBS Programs.

21-3: TRANSFER OF GINNIE MAE-RELATED ACCOUNTS

P&I, central P&I, and escrow custodial accounts, with prior written approval from the PPA, may be transferred from one acceptable funds custodian to another or may be consolidated, in the case of P&I custodial accounts, into one P&I custodial account or, in the case of escrow custodial accounts used for the same types of escrow funds, into one escrow account. Any new P&I, central P&I and escrow custodial account must, however, satisfy the requirements of Chapter 16.

The Issuer must submit the following documents to the PPA (see Addresses) for pools and loan packages that will be affected by the transfer, along with a cover letter requesting and specifying the reason for the transfer.

(A) P&I Custodial Accounts

If an Issuer wishes to transfer the funds for all pools and loan packages using a P&I custodial account to another P&I custodial account, it must submit an original executed Master Agreement for Servicer's Principal and Interest Custodial Account, form HUD 11709 (Appendix III-2) with an exhibit attached listing the pool and loan package numbers.

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If an Issuer wishes to transfer the funds for fewer than all of the pools and loan packages using a P&I custodial account to another P&I custodial account, it must submit an original, executed form HUD 11709 for each P&I custodial account with an exhibit attached, listing the numbers of the pool and loan packages that will be using the related P&I custodial account after the transfer has been made.

For example, assume that Issuer A uses P&I custodial account A for the deposit of funds for its pools number 1 through 100. Issuer A wishes to establish P&I custodial account B and use it for the deposit of funds for pools 51 through 100. Issuer A must submit a form HUD 11709 for the P&I custodial account A with an exhibit listing pools 1 through 50 and a separate form HUD 11709 for P&I custodial account B with an exhibit listing pools 51 through 100.

(B) Central P&I Custodial Accounts

- (1) If the Issuer wishes to transfer a central P&I custodial account to an existing P&I custodial account, it must:
 - (a) submit one original executed ACH Debit Authorization, form HUD 11709-A (Appendix I-6); and
 - (b) arrange a test debit with the CPTA following the procedure described in Section 16-4(C).
- (2) If the Issuer wishes to transfer the central P&I custodial account to an account not previously established, it must:
 - (a) submit one original executed Master Agreement for Servicer's Principal and Interest Custodial Account, form HUD 11709 (Appendix III-2) with an exhibit listing the pool and loan package numbers for all pools and loan packages for which the Issuer is responsible;
 - (b) submit one original executed ACH Debit Authorization, form HUD 11709-A (Appendix I-6); and
 - (c) arrange a test debit with the CPTA following the procedure described in Section 16-4(C).

The request for approval must be received by the PPA no later than the third business day of the month in which the first ACH debit will occur.

(C) Escrow Custodial Accounts

If an Issuer wishes to transfer the funds for all attached pools and loan packages using an escrow custodial account to another escrow custodial account, it must submit an original

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executed Master Agreement for Servicer's Escrow Custodial Account, form HUD 11720 (Appendix III-3) with an exhibit attached listing the pool and loan package numbers.

If an Issuer wishes to transfer the funds for fewer than all of the pools and loan packages using an escrow custodial account to another escrow custodial account, it must submit an original executed form HUD 11720 for each escrow custodial account with an exhibit attached, listing the numbers of the pool and loan packages that will be using the related escrow custodial account after the transfer has been made.

For example, assume that Issuer A uses escrow custodial account A for the deposit of funds for its pools number 1 through 100. Issuer A wishes to establish escrow custodial account B and use it for the deposit of funds for pools 51 through 100. Issuer A must submit a form HUD 11720 for the escrow custodial account A with an exhibit listing pools 1 through 50 and a separate form HUD 11720 for escrow custodial account B with an exhibit listing pools 51 through 100.

(D) Ginnie Mae Approval

Upon receipt of the properly executed Master Agreements and, if applicable, ACH Debt Authorization, the PPA will indicate Ginnie Mae's approval in writing. The Issuer may not transfer funds until it has received written approval from the PPA.

21-4: TRANSFER OF DOCUMENT CUSTODIAN RESPONSIBILITIES

Document custodian responsibilities may be transferred only with the prior written approval of Ginnie Mae. The process is described in Section 13-10.

21-5: PLEDGE OF SERVICING INCOME NOT APPROVED BY GINNIE MAE

After securities are issued, an Issuer may pledge its rights to servicing income as security for a loan. Unless Ginnie Mae has entered into an Acknowledgment Agreement (Appendix VIII-1) with the Issuer pursuant to Section 21-6, however, any pledge or other security agreement must reflect that:

- (A) the Issuer is entitled to servicing income with respect to a given pool or loan package only so long as it maintains Issuer status;
- (B) upon the Issuer's loss of Issuer status, the secured party's rights to any servicing income related to a given pool also terminate; and
- (C) the pledge of rights to servicing income conveys no right (such as a right to become a substitute servicer or Issuer) that is not specifically provided for in this Guide.

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The terms in Sections 21-5 (A) through (C) above will be deemed to be incorporated into any purported pledge or transfer of rights to servicing income described in this section.

For mortgages that are registered with MERS, Ginnie Mae must approve the pledge before MERS will enter the pledge on the MERS system.

21-6: PLEDGE OF SERVICING RIGHTS APPROVED BY GINNIE MAE

Subject to Ginnie Mae's prior written approval, which will be granted or withheld in Ginnie Mae's sole discretion, an Issuer may pledge its servicing rights as security for a loan from a private lender (the secured party) pursuant to an Acknowledgment Agreement among the Issuer, the secured party and Ginnie Mae in the form set forth in Appendix VIII-1. Pledges of servicing rights accomplished pursuant to an Acknowledgment Agreement afford the secured party broader rights with respect to an Issuer's servicing portfolio than are accorded for pledges not approved by Ginnie Mae, which are effected pursuant to Section 21-5 above. Detailed information and instructions for executing a pledge of servicing Acknowledgment Agreement are set out in Appendix VIII-1. If the Issuer retypes or otherwise alters the Acknowledgment Agreement, it will not be accepted.

For mortgages that are registered with MERS, Ginnie Mae must approve the pledge before MERS will enter the pledge on the MERS system.

21-7: TRANSFER TO SUBCONTRACT SERVICER

An Issuer that wishes to transfer the performance of servicing responsibilities to a subcontract servicer may do so only after it has obtained Ginnie Mae's prior written approval, which will be granted or withheld in Ginnie Mae's sole discretion. Once the transfer has taken place, the Issuer will continue to be fully responsible for the satisfactory servicing of the Issuer's pools and loan packages.

The Issuer may not use a subcontract servicer for MH pools or loan packages.

(A) Subcontract Servicer Eligibility and Functions

The subcontract servicer must meet the Ginnie Mae eligibility requirements set forth in Chapters 2 and 3, and it may perform only the functions described in Section 4-3.

(B) Transfer Request

The Issuer of record must send a written transfer request to the PPA (see Addresses). The request must be received by the PPA no later than the third business day of the month prior to the month in which the subcontract servicer proposes to begin servicing the mortgages.

The following documents must be included with the request, if applicable:

- (1) if the Issuer wishes to use a subcontract servicer for

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all of its pools and loan packages, an executed Master Servicing Agreement, form HUD 11707 (Appendix III-1); if an Issuer wishes to use a subcontract servicer for fewer than all of the Issuer's pools and loan packages and retain the servicing on the rest, it must submit an original, executed form HUD 11707 for itself and an original, executed form HUD 11707 for the subcontract servicer, each with an exhibit attached listing the numbers of the pool and loan packages that the related party will service after the transfer has been made.

- (2) if a central P&I custodial account will change, the documents required under Section 21-3(A), (in this case the Issuer must also arrange the ACH test required under Section 21-3(A)).
- (3) if a P&I custodial account (other than the central P&I custodial account) will change, the document required under Section 21-3(B);
- (4) if one or more escrow custodial accounts will change, the document or documents required under Section 21-3(C) for each resulting account;
- (5) if the document custodian will change, one or more executed Master Custodial Agreements, form HUD 11715 (Appendix III-4) as applicable; and
- (6) Exhibit A (see Appendix VIII-4), listing pools affected by the transfer.

21-8: TRANSFER OF ISSUER RESPONSIBILITY

An Issuer may transfer its Issuer responsibilities for any or all of its pools and loan packages if it meets the requirements described in this section.

The instructions in this section do not apply to an immediate transfer of Issuer responsibility for a pool or loan package at the time the pool or loan package is issued. See Section 10-10 for the procedures that govern immediate transfers of Issuer responsibility upon pool or loan package issuance.

(A) Transfer Requirements

- (1) The transfer must have Ginnie Mae's prior written approval. This approval is conditioned upon Ginnie Mae's finding, in its sole discretion, that the transfer will not be detrimental to the interests of Ginnie Mae or the security holders.
- (2) A pool or loan package may not be transferred if (a) the proposed effective date for the transfer is (i) within 30 days after the pool or loan package is issued, (ii) within 180 days after a prior transfer, or (iii) more than 12 months after pool or loan package issuance and the pool

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or loan package has not received final certification, or (b) the pool or loan package has transferred previously and has not been recertified.

Ginnie Mae may make an exception to these requirements if the transferring Issuer is going out of business or withdrawing from its role as a Ginnie Mae Issuer.

- (3) The transferring Issuer must pay all amounts owed and satisfy all outstanding obligations. The acquiring Issuer must assume all of the duties, obligations, and liabilities of the transferring Issuer under the applicable Guaranty Agreement.
- (4) The acquiring Issuer must be an approved Ginnie Mae Issuer for the type of pools or loan packages being transferred (see Chapters 2 and 3) and have experience, facilities, and staff or access to experience, facilities, and staff adequate to administer the pools or loan packages to be transferred.
- (5) The acquiring Issuer must have adjusted net worth and fidelity and mortgagee errors and omissions insurance in amounts sufficient to meet Ginnie Mae's requirements for the aggregate remaining principal balance of securities for which it will be responsible following the proposed transfer. (See Sections 3-6 and 3-8)
- (6) The transferring Issuer must pay Ginnie Mae a fee, by wire transfer, in the amount prescribed in Section 6-2(D).

(B) Transfer Procedure

Issuers have two options for requesting a transfer of Issuer responsibility.

Option One is a one-step process in which the entire transfer is completed in a single transaction. Option Two is a two-step process that consists of a Phase I (conditional approval) and a Phase II (final approval). Ginnie Mae encourages the use of Option One.

- (1) Option One:

The transferring Issuer must submit all of the documents described below to the PPA (see Addresses) at the same time. The PPA must receive these documents no later than the third business day of the month prior to the month in which the transferring Issuer wants the transfer to become effective. If a transferring Issuer fails to submit a complete transfer package, approval of its transfer

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request may be delayed until the deficiencies are corrected and the request is reprocessed by the PPA. A transferring Issuer has three days after receiving notice of a deficiency to demonstrate to the PPA that the deficiencies have been corrected.

- (a) A transmittal letter advising the PPA of the date the transferring Issuer wants the transfer to become effective and demonstrating that it meets each transfer requirement set out in Section 21-8(A), above.
- (b) Transfer of Issuer Responsibility Transmittal and Checklist (included as Exhibit A to Appendix VIII-4).
- (c) A 3 ½ inch computer diskette that provides the pool or loan package numbers, issue dates, desired effective date of the requested transfer, RPB of the securities affected by the transfer as of the most recent month end and buyer's document custodian number, and, if applicable, final certification or recertification dates. The format of the required data is described in Appendix VIII-4.

A Pool Transfer System (PTS) software disk that can be used to produce the above Exhibit A diskette can be obtained from the PPA upon request (see Addresses). The transferring Issuer may use its own diskette containing one ASCII file if it wishes. If the transferring Issuer is requesting approval to transfer Issuer responsibility for all of its pools and loan packages, it need not submit a diskette. To the extent that there will be more than one document custodian involved in the transfer request, the Issuer must submit separate diskettes containing the pool information for each document custodian. Each diskette must be separately labeled with the name of the document custodian and its document custodian identification number.

- (d) Master Servicing Agreement, form HUD 11707 (Appendix III-1), executed by the acquiring Issuer (and its subcontract servicer, if any). If the Issuer wishes to transfer Issuer responsibility for fewer than all of its pools and loan packages, it will be required to submit an

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original form HUD 11707, executed by it, with an exhibit attached listing the pools and loan packages for which it will retain Issuer responsibility. If it will use a subcontract servicer to service fewer than all of the retained pools and loan packages, and the identity of the pools and loan packages to be serviced by the subcontractor changes due to the transfer, it must also submit a form HUD 11707 indicating which of the pools and loan packages will be serviced by the subcontract servicer following the transfer of Issuer responsibility. (See Section 21-7(B))

- (e) Master Agreement for Servicer's Principal and Interest Custodial Account, form HUD 11709 (Appendix III-2), to establish P&I custodial accounts (including, if applicable, a central P&I custodial account), executed by the acquiring Issuer and its funds custodian. If the Issuer wishes to transfer Issuer responsibility for fewer than all of its pools and loan packages, it will be required to submit an original, executed form HUD 11709 for each P&I custodial account that will serve a different set of pools and loan packages after the transfer of Issuer responsibility, indicating which of the retained pools and loan packages will be served by that account after the transfer of Issuer responsibility. (See Section 21-3(A))
- (f) Master Agreement for Servicer's Escrow Custodial Account, form HUD 11720 (Appendix III-3), to establish each escrow custodial account, executed by the acquiring Issuer and its funds custodian. If the Issuer wishes to transfer Issuer responsibility for fewer than all of its pools and loan packages, it will be required to submit an original, executed form HUD 11720 for each escrow custodial account that will serve a different set of pools and loan packages after the transfer of Issuer responsibility, indicating which of the retained pools and loan packages will be served by that account after the transfer of Issuer responsibility. (See Section 21-3(C))
- (g) Master Custodial Agreement, form HUD 11715 (Appendix III-4), executed by the acquiring

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Issuer and its document custodian. If the Issuer wishes to transfer Issuer responsibility for fewer than all of its pools and loan packages, it will be required to submit one or more original, executed forms HUD 11715, indicating which of the retained pools and loan packages will be served by each of the Issuer's document custodians following the transfer of Issuer responsibility. (See Section 13-10(A))

- (h) An Assignment Agreement (Appendix VIII-3), executed in triplicate, signed by the transferring and acquiring Issuers. Each Assignment Agreement must have affixed corporate seals from the transferring and acquiring Issuers unless a seal is not required by applicable state law. If it is not a state law requirement, the statement "corporate seal not required by state" must be typed on the Assignment Agreement where the corporate seal normally would be affixed. The signatures of the transferring and acquiring Issuers must be notarized.

DO NOT RETYPE THE ASSIGNMENT AGREEMENT. A retyped or otherwise altered Assignment Agreement will not be accepted.

- (i) If there is an Acknowledgment Agreement for pledge of servicing in effect pursuant to Section 21-6, a release from the secured party, agreeing to the transfer of pools or loan packages by the transferring Issuer.
- (j) The required fee, sent by wire transfer. (See Section 6-2(D))

All documents must have original signatures.

- (2) Option Two:

With this two-step process, the transferring Issuer proceeds as follows:

Phase I (conditional approval): The transferring Issuer submits a written request to the PPA (see Addresses) requesting the transfer. The documents discussed in Sections 21-8(B)(1)(a) through (c) and the required transfer fee must be sent by wire transfer (see Section 6-2(D)). After determining that the proposed transfer meets the requirements in Section 21-8(A), the PPA

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will notify the Issuer in writing that it has preliminarily approved the requested transfer. Final approval depends on the PPA's receiving the required additional documents and the acquiring Issuer's continuing to meet Ginnie Mae's eligibility requirements.

Phase II (final approval): Upon receiving Ginnie Mae's conditional approval, but prior to the actual transfer, the transferring Issuer must submit the information described in Sections 21-8(B)(1)(d) through 21-8(B)(1)(i) to obtain final approval. These documents must be received by the PPA no later than the third business day of the month prior to the month in which the Issuer wants the transfer to become effective. All documents must contain original signatures. If the transferring Issuer fails to submit all of the required information, the approval of the transfer request may be delayed until the deficiencies are corrected and the request is reprocessed by the PPA.

Note: The documents identified in (e) through (i) are not required if up-to-date forms are on file with the PPA.

(3) Approval by Ginnie Mae and effective transfer date:

Upon approval of the assignment and the execution of the consent to the Assignment Agreement, the acquiring Issuer becomes the Issuer of record, assuming all rights and responsibilities as Issuer as of such date. However, to allow time for Ginnie Mae and its agent to update their records, Ginnie Mae requires the transferring Issuer to continue to service the pools and loan packages in its own name and Issuer number until the effective date of the transfer.

The effective date of the transfer on the records of Ginnie Mae will be the first day of the second month following the date Ginnie Mae executes the Assignment Agreement. If the effective date is to be later than the first day of the second month following the date Ginnie Mae executes the Assignment Agreement, it is the Issuer's responsibility to draw special attention to this in its submittal letter. Furthermore, the information on the 3 ½ inch floppy diskette (see Section 21-8(B)(1)(c)) must reflect the requested effective date.

***(C) Responsibilities
Following the Effective Date***

Following the effective date, the acquiring and transferring Issuers must accomplish the following:

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- (1) For mortgages not registered with MERS:
 - (a) The acquiring Issuer, as of the effective date, begins reporting the RPBs for all pools and loan packages transferred. Chapter 19 provides instructions for reporting RPBs.
 - (b) The acquiring Issuer, as applicable, either (a) in the case of Ginnie I MBS, (i) makes payments due on the certificated securities beginning the 15th day of the month and (ii) deposits in the central P&I custodial account on the 15th calendar day of the month in which the effective date occurs funds sufficient to pay principal and interest to the depository, as security-holder of all book-entry securities, or (b) in the case of Ginnie Mae II MBS, deposits in the central P&I custodial account on the 19th calendar day or 20th calendar day of the month, as applicable, in which the effective date occurs funds necessary to enable the CPTA to pay principal and interest to security holders and (c) for both Ginnie Mae MBS programs, deposits in the applicable central P&I custodial account the guaranty fee to be paid to Ginnie Mae. Chapters 6 and 15 provide instructions for calculating the amount of the payment or deposit. Sections 15-2 and 15-3 describe how the acquiring Issuer should proceed if the 15th, 19th or 20th calendar day is not a business day.
 - (c) The parties record the assignment of the mortgage from the transferring Issuer to the acquiring Issuer for each mortgage in the pools and loan packages to be transferred. The parties forward the recorded assignments or copies of the recorded assignments to the document custodian.
- (2) For mortgages registered with MERS:
 - (a) The acquiring Issuer, as of the effective date, begins reporting the RPBs for all pools and loan packages transferred. Chapter 19 provides instructions for reporting RPBs.
 - (b) The acquiring Issuer, as applicable, either (a) in the case of Ginnie I MBS, (i) makes payments due on the certificated securities beginning the 15th day of the month and (ii)

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deposits in the central P&I custodial account on the 15th calendar day of the month in which the effective date occurs funds sufficient to pay principal and interest to the depository, as security-holder of all book-entry securities, or (b) in the case of Ginnie Mae II MBS, deposits in the central P&I custodial account on the 19th calendar day or 20th calendar day of the month, as applicable, in which the effective date occurs funds necessary to enable the CPTA to pay principal and interest to security holders and (c) for both Ginnie Mae MBS programs, deposits in the applicable central P&I custodial account the guaranty fee to be paid to Ginnie Mae. Chapters 6 and 15 provide instructions for calculating the amount of the payment or deposit. Sections 15-2 and 15-3 describe how the acquiring Issuer should proceed if the 15th, 19th or 20th calendar day is not a business day.

- (c) No note endorsement or mortgage assignment is required in connection with subsequent pool transfers involving loans registered with MERS.
 - (d) The transferring or acquiring Issuer transfers the mortgages on MERS.
 - (e) The acquiring Issuer must provide the document custodian with the recorded assignment, or copy of the recorded assignment, to MERS.
- (3) The document custodian for the acquiring Issuer signs the recertification on the back of the Schedule of Pooled Mortgages, form HUD 11706 (Appendix III-7) or the Schedule of Pooled Participations and Mortgages, form HUD 11706H (Appendix III-28) (See Section 13-10(G) and, for example, Appendix V-1, Chapter 3, Section E).

By signing the Schedule of Pooled Mortgages or the Schedule of Pooled Participations and Mortgages, the document custodian also certifies to Ginnie Mae that:

- (a) For mortgages not registered with MERS:
the document custodian has received the recorded assignments from the transferring Issuer to the acquiring Issuer.
- (b) For mortgages registered with MERS:

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- (i) the mortgages have been assigned to MERS; and
- (ii) the document custodian has received the recorded assignments to MERS.

(D) Final Certification and Recertification

Items (C)(1) and (C)(2), as applicable, and item (C)(3) of this Section 21-8 must be completed by the time recertification is due as determined in accordance with the following paragraph.

Each pool or loan package transferred to an acquiring Issuer before receiving final certification must receive final certification and recertification in compliance with the requirements of Chapter 11 on or before the time that final certification is due for that pool or loan package. Each pool or loan package transferred to an acquiring Issuer after final certification has been received must be recertified in compliance with the requirements of Chapter 11 within 12 months after the effective date of the transfer.

21-9: RECERTIFICATION OF POOLS AND LOAN PACKAGES CONTAINING MORTGAGES REMOVED FROM MERS

Whenever a pooled mortgage is deregistered from the MERS system, the pool or loan package must be recertified in compliance with the requirements of Chapter 11 within 12 months after the effective date of the deregistration.

By signing the Schedule of Pooled Mortgages or the Schedule of Pooled Participations and Mortgages, the document custodian also certifies that:

- (a) for each pooled mortgage, the note or other evidence of indebtedness has been endorsed in blank and without recourse;
- (b) the document custodian has received the recorded assignment from MERS to the current Issuer; and
- (c) the document custodian has received the unrecorded assignment to Ginnie Mae executed by the current Issuer.