

CHAPTER 9: QUESTIONS AND ANSWERS

PART A. GENERAL PURPOSE

The purpose of this chapter is to provide answers to frequently asked questions (“FAQ” or “FAQs”) concerning Ginnie Mae’s policies for document custody. . The content of this chapter may be updated periodically to provide guidance or clarification on specific areas of concern even if the underlying Ginnie Mae policies remain unchanged. Program participants may request additional guidance concerning Ginnie Mae Document Custody policies via email at GinnieMaeDOCCUSTODY@hud.gov.

The following FAQs have been grouped by type of document that is most relevant to the FAQ in question, and the various groups are then labeled according to the name of such document. These groups of FAQs are named and organized in alphabetical order as follows:

[Assignments](#)

[Consolidation Modification Extension Agreement - NY CEMA](#)

[Endorsements](#)

[Form HUD-11706](#)

[Form HUD-11708](#)

[Lost Instrument Bond](#)

[MERS](#)

[Name Affidavit](#)

[Notary](#)

[Note](#)

[Pre-Certification Review](#)

[Security Instrument](#)

[Title Policy](#)

[Transfers](#)

PART B. FREQUENTLY ASKED QUESTIONS AND ANSWERS

Section. 1. ASSIGNMENTS

(a) When a lender uses a blanket certification at initial certification for a pool, certifying that all intervening assignments have been transmitted recordation, is the lender required to provide the recorded assignments prior to final certification?

Yes. Recorded assignments are required for final certification when a blanket certification was provided at initial certification.

(b) How does a custodian know if the recording information on an assignment or intervening assignment is complete?

To be complete, the recording information for an assignment or intervening assignment must contain the recording office and recording location, i.e., book and page (liber and page).

CHAPTER 9: QUESTIONS AND ANSWERS

- (c) **When a lender provides evidence that the relevant jurisdiction does not require recordation of assignments, is the lender required to provide the original unrecorded assignment or is a copy acceptable?**

An original assignment is required.

Section. 2. CONSOLIDATION MODIFICATION EXTENSION AGREEMENT- NY CEMA

- (a) **Is the consolidated Note acceptable if unexecuted?**

No. The NY CEMA document instruction requires that the consolidated Note copy be an executed copy. See the Instructions on page 4 embedded in the NY CEMA.

- (b) **Is the consolidated mortgage acceptable if unexecuted?**

Yes. There is no requirement in the NY CEMA document instruction requiring that the consolidated Mortgage copy be an executed copy. See the Instructions on page 4 embedded in the NY CEMA.

- (c) **Are reaffirmed Notes and Lost Instrument Bonds (LIB) acceptable for missing prior Notes in NY CEMAs?**

Yes. Notes that have been reaffirmed by borrowers (original signatures on a copy of a Note) are acceptable. Lost Instrument Bonds are acceptable for missing prior Notes in NY CEMAs which are listed in the Exhibit A.

- (d) **Does Ginnie Mae require all prior consolidated Notes be present for final certification?**

Yes. All prior consolidated Notes are required.

- (e) **Does Ginnie Mae require that all prior Mortgages and NY CEMAs be present for final certification?**

No. Ginnie Mae does not require copies of all prior mortgages and NY CEMAs to be present for final certification.

- (f) **Does Ginnie Mae require that all prior Mortgages and NY CEMAs be validated against the information listed on the Exhibit A of the NY CEMA?**

Yes. Ginnie Mae requires executed copies of all prior notes and their information must be validated against the information in Exhibit A, attached to the NY CEMA.

- (g) **Must prior recorded NY CEMAs be corrected and re-recorded if they contain errors?**

No. NY CEMAs that have been previously recorded do not need to be re-recorded so long as the current NY CEMA is correct.

- (h) **May additional borrowers be added to a NY CEMA?**

Yes. Additional borrowers may be added to the Consolidated Note and the NY CEMA.

- (i) **May borrowers on an underlying Note or NY CEMA be removed through a new NY CEMA?**

No. The borrowers for the underlying Note or NY CEMA may not be removed when a new NY CEMA is executed.

Section. 3. ENDORSEMENTS

- (a) **Can a document custodian rely on an Issuer's form [HUD-11702](#) to determine whether a facsimile endorsement is acceptable?**

CHAPTER 9: QUESTIONS AND ANSWERS

No. The custodian cannot rely exclusively on the form [HUD-11702](#) for this purpose. An executed form [HUD-11702](#) informs the custodian which individuals are authorized to sign on behalf of the Issuer for purposes of the Ginnie Mae program, but it does not specify whether the entity in question has also authorized its agents to bind the entity via facsimile signatures. Consequently, the custodian must confirm whether the individual is authorized to use facsimile signatures by reference to a duly executed Corporate Resolution of the Issuer or the relevant corporate bylaws. The custodian must retain copies of the relevant document in the Issuer Master file in perpetuity as the identity of the individuals authorized to sign via facsimile signatures may change over time.

(b) Does Ginnie Mae permit notes to be endorsed in blank by Power of Attorney?

No.

Section. 4. FORM [HUD-11706](#)

(a) Must the custodian print and maintain the form [HUD-11706](#) in the pool master file?

Yes.

(b) Must the custodian wet sign the form [HUD-11706](#) maintained in the pool master file?

Yes, except that, for Initial Certifications, Final Certifications, and Recertifications performed via GinnieNET, the GinnieNET Host Communications Results Report, which includes the File Transmission Number (FTN), may substitute for the wet signature.

(c) Does the document custodian who provides the wet signature on the form [HUD-11706](#) need to have an officer title?

No. The document custodian employee signing the form [HUD-11706](#) is not required to have an officer title.

Section. 5. FORM [HUD-11708](#)

(a) For a final certified pool that has been transferred, does the form [HUD-11708](#) relief for loans released for a non-liquidation reason related to bankruptcy, foreclosure, or loss mitigation apply in the recertification process?

Yes, provided that the [HUD-11708](#) meets the requirements contained in [Chapter 3](#), Section D(3)(i)(i), Forms [HUD-11708](#), Document Requirement Exception, which includes a requirement that the document custodian must have received and reviewed the documents prior to the loan file's release.

Section. 6. LIB - LOST INSTRUMENT BOND

(a) Must all prior Notes for NY CEMAs at initial certification be originals?

All prior notes for NY CEMAs must be originals or Lost Instrument Bonds must be present at initial certification.

Section. 7. MERS

(a) Why is it necessary to recertify loans deregistered from MERS?

Deregistering a loan from MERS requires an assignment out of MERS to the Issuer. This ensures that the chain of title to the mortgage is complete.

Section. 8. NAME AFFIDAVIT

CHAPTER 9: QUESTIONS AND ANSWERS

(a) Is a copy of notarized name affidavit acceptable?

An original name affidavit or a copy with a reaffirmed signature is preferred. A copy may be acceptable if the notarization is not required to be raised to be effective (local law will vary among jurisdictions), and if the copy shows all of the information necessary on the notarization to confirm the legitimacy of the affidavit/person who executed it. A copy of a notarized name affidavit must be accompanied by an opinion from outside legal counsel affirming the acceptability of the copy in the relevant jurisdiction.

(b) How do I know if a name affidavit provided to address a mismatch between the typed name and signed name of a borrower is acceptable?

To be acceptable, the name affidavit must include both variations of the name appearing on the loan document.

Section. 9. NOTARY

(a) Can an incomplete Notary acknowledgement still be acceptable?

An instrument reflecting a notarization that appears to be incomplete or is missing information may be acceptable, but only if it is accompanied by evidence that, notwithstanding the missing notarization information or elements, the notarization is valid or acceptable in the relevant jurisdiction. An example of an incomplete notarization that, when accompanied by evidence of validity, would be acceptable is one where the county name is left blank in the acknowledgement, but the county name is contained in the notarial seal. Acceptable evidence of validity includes legal opinions from qualified outside counsel licensed to practice law in the jurisdiction in which the property is located or the jurisdiction's own guidance on notarization.

Section. 10. NOTE

(a) If a Note is lost in prior to initial certification, can a reaffirmed Note (original signatures on a copy of the Note) be substituted for the original Note?

Yes. A reaffirmed Note is acceptable for initial certification.

(b) What are the requirements for Notes stamped "Cancelled" by a Court?

Notes which have been stamped "cancelled" by a Court are acceptable if accompanied by documentation from that Court acknowledging that the Note was not cancelled and remains enforceable.

(c) What are the requirements for Notes that have been stamped as a "Certified True Copy" by error?

Notes that have been stamped by a mistake of the subservicer as a "Certified True Copy" are not acceptable. Such notes remain unacceptable even when they are accompanied by a letter from the servicer stating the Note was stamped in error. A new or reaffirmed Note is required in these cases.

(d) Can a document custodian process a loan for certification when a related endorsement in blank is dated?

Yes. The custodian may process the loan for certification. Ginnie Mae requests the document custodian contact the Issuer to inform them that they must not include the date on future endorsements.

(e) How can a signature be notarized or witnessed before the date of the Note?

CHAPTER 9: QUESTIONS AND ANSWERS

The notary or witness attests to the fact that the individual signed the document in the presence of the notary on the date of the notary. For example, if a borrower is out of town on the closing date but available to sign prior to the closing date, the document would be signed and the notary would be dated as of the date of the actual signing. The actual closing could occur at a later date. The notary or witness date should not be after the closing date.

(f) How are real estate transactions specified in a Power of Attorney or Attorney in Fact by the custodian?

While the exact verbiage and location will vary, a Power of Attorney (POA) will address real estate transactions by specifying what the Attorney in Fact may or may not do, such as purchase, sell or finance real estate. These may be further limited or described by loan amount, interest rate, and other loan terms. The custodian must compare the specified transactions to the terms of the Note, i.e., if the Note term(s) does not match the POA, the custodian must inform the Issuer about the document defect.

(g) What must the custodian do if the Note is lost subsequent to initial certification?

If the Note is lost subsequent to initial certification, a Lost Instrument Bond must be obtained and placed in the file. Ginnie Mae requirements do not specify who is responsible for obtaining the LIB. However, Ginnie Mae requirements specify that the entity providing the LIB may not be an affiliate of the entity obtaining the LIB. Please see [Chapter 2](#) of the MBS Guide for more information on the definition of the term “affiliate”.

(h) Does POA verbiage need to be typed under the signature line?

No, the POA verbiage does not need to be typed under the signature line so long as certain conditions are met. If the POA verbiage is missing under the signature line, the signor must indicate explicitly and in writing, adjacent to his or her signature, that he or she is signing in the capacity granted by the POA.

(i) If there is a witness line on the note is must be signed? If there are multiple witness lines and only one is signed is this acceptable?

It depends on the law of the jurisdictions. The Issuer may rely on internal counsel to make this determination.

Section. 11. PRE-CERTIFICATION REVIEW (FLOW)

(a) If a flow or pre-certification review was performed on a loan prior to the implementation of the Document Custody Manual changes, can the custodian rely on the previous requirements.

No, the loan must be reviewed to the document review standards in effect as of the pool issuance date.

Section. 12. SECURITY INSTRUMENT

(a) Is a copy of a recorded Security Instrument acceptable?

Yes, *but only if* the original is lost and the relevant state does not require the original Security Instrument to be present in order to foreclose. Copies of recorded security instruments *are not* acceptable for states that require the original instrument to be present in order to foreclose even if the original has been lost.

Section. 13. TITLE POLICY

(a) If the jacket is not present, what other comparable information is acceptable for the Conditions & stipulations?

Comparable information refers to the policy's standard terms and conditions including but not limited to the policy's covered risks, standard exclusions from coverage, exceptions from coverage, standard term definitions, arbitration clauses, choice of law and forum clauses, notice requirements, severability clauses, limitation of liability clauses, as well as other general terms and conditions that prescribe the duty of the insurer and the insured pursuant to the policy.

(b) Does the date of a title policy change to reflect a re-recording?

Yes. The date is brought forward to reflect re-recording of the mortgage when required.

Section. 14. TRANSFERS

(a) Can a pool that has not received a final certification be transferred to a new Issuer?

Yes, but it depends on the age of the pool. Pools that are more than 12 months old cannot be transferred to another Issuer until they receive a final certification. Pools that are less than 12 months old may be transferred to another Issuer prior to receiving a final certification. The document custodian for the new Issuer is responsible for completing the final certification for the pool within 12 months of the related issuance date, regardless of the date when the pool was transferred. Please note that in the latter scenario, the final certification provided by the document custodian for the new Issuer satisfies the recertification requirement.

(b) In situations of a partial transfer of pools from one custodian to another must the transferor custodian send only original documents from the Issuer Master File to the transferee custodian?

No, copies of documents which pertain to pools not transferred may be sent to the transferee custodian. One example of such a document is legal opinion which covers numerous loans.