

liquidity providing additional capital to small businesses, (3) increased participation by large institutional investors, and (4) decreased interest costs to borrowers.

Establishment of the FTA could encourage program lenders currently not utilizing the secondary market to sell loans to investors. SBA has operated successfully using the FTA concept. According to the SBA Annual Report for calendar year 2001, secondary market dollar volume of agency loans rose to an all-time high during that year. The increase in secondary market activity is attributed to implementation of the FTA concept. We believe that implementation of these regulatory changes will increase participation by lenders in the secondary market and make more funds available for rural business development. The benefits of participation in the secondary market will be passed on to the rural business and rural lending institutions.

In addition, the establishment of the FTA would eliminate the need for and cost of direct Government human and financial resources required to administer record keeping for sales transactions on the secondary market. This action would be in compliance with OMB Circular A-76 which states, in part: "It is the policy of the United States Government to * * * rely on the commercially available sources to provide commercial products and services * * * the Government shall not start or carry on any activity to provide a commercial product or service if the product or service can be procured more economically from a commercial source."

List of Subjects in 7 CFR Part 4279

Loan programs—Business and Industry, Rural areas.

Accordingly, chapter XLII, title 7, Code of Federal Regulations, is proposed to be amended as follows:

PART 4279—GUARANTEED LOANMAKING

1. The authority citation for part 4279 is revised to read as follows:

Authority: 7 U.S.C. 1988; 7 U.S.C. 1989.

Subpart A—General

2. Section 4279.75 is amended by adding two sentences at the beginning of the introductory text to read as follows:

§ 4279.75 Sale or assignment of guaranteed loan.

This section applies to all loans where the Loan Note Guarantee is issued prior to the date in the **Federal Register**

Notice announcing the selection of the Fiscal and Transfer Agent under subpart C of this part. After this date, all loans must be sold through the RBS Fiscal and Transfer Agent. * * *

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3. Section 4279.78 is amended in paragraph (a) by adding one sentence after the heading to read as follows:

§ 4279.78 Repurchase from holder.

(a) * * * All loans sold through the FTA will be repurchased in accordance with subpart C of this part and the requirements of this paragraph. * * *

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4. Subpart C is added to read as follows:

Subpart C—Fiscal and Transfer Agent—Secondary Market Sales

Sec.

4279.201	Purpose.
4279.202	Definitions and abbreviations.
4279.203	Fees.
4279.204	[Reserved]
4279.205	Sale of Guaranteed Loans.
4279.206–4279.222	[Reserved]
4279.223	Lender payments.
4279.224	FTA payment processing responsibilities.
4279.225–4279.231	[Reserved]
4279.232	FTA Certificate administration responsibilities.
4279.233	Disclosures to purchasers.
4279.234–4279.236	[Reserved]
4279.237	Termination of Certificates.
4279.238	[Reserved]
4279.239	Repurchase of Guaranteed Interest by Lender.
4279.240	[Reserved]
4279.241	Repurchase by the Agency.
4279.242	Default by Lender.
4279.243	Surrender of Certificate.
4279.244	Certificates lost, destroyed, stolen, mutilated, or defaced.
4279.245	Suspension or revocation of participant in secondary market.
4279.246	Eligibility and selection of FTA.
4279.247–4279.299	[Reserved]
4279.300	OMB control number.

Authority: 7 U.S.C. 1988; 7 U.S.C. 1989.

Subpart C—Fiscal and Transfer Agent—Secondary Market Sales

§ 4279.201 Purpose.

This subpart contains regulations governing the sales of Guaranteed Loans by RBS on the secondary market. This subpart applies to all loans where the Loan Note Guarantee is issued after the date in the **Federal Register** Notice announcing the selection of the Fiscal and Transfer Agent under this subpart. Guaranteed Loans sold on the secondary market prior to the date in such Notice will be regulated in accordance with subparts A and B of this part and subpart B of part 4287 of this chapter. After such date any resale of those loans will be encouraged, but not required, to

comply with the provisions of this regulation.

§ 4279.202 Definitions and abbreviations.

The definitions and abbreviations in § 4279.2 of subpart A of this part are applicable to this subpart in addition to the following:

Certificate of Beneficial Interest or "Certificate." The document that the Fiscal and Transfer Agent issues representing an undivided interest in the RBS guaranteed portion of a loan.

Detached Assignment for Guaranteed Interest Certificate. A document used by Registered Holders to transfer Certificates through the Fiscal Transfer Agent together with the original Certificate.

Fiscal and Transfer Agent (FTA). RBS Fiscal and Transfer Agent is an independent party responsible for coordinating the secondary market activities on behalf of the Agency.

FTA Due Date. The third calendar day of every month or the next business day thereafter if the third calendar day is not a business day.

Guaranteed Interest. The guaranteed portion of a Guaranteed Loan.

Guaranteed Loans. RBS Guaranteed Loans authorized under 7 U.S.C. 1932.

Implementation Date. The date in the Federal Register Notice announcing the selection of the Fiscal and Transfer Agent under this subpart after which lenders are required to sell loans in the secondary market through the FTA.

Note Rate. The interest rate on the Borrower's Promissory Note.

Registered Holder. The Certificate owner listed in the FTA's records. Registered Holders are entitled to the same rights as Holders under §§ 4279.16 and 4279.72 (a) and (b) of this part.

Request for Certification of Assignment Guarantee Agreement. The form utilized by the Holder of an Assignment Guarantee Agreement issued to the FTA in exchange for a Certificate.

Rural Business-Cooperative Service (RBS) or Agency. See the definition of "Agency" in § 4279.2(a) of this part.

Secondary Market Participation Agreement. The Agreement that delineates the rights and responsibilities of the Lender, Holder, FTA, and RBS in the secondary market.

Warranty date. The date the Secondary Market Participation Agreement is settled by the Lender and Registered Holder through FTA.

§ 4279.203 Fees.

(a) RBS will charge a program user fee which will be limited to the Agency's cost of administering the FTA program.

(b) RBS will periodically publish a list of fees in the **Federal Register**.