

R 451.605.2 CLASS R BROKER-DEALER

Rule 605.2. (1) Pursuant to authority granted in the act, a special classification of broker-dealer is hereby created and special conditions established for registration of broker-dealers within the class. This classification of broker-dealer shall be designated "class R broker-dealers".

(2) As of the effective date of this rule, a person who meets all of the following requirements, whether currently registered as a broker-dealer or not, shall comply with the registration requirements for class R broker-dealers as set forth in subrule (3) of this rule;

(a) Engage in the business of effecting transactions in mortgage-backed note securities in reliance on the exemption from registration authorized in section 402(b)(5) of the act. Transactions in government or quasi-government guaranteed backed notes or notes which are rated are excluded from the scope of this rule.

(b) Transactions in mortgage-backed note securities made in reliance on the exemption from registration authorized in section 402(b)(5) of the act, represent 10% or more of the gross dollar amount of securities transactions effectuated by the enterprise.

(3) All broker-dealers who meet the requirements specified in subrule (2) shall comply with all of the following conditions, in addition to all registration requirements and conditions of the act and rules adopted thereunder.

(a) Deliver an offering circular to all prospective investors 5 business days before any purchase agreement involving mortgage-backed notes being transacted in reliance on section 402(b)(5) of the act becomes binding. The offering circular shall accurately disclose all material information about the investment in mortgage-backed notes of the type being transacted and shall be kept current to reflect material changes in the information contained therein.

(b) Deliver to a prospective investor a description of the property which will secure the specific note being sold and the mortgagor's credit report before the purchase agreement becomes binding. The description of the property shall contain, at a minimum, the address and legal description of the property.

(c) Deliver to an investor a mortgage and mortgage note which has been properly assigned and recorded within 60 days of the acceptance of funds from the investor. In all circumstances, if a mortgage and mortgage note have not been assigned, recorded, and delivered to an investor within 60 days from the payment of funds by the investor, the funds shall be returned with 6% interest from the date of investment less any income received by the investor from the investment.

(d) Deposit all investor funds with a bank or trust company in a segregated account which clearly shows that the funds belong to investors. An investor's funds shall not be withdrawn from the account for use by the registrant until a properly assigned and recorded mortgage and mortgage note has been delivered to the investor or upon expiration of the 60 day period for the purpose of returning the investor's funds. A record shall be maintained by the registrant showing the places in which investor funds are deposited.

(e) On a calendar year basis, submit quarterly reports to the administrator which contain the name, address, and telephone number of each investor who purchased a mortgage-backed note during the quarter being reported; the date of purchase; the purchase price; the name of the agent that sold the mortgage-backed note; and the date the mortgage and note were delivered to the investor. Reports shall be submitted to the administrator no later than 20 business days after the end of each quarter. The administrator shall retain the reports received under this rule on a confidential basis, unless it is determined by the administrator that release is necessary for the public interest or protection of investors.

(f) Submit for review all advertising prior to use, including the offering circular to be furnished to prospective investors, to the administrator. The administrator shall have 30 days to disallow the use of materials submitted.