

WAC 460-33A-115 Books and records. Each mortgage broker-dealer has a duty to make and keep current in this state books and records relating to its business. This duty includes the duty to make, keep and preserve the records referenced in WAC 460-21B-050, as well as the following records concerning sales of mortgage paper securities and other asset-backed securities:

(1) A file for each loan which the mortgage broker-dealer has funded through sales of mortgage paper securities and other asset-backed securities, including securities not registered pursuant to chapter 460-33A WAC, which file shall contain the following:

- (a) A copy of each appraisal or tax assessment valuation;
- (b) Copies of all documents of title representing current interests in the real property securing the loan;
- (c) Copies of title insurance policies and any other insurance policies on the real property securing the loan;
- (d) Evidence of payments for the purchase of securities in the loan to include copies of checks submitted by investors, ACH payments, and records of other electronic payments;
- (e) A copy of the signed participation agreement for each investor;
- (f) The acknowledgment of receipt by each investor of the specific and general offering circulars or other disclosure materials;
- (g) The subscription agreement for each investor;
- (h) A copy of the investor suitability questionnaire for each investor and documentation of the mortgage broker-dealer's determination that an investment in mortgage paper securities or other asset-backed securities is suitable for each investor in accordance with RCW 21.20.702 and WAC 460-33A-031. If the mortgage broker-dealer has not verified the suitability of an investment in mortgage paper securities for an investor within the prior twelve months, the mortgage broker-dealer shall conduct a reasonable inquiry to verify that further investment in mortgage paper securities is suitable based on the criteria set forth in WAC 460-33A-031 and document such a determination. As an alternative to maintaining this documentation in the loan files, the mortgage broker-dealer may maintain this documentation in separate files provided a list of all investors participating in the loan is included in the loan file with an indication of the location of this documentation for each investor;
- (i) The specific offering circular for the offering or other offering materials provided in sales of asset-backed securities;
- (j) All correspondence with investors relating to the loan;
- (k) The loan application of the borrower and all supporting documents such as the credit report on the borrower;
- (l) Copies of all service agreements with investors relating to the loan;
- (m) Copies of the escrow instructions and settlement statements relating to the loan;
- (n) Copies of all real estate broker's opinions of value obtained in accordance with WAC 460-33A-038 and their written consent to use their opinions of value in connection with an offering of mortgage paper securities.

(2) A file for each loan for which the mortgage broker-dealer is soliciting funds through the sale of mortgage paper or other asset-backed securities, which file shall contain the same items required under subsection (1) of this section except for those items which are not yet available because the mortgage paper or asset-backed security has not yet been sold.

(3) A file containing copies of all service agreements required under WAC 460-33A-065.

(4) Ledgers (or other records) reflecting all assets, liabilities, income, expense, and capital accounts.

(5) Ledgers, accounts (or other records) itemizing separately each cash account of every customer including, but not limited to, all funds in the mortgage broker's escrow and trust account, all proceeds of sale, refinancing, foreclosure, or similar transaction involving the real or personal property securing a loan funded by sales of mortgage paper, and all moneys collected from the borrower on behalf of the investors.

(6) A record of the proof of money balances of all ledger accounts in the form of trial balances and a record of the computation of net liquid assets as of the trial balance date pursuant to WAC 460-33A-040. Such trial balances and computations shall be prepared currently at least once a month.

(7) A questionnaire or application for employment executed by each agent of such broker-dealer, which questionnaire or application shall be approved in writing by an authorized representative of such broker-dealer and shall contain at least the following information with respect to each such person:

(a) His or her name, address, Social Security number, and the starting date of his or her employment or other association with the broker-dealer.

(b) His or her date of birth.

(c) The educational institutions attended by him or her and whether or not he or she graduated therefrom.

(d) A complete, consecutive statement of all his or her business connections for at least the preceding ten years, including his or her reason for leaving each prior employment, and whether the employment was part time or full time.

(e) A record of any denial of a certificate, membership or registration, and of any disciplinary action taken, or sanction imposed, upon him or her by any federal or state agency, or by any national securities exchange or national securities association, including a record of any finding that he or she was a cause of any disciplinary action or had violated any law.

(f) A record of any denial, suspension, expulsion or revocation of a certificate, membership or registration of any broker-dealer with which he or she was associated in any capacity when such action was taken.

(g) A record of any permanent or temporary injunction entered against him or her or any broker-dealer with which he or she was associated in any capacity at the time such injunction was entered.

(h) A record of any arrests, indictments or convictions for any felony or any misdemeanor, except minor traffic offenses, of which he or she has been the subject.

(i) A record of any other name or names by which he or she has been known or which he or she has used.

(8) A file containing all written complaints and memoranda prepared by the mortgage broker-dealer summarizing each oral complaint received from investors in mortgage paper securities or other securities sold by the mortgage broker-dealer.

[Statutory Authority: RCW 21.20.060, [21.20].070, [21.20].090, [21.20].100, [21.20].180, [21.20].210, [21.20].250, [21.20].270, and [21.20].450. WSR 12-11-087, § 460-33A-115, filed 5/17/12, effective

6/17/12. Statutory Authority: RCW 21.20.450. WSR 01-23-002, § 460-33A-115, filed 11/7/01, effective 12/8/01. Statutory Authority: RCW 21.20.045. WSR 92-18-009, § 460-33A-115, filed 8/21/92, effective 9/21/92. Statutory Authority: RCW 21.20.450. WSR 86-21-107 (Order SDO-140-86), § 460-33A-115, filed 10/20/86.]