sponsoring the collection: Form N–644; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households.* This information collection will be used by USCIS to verify eligibility and review the request for awarding posthumous citizenship.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 1 hour and 50 minutes (1.83 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 92 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov*.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210; Telephone 202–272–8377.

Dated: July 12, 2010.

Sunday Aigbe,

Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2010–17301 Filed 7–14–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5404–N–01]

Federal Housing Administration Risk Management Initiatives: Reduction of Seller Concessions and New Loan-to-Value and Credit Score Requirements

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: A recently issued independent actuarial study shows that the Mutual Mortgage Insurance Fund (MMIF) capital ratio has fallen below its statutorily mandated threshold. Consistent with HUD's responsibility under the National Housing Act to ensure that the MMIF remains financially sound, this notice solicits public comment on three proposed initiatives that will contribute to the restoration of the MMIF capital reserve account. The changes proposed in this notice are designed to preserve both the historical role of the Federal Housing Administration (FHA) in providing a home financing vehicle during periods of economic volatility and HUD's social mission of helping underserved borrowers. FHA proposes to tighten only those portions of its underwriting guidelines that have been found to present an excessive level of risk to both homeowners and FHA. First, FHA proposes to reduce the amount of closing costs a seller may pay on behalf of a homebuyer purchasing a home with FHA-insured mortgage financing for the purposes of calculating the maximum mortgage amount. This proposed cap on "seller concessions" will minimize FHA exposure to the risk of adverse selection. Secondly, FHA proposes to introduce a credit score threshold as well as reduce the maximum loan-to-value (LTV) for borrowers with lower credit scores, who represent a higher risk of default and mortgage insurance claim. Finally, FHA will tighten underwriting standards for mortgage loan transactions that are manually underwritten. These transactions have resulted in high mortgage insurance claim rates and present an unacceptable risk of loss.

DATES: *Comment Due Date:* August 16, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mark Ross, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; telephone number 202–708–2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background: FHA and the Housing Crisis

FHA was established by Congress in 1934 to improve nationwide housing standards, provide employment and stimulate industry, to improve conditions with respect to home mortgage financing, to prevent speculative excesses in mortgage investment, and to eliminate the necessity for costly secondary financing. As a governmental mortgage insurance company with nationwide scope, FHA provided credit enhancement to protect mortgage lenders from risk of loss, which encouraged the banking community to extend credit to new homeowners and those in need of refinance and home improvement loans. The result was one of the most successful collaborations between the public and private sectors in U.S. history. To this day, the FHA model, which offers mortgage insurance for mortgage loans that meet FHA requirements, reduces risk to mortgage lenders, thereby enabling them to extend credit to homeowners and

homebuyers, even during periods of economic volatility.

The current state of the housing market validates the importance of the historical role of FHA in stabilizing the mortgage market during times of economic disruption. Over the last 2 years, FHA has resumed its countercyclical position, supporting the private sector when access to capital is otherwise constrained. The volume of FHA insurance increased rapidly as private sources of mortgage finance retreated from the market. FHA's share of the single-family mortgage market today is approximately 30 percent—up from 3 percent in 2007, and the dollar volume of insurance written has jumped from the $56 billion issued in that year to more than $300 billion in 2009.

Managing Risk to the MMIF

The growth in the MMIF portfolio over such a short period of time coincides with a set of difficult economic conditions. FHA is also concerned with the issue of layering risk. Default risk is compounded when there are low credit scores, high loan-to-value (LTV) ratios, high debt-to-income ratios, and low or zero cash reserves associated with a loan. Given these conditions and concerns, FHA, in managing the MMIF, must be especially vigilant in monitoring the performance of the portfolio, enhancing risk controls, and tightening standards to address portions of the business that expose homeowners to excessive financial risks. *See* section 202(a)(7)(A) of the National Housing Act, which addresses the operational goals of the MMIF (12 U.S.C 1708(a)(7)(A)).

The proposals set forth in this Notice are representative of FHA's focus on enhancing the agency's risk management practices, while fulfilling FHA's mission to serve borrowers in a manner that is financially sustainable for both FHA and borrowers. FHA's authorizing statute, the National Housing Act, clearly envisions that FHA will adjust program standards and practices, as necessary, to operate the MMIF, with reasonable expectations of financial loss.

While the Federal Credit Reform Act of 1990 requires that FHA (and all other government credit agencies) estimate and budget for the anticipated cost of mortgage loan guarantees, the National Housing Act imposes a special requirement that the MMIF hold an additional amount of funds in reserve to cover unexpected losses. On November 13, 2009, HUD released an independent actuarial study that reported that FHA will likely sustain significant losses from mortgage loans made prior to 2009, due to the high concentration of seller-financed downpayment assistance mortgage loans and declining real estate values nationwide, and that the MMIF capital reserve relative to the amount of outstanding insurance in force had fallen below the statutorily mandated 2 percent ratio.[1]

FHA maintains the MMIF capital reserve in a special reserve account. As with other federal credit agencies, FHA uses a financing account to cover the current anticipated cost of its mortgage loan guarantees. The MMIF capital reserve account serves as a back-up fund, where FHA holds additional capital to cover unexpected losses. Funds are transferred into this account only when FHA holds more cash in the financing account than is necessary to cover projected costs. In recent years, adverse market conditions, the poor performance of seller-financed gift letter mortgage loans, and worsening economic projections had substantially increased the estimated cost of outstanding single-family mortgage loan guarantees, and large transfers of funds were made from the reserve account into the primary financing account. As previously noted, these withdrawals from the MMIF capital reserve fund have resulted in its no longer complying with the minimum capital ratio mandated by law. However, if the current estimate of these costs proves excessive or if FHA implements policy changes that result in net income to the Federal Government, excess funds will be moved from the financing account back to the reserve account, thereby restoring the capital reserves of the MMIF.

There are four primary policy changes that FHA can implement to replenish the MMIF capital reserve account: (1) Increase the premium income generated; (2) reduce losses by tightening underwriting guidelines; (3) strengthen enforcement measures to reduce unwarranted claim payments, and (4) improve avoidance of claim costs through enhanced loss mitigation. FHA is engaged in efforts on all of these fronts, exercising its full authority under the terms of the National Housing Act, including new authorities provided in recently enacted legislation.

History of FHA Loan-to-Value and Credit Score Requirements

In 1934, single-family mortgage insurance was available for loans up to 80 percent of appraised value. In 1938, amendments to the National Housing Act introduced a 90 percent LTV ratio as well as a tiered approach that tied LTV to specific dollar amounts, e.g., 90 percent of the first $6,000 of value and 80 percent for the remainder, depending on whether the property had been approved by FHA prior to construction. By 1957, the permissible LTV had increased to 90 or 97 percent of the first $10,000 of value plus 85 percent of the next $6,000 and 70 percent of the remainder, again depending on whether the property had been approved prior to construction. LTVs in the mid 1990s followed the same general tiered approach, with the first $25,000 of value limited to 97 percent; 95 percent of value in excess of $25,000, not to exceed $125,000; and 90 percent of value in excess of $125,000. Under the amendments made by the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, 122 Stat. 2654, approved July 30, 2008) (HERA), FHA implemented a 96.5 percent LTV for purchase transactions.

By contrast, the conventional mortgage market changes LTV requirements based on current conditions in the market. In December 2007, Fannie Mae restricted the maximum LTV for properties located within a declining market to 5 percentage points less than it would otherwise permit for a given loan product, meaning that a 95 percent LTV program would see availability restricted to 90 percent LTV. In May 2008, Fannie Mae returned to a national LTV as high as 97 percent for conforming mortgages scored favorably by its automated underwriting system, and 95 percent LTV for those underwritten manually.

As for a minimum credit score requirement, FHA did not introduce such a requirement until July 2008 when borrowers with credit scores below 500 were limited to 90 percent LTV. However, the large financial institutions in the mortgage industry introduced a minimum credit score of 580 in the first quarter of 2008, regardless of the type of financing and LTV, and then raised it to 620 in the first quarter of 2009.

II. New Tools To Manage Risk—The Housing and Economic Recovery Act of 2008

HERA made significant and comprehensive reforms to the National Housing Act (12 U.S.C. 1701 *et seq.*) and consequently reforms to FHA programs. Section 2118 of HERA amended section 202 of the National Housing Act (12 U.S.C. 1708), by amending several

[1] The capital ratio generally reflects the reserves available (net of expected claims and expenses), as a percentage of the current portfolio, to address unexpected losses. The report can be found at: *http://www.hud.gov/offices/hsg/fhafy09annualmanagementreport.pdf.*

provisions directed to both highlighting and strengthening FHA's fiduciary responsibilities.

Section 202, as amended by HERA, provides in paragraph (a)(3), entitled "Fiduciary Responsibility," that the "Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound." Paragraph (a)(4) continues a pre-HERA requirement, which is for the Secretary to provide, annually, for an independent actuarial study of the Fund, and the study is to include a review of risks to the Fund. Paragraph (a)(6) provides that if, pursuant to the independent actuarial study of the Fund, the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is substantial probability that the Fund will not maintain its established target subsidy rate, "the Secretary may either make programmatic adjustments under this title as necessary to reduce the risk to the Fund, or make appropriate premium adjustments." Paragraph (a)(7) provides that the operational goals of the Fund include minimizing the default risk to the Fund and to homeowners, while meeting the housing needs of the borrowers that the single-family mortgage insurance program under this title is designed to serve.

Consistent with these new obligations and authorities provided under the National Housing Act, HUD has already undertaken several measures to protect the FHA fund during the economic downturn, focusing on programs and practices that resulted in poor loan performance. This includes: Prohibition on seller-financed downpayment assistance and the tightening of underwriting guidelines for both the streamline and cash-out refinance products. FHA also implemented several changes to the agency's appraisal standards, shortening the validity period and reaffirming appraiser independence, to ensure that appraisals are as up-to-date and accurate as possible.

In addition to program modifications, FHA has increased oversight of lenders.[2] FHA has terminated and suspended several lenders whose default and claim rates were higher than the national default and claim rate.

FHA also announced and implemented an increase in the upfront mortgage insurance premium. By Mortgagee Letter 2010–02, FHA notified the industry that FHA will collect an upfront mortgage insurance premium of 2.25 percent for FHA loans for which case numbers are assigned on or after April 5, 2010. As the Mortgagee Letter provides, the new upfront premium is applicable to mortgages insured under the MMIF. The Mortgagee Letter advises that the new upfront premium is not applicable to mortgages insured under the following programs: Title I of the National Housing Act; Home Equity Conversion Mortgages (HECMs); HOPE for Homeowners (H4H); Section 247 (Hawaiian Homelands); Section 248 (Indian Reservations); Section 223(e) (declining neighborhoods); and Section 238(c) (military impact areas in Georgia and New York). The Mortgagee Letter also advises that there is no change to the amount of annual premiums.

III. Proposed Risk Management Initiatives

In addition to these measures—which address all four components of FHA's enhanced risk management approach—this notice proposes to tighten FHA's underwriting guidelines in a manner that balances FHA's goals of protecting the MMIF's financial health, while continuing to meet FHA's historic mission of providing a vehicle for mortgage lenders to provide affordable mortgages. Given the importance of maintaining a viable MMIF for existing and future homeowners, it is FHA's intent to focus only on particular practices that have been found to result in extremely poor mortgage loan performance. TABLE A shows that few borrowers are served under the standards that FHA is proposing to eliminate, relative to the total FHA portfolio.

TABLE A—FHA SINGLE-FAMILY INSURANCE ENDORSEMENT SHARES IN CY 2009 [a]

Loan-to-value range	Credit score ranges					
	None (percent)	300–499 (percent)	500–579 (percent)	580–619 (percent)	620–679 (percent)	680–850 (percent)
Up to 90%	0.03	0.01	0.12	0.48	2.28	3.51
Above 90%	0.34	0.02	1.39	7.24	35.80	48.77

[a] All fully underwritten loans, excluding streamline refinance loans (and reverse mortgages). Source: U.S. Department of Housing and Urban Development/FHA; February 2010.

Table B clearly indicates, through the performance data provided, that these borrowers are at significantly greater risk of losing their homes.

TABLE B—FHA SINGLE-FAMILY INSURANCE

[Seriously Delinquent Rates [a] by LTV and Credit Scores [b] as of January 31, 2010]

LTV range	Credit score ranges					
	None (percent)	300–499 (percent)	500–579 (percent)	580–619 (percent)	620–679 (percent)	680–850 (percent)
Up to 90%	13.3	35.4	22.4	15.7	6.1	1.5
Above 90%	20.9	43.3	30.4	19.6	8.6	2.3

[a] Seriously delinquent rates measure the sum of 90+-day delinquencies, in-foreclosure, and in-bankruptcy cases, as a percent of all actively insured loans on a given date.

[2] *See* HUD press release of September 18, 2009, announcing FHA credit policy changes to improve risk management functions at *http://www.hud.gov/news/release.cfm?content=pr09-177.cfm*, and the individual Mortgagee Letters implementing these policy changes at *http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/index.cfm*. See also HUD's November 30, 2009, rule proposing to increase the net worth of FHA-approved lenders at 74 FR 62521.

[b] Due to restrictions on the availability of loan-origination credit score data, this table includes only actively insured loans that were endorsed for insurance starting in Fiscal Year 2005. This table does not include information on streamline refinance loans.
Source: U.S. Department of Housing and Urban Development/FHA; February 2010.

Given FHA's mission, allowing the continuation of practices that result in such a high proportion of families losing their homes represents a disservice to American families and communities. It is FHA's intent to eliminate this portion of its business, and utilize other established methods to reach and support these families, such as through HUD's housing counseling program, which helps families prepare for and achieve sustainable homeownership. The following presents the practices that FHA plans to discontinue.

First, FHA proposes to reduce the amount of closing costs a seller (or other interested party) may pay on behalf of a homebuyer financing the purchase of a home with FHA mortgage insurance. Secondly, FHA proposes to introduce a minimum credit score for eligibility, as well as reduce the maximum LTV for borrowers with lower credit scores. Finally, FHA proposes to tighten underwriting standards for mortgage loans that are manually underwritten. These initiatives are intended to reduce the risk to, and assist in the return of, FHA's MMIF capital ratio to its mandated threshold. In addition, the initiatives will help to continue FHA's traditional role as a stabilizing force in the housing market during troubled economic times and remain a source of mortgage credit for low- and moderate-income homebuyers. These new guidelines are not applicable to mortgages insured under the following programs: Title I of the National Housing Act; Home Equity Conversion Mortgages (HECMs); HOPE for Homeowners (H4H); Section 247 (Hawaiian Homelands); Section 248 (Indian Reservations); Section 223(e) (declining neighborhoods); and Section 238(c) (military impact areas in Georgia and New York).

A. Reduction of Seller Concession

When a home seller pays all or part of the buyer's closing costs, such payments are referred to as seller concessions.[3] HUD's existing policy regarding concessions is found in Handbook 4155.1, section 2.A.3 and Handbook 4155.2, section 4.8, which define seller concessions and provide that any concessions exceeding 6 percent must be treated as inducements to purchase, resulting in a reduction in the FHA mortgage amount. This notice proposes to reduce the 6 percent limitation defined in the Handbooks to 3 percent. While HUD previously has allowed seller concessions of up to 6 percent of the sales price, conventional mortgage lenders have capped seller concessions at 3 percent of the sales price on loans with LTV ratios similar to FHA. Loans guaranteed by the Department of Veterans Affairs cap seller concessions at 4 percent of the sales price.

FHA proposes to cap the seller concessions in FHA-insured single-family mortgage transactions at 3 percent of the lesser of the sales price or appraised value, for the purpose of calculating the maximum mortgage amount. Table C shows that borrowers who received more than 3 percent in seller concessions had a significantly higher risk of losing their homes. While seller concessions above 3 percent would not be prohibited under this proposal, concessions that exceed FHA's 3 percent cap would be required to result in a dollar-for-dollar reduction in the sales price for the purpose of calculating the maximum FHA loan amount. This proposed cap will not only align FHA's single-family mortgage insurance programs to industry practice, but will help ensure that borrowers who rely on FHA-insured financing have sufficient investment in their home purchases and are less likely to default.

TABLE C—FHA SINGLE-FAMILY INSURANCE

[To-Date Claim Rates by Seller Concession Level—Percentage of Home Purchase Price as of January 31, 2010]

Endorsement fiscal year	Concession rates			Comparative ratios		
	Zero	Low: up to 3%	High: above 3%	Low/Zero	High/Zero	High/Low
2003	6.5%	6.2%	10.0%	0.96	1.55	1.61
2004	6.3%	7.0%	11.0%	1.11	1.76	1.59
2005	6.9%	7.9%	10.9%	1.14	1.58	1.38
2006	6.3%	7.5%	9.5%	1.19	1.51	1.27
2007	4.5%	5.3%	6.5%	1.19	1.46	1.23
2008	1.0%	1.2%	1.7%	1.18	1.67	1.41

Low = greater than zero and up to 3% of the sales price; High = greater than 3% of the sales price and up to 6%. Source: U.S. Department of HUD/FHA; Home Purchase loans excluding HECM, February 2010.

B. New LTV Ratio and Credit Score Requirements

FHA is proposing to introduce a minimum decision credit score of no less than 500 to determine eligibility for FHA financing and reduce the maximum LTV for all borrowers with decision credit scores of less than or equal to 579. Maximum FHA-insured financing (96.5 percent LTV for purchase transactions and 97.75 percent LTV for rate and term refinance transactions) would be available only to borrowers with credit scores at or above 580. All borrowers with decision credit scores between 500 and 579 would be limited to 90 percent LTV.

The decision credit score used by FHA in this analysis is based on methodologies developed by the FICO Corporation. FICO scores, which range from a low of 300 to a high of 850, are calculated by each of the three National Credit Bureaus and are based upon credit-related information reported by creditors, specific to each applicant. Lower credit scores indicate greater risk of default on any new credit extended to the applicant. The decision credit score is based on the middle of three National Credit Bureau scores or the lower of two scores when all three are not available, for the lowest scoring applicant. While FHA's historical data and analysis is derived from the "FICO-

[3] Seller concessions include any payment toward the borrower's closing costs by any third party with an interest in the transaction, to include the seller, builder, developer, mortgage broker, lender, or settlement company.

based" decision credit score, it is not FHA's intent to prohibit the use of other credit scoring models to assess an FHA borrower's credit profile. In this notice, FHA seeks comment on the best means for FHA to provide guidance to the industry on acceptable score ranges for other scoring models, to ensure that the scales used for all scoring systems are consistent and appropriate for an FHA borrower.

While FHA is serving very few borrowers with credit scores below 500, as shown in TABLE A, the performance of these borrowers is clearly very poor, as reflected in TABLES B and D. TABLE D shows the serious delinquency rates for borrowers with credit scores below 500, demonstrating that these borrowers struggle to meet their mortgage obligations. TABLE E demonstrates that the percentage of borrowers who ultimately lose their homes is twice as high for borrowers with lower credit scores. Similarly, FHA data demonstrates that borrowers with decision credit scores below 580, who invest only a minimal amount of funds into the transaction, struggle to make their mortgage payments and ultimately lose their homes at a rate that is unacceptable to FHA. Table D shows that borrowers affected by this notice have seriously delinquent rates four to five times higher than those who remain eligible.

TABLE D—FHA SINGLE FAMILY INSURANCE

[Seriously Delinquent Rates by Proposed Credit Score Floor[a] January 31, 2010]

Above Floor	Below 500 Floor (LTV up to 90)	Below 580 Floor (LTV above 90)	All Loans
7.63%	35.38%	29.80%	9.29%

[a] On active insured cases meeting today's underwriting criteria, which require 10% down for borrowers with credit scores below 500, excluding streamline refinance loans, endorsements Fiscal Years 2005–2009. Source: U.S. Department of Housing and Urban Development, Federal Housing Administration; February 2010.

FHA data indicate that insured mortgages with decision credit scores below 580 have significantly worse default and claim experience than do loans at or above 580. As seen in Table D, the seriously delinquent rate on actively insured mortgage loans in January 2010 was more than three times as high for loans below the proposed floor versus those above the floor. Higher delinquencies do translate into higher insurance claims over time. Table E shows the to-date claim rate of insured loans above and below the proposed floor, for Fiscal Years (FYs) 2005—FY 2008 books of business. The claim rate of mortgage loans below the floor is more than twice as high as those mortgage loans with credit characteristics above the floor.

TABLE E—FHA SINGLE FAMILY INSURANCE

[To-Date Claim Rates on Fully Underwritten Loans[a] by Proposed FICO Floor Restrictions (Above or Below)[b] as of January 31, 2010]

Endorsement FY	Decision Credit Score Floor			Ratio Below/Above
	Above	Below	All	
All Borrowers				
2005	5.76%	14.44%	7.28%	2.51
2006	5.42%	12.79%	6.59%	2.36
2007	3.74%	8.39%	4.65%	2.24
2008	0.97%	2.88%	1.20%	2.96

The proposed restrictions are a minimum 500 FICO score for borrowers with loan-to-value ratios less than or equal to 90%, and a minimum of 580 for borrowers with ratios above 90%.

Source: U.S. Department of Housing and Urban Development; February 2010.

FHA also must take measures that increase the likelihood that borrowers who are offered FHA-insured mortgages are capable of repaying these mortgages. The proposed changes announced in this notice address these concerns.

Under this proposal, effectively, a borrower with a decision credit score between 500 and 579 would be required to make a greater downpayment [at minimum, 10 percent] than a borrower with a higher score, for the purchase of a home with the same sales price.[4] Borrowers with credit scores below 500 would not be eligible for FHA-insured financing. The proposed new LTV and credit score requirements will reduce the risk to the MMIF and ensure that home buyers are offered mortgage loans that are sustainable.

Proposed Exemption for Borrowers Seeking to Refinance. While FHA proposes to introduce a minimum decision credit score of no less than 500 to determine eligibility for FHA financing and to reduce the maximum LTV for all borrowers with decision credit scores between 500 and 579, FHA is also considering a special, temporary allowance to permit higher LTV mortgage loans for borrowers with lower decision credit scores, so long as they involve a reduction of existing mortgage indebtedness pursuant to FHA program adjustments announced on March 26, 2010. The program adjustments will be proposed under separate notice. The current mortgage lender will need to agree to accept a short pay off, accepting less than the full amount owed on the original mortgage in order to satisfy the outstanding debt. This exemption will be applicable only to borrowers with credit scores between 500 to 579. Given the current economic conditions and the

[4] FHA will continue to allow borrowers to use permissible sources of funds, as described in FHA Handbook 4155.1, paragraph 5.B.1, to meet the minimum cash investment in the form of a downpayment. Gifts from family members, charitable organizations, employers, and government entities are also permitted, provided that none of the parties financially benefit from the sales transaction. In addition, governmental entities, including instrumentalities thereof, as described in Section 528 of the National Housing Act, may offer secondary financing to cover the borrowers' cash investment.

need (and encouragement by federal and other governmental programs) to refinance mortgages in order to obtain a more affordable mortgage through lower monthly payments, the decision credit scores proposed by this notice may be counterproductive in helping existing homeowners save their homes. Existing homeowners have an established payment history that can be taken into consideration in the underwriting process, but FHA recognizes that even homeowners who have been able to make their monthly payments may have had their credit scores negatively impacted by the downturn in the economy which has so seriously affected the housing market. FHA's consideration of different credit score requirements for refinance transactions would only be temporary, and would be applicable only to refinanced mortgages involving a short pay off. FHA is not proposing this distinct criteria permanently for refinance transactions, but rather only for such period as would help existing homeowners maintain their homes during this current economic downturn. FHA is proposing only different credit scores for refinance transactions to continue through, but not beyond, December 31, 2012. HUD specifically seeks comment on FHA's proposal.

C. Manual Underwriting

The purpose of mortgage underwriting is to determine a borrower's ability and willingness to repay the debt and to limit the probability of default. An underwriter must consider a borrower's credit history, evaluate their capacity to repay the loan based on income and current debt, determine if the cash to be used for closing is sufficient and from an acceptable source, and determine if the value of the collateral supports the amount of money being borrowed.

In cases where the borrower has very limited or nontraditional credit history, a FICO credit score may not have been issued by the credit bureaus, or the credit score may be based on references that are few in number or do not effectively predict future credit worthiness.

TABLE F—MANUAL UNDERWRITING STANDARDS

LTV	Credit score	Ratios	Reserves
90.00%	≥ 500 to ≤ 579	31/43%—Cannot Exceed	1 month PITI
96.50%*	≥ 580 to 619 Nontraditional Credit.	31/43%—Cannot Exceed	1 month PITI
96.50%*	≥ 620 and above	31/43%—May Exceed	1 month PITI

* *Cash-out refinance LTV limit is 85% and conventional-to-FHA refinance LTV limit is 97.75%.*

Mortgage loans for borrowers in this category will need to be manually underwritten as are all "Refer" risk classifications provided by FHA's TOTAL Mortgage Score Card. Naturally, these categories of borrowers present a higher level of risk and, as a result, manual underwriting guidelines are generally more stringent to address that higher risk level.

FHA has determined that factors concerning borrower housing and debt-to-income ratios, along with cash reserves, are good predictive indicators as to the sustainability of the mortgage. FHA is proposing to implement additional requirements that will consider these factors for manually underwritten mortgage loans, as seen in TABLE F.

These additional requirements will consider the borrower's credit history, LTV percentage, housing/debt ratios, and reserves. On *all* manually underwritten mortgage loans, borrowers will be required to have minimum cash reserves equal to one monthly mortgage payment, which includes principal, interest, taxes, and insurance(s). Maximum housing and debt-to-income ratios will be set at 31 percent and 43 percent, respectively. Borrowers with credit scores of 620 or higher may exceed the qualifying ratios of 31/43 percent, not to exceed 35/45 percent provided that they are able to meet *at least* one of the compensating factors listed below. To exceed the qualifying ratios of 35/45 percent, not to exceed 37/47 percent, borrowers must meet at least two compensating factors listed below. Any other compensating factors are not acceptable. Mortgage lenders cannot use compensating factors to address unacceptable credit. While this notice does not address the interplay of the housing and debt-to-income ratios, FHA is seeking comment on how to serve borrowers with housing ratios above the threshold and debt-to-income ratios below the threshold, *i.e.,* 36/36 percent.

Acceptable compensating factors are:

- The borrower will have a documented significant decrease or a documented minimal change in housing expense AND a documented 12-month housing payment history with no more than 1X30 late payments, *e.g.,* no more than one month late on all rental or mortgage payments made within the month due.
- Documented significant additional income that is not considered effective income, *e.g.,* part-time income that does not meet the requirements in Handbook 4155.1, paragraph 4.D.2.d., and is not reasonably expected to continue for the next 2 years.

Documented cash reserves in the amount of 3 total monthly mortgage payments (principle, interest, taxes, insurance). The reserves, consisting of the borrower's own funds, must be liquid or readily accessible, and may not consist of gift funds.

- Energy Efficient Mortgages, as well as those homes that were built to the 2000 International Energy Conservation Code, formerly known as the Model Energy Code, or are being retrofitted to that standard, have "stretch ratios" up to 33/45 percent.

TABLE G shows that borrowers who met the proposed ratio and reserve requirements performed considerably better than those borrowers who did not meet the same guidelines. These proposed new requirements for manual underwriting will reduce the risk to the FHA MMIF, by helping to ensure that home buyers are financially capable of repaying the mortgage loan to be insured by FHA.

TABLE G—FHA SINGLE-FAMILY INSURANCE

[Credit Risk Comparisons for Proposed Limits on Manual Underwriting Approvals Data as of January 31, 2010]

Endorsement fiscal year	To-date claim rate (percent)	Seriously delinquent rate [a] (percent)	To-date claim rate (percent)	Seriously delinquent rate [a] (percent)	Claim rate ratio	Seriously delinquent rate ratio
	LTV up to 90, meeting ratio and reserve limits		LTV up to 90, not meeting ratio and reserve limits			
2004	4.3	21.2	6.3	26.7	1.48	1.26
2005	4.0	21.2	5.6	27.1	1.41	1.28
2006	4.4	26.3	5.2	35.4	1.18	1.35
2007	2.9	25.1	3.3	36.1	1.13	1.44
2008	0.6	20.2	1.3	30.4	2.23	1.51
	Above 90 LTV, 580–619 FICO (or nontraditional credit) meeting ratio and reserve requirements		Above 90 LTV, 580–619 FICO (or nontraditional credit), not meeting ratio and reserve requirements			
2004	5.0	15.9	5.8	20.2	1.18	1.27
2005	5.0	18.4	7.2	24.5	1.43	1.33
2006	5.3	21.8	7.3	30.8	1.38	1.42
2007	2.9	23.5	4.4	33.7	1.51	1.43
2008	0.9	19.4	1.2	27.4	1.35	1.41
	Above 90 LTV, FICO > 620 meeting reserve limits		Above 90 LTV, FICO > 620, not meeting reserve requirements			
2004	3.2	10.8	4.7	13.6	1.48	1.26
2005	3.9	12.6	5.0	17.0	1.29	1.35
2006	3.5	20.4	5.6	22.1	1.59	1.08
2007	2.7	21.8	4.2	27.3	1.59	1.25
2008	0.9	17.7	1.0	21.6	1.19	1.22

[a] The seriously delinquent rate is the sum of all loans 3 or more months delinquent, plus all in-foreclosure and in-bankruptcy cases, as a ratio of all active insurance in-force.

Source: U.S. Department of Housing and Urban Development/FHA; February 2010.

Table H shows that borrowers with credit scores below 620 who did not meet the proposed ratio and reserve requirements performed significantly worse than borrowers meeting those requirements.

TABLE H—FHA SINGLE-FAMILY INSURANCE

[Comparison of Seriously Delinquent Rates [a]—by Proposed Manual Underwriting Standards All Active Loans]

LTV ratio	Credit score range	Loans that meet proposed ratio and reserve limits [b]	Loans that do not meet proposed limits	Ratio: not meet/meet
Up to 90	500–579	22.02	30.06	1.37
Above 90	580–619 or nontraditional credit	18.33	26.15	1.43
Above 90	620 or above	12.01	17.05	1.42

[a] The seriously delinquent rate is the sum of all loans 3 or more months delinquent, plus all in-foreclosure and in-bankruptcy cases, as a ratio of all active insurance in force.

[b] See Chart below for Proposed Ratio and Reserve Limits.

Source: U.S. Department of Housing and Urban Development/FHA; February 2010.

All borrowers with credit scores must be classified by FHA's TOTAL Mortgage Scorecard to determine if manual underwriting is required. In cases where TOTAL Scorecard refers the case for manual underwriting, or in cases where the borrower(s) has no credit score, FHA is proposing the additional requirements for manual underwriting as illustrated in TABLE F. This table is applicable for purchase transactions, FHA cash-out refinance transactions, and all conventional to FHA refinance transactions. TABLE F is not applicable for FHA-to-FHA rate and term refinance (no cash-out), FHA streamline refinance (including credit qualifying), and HECM transactions.

The proposed changes announced in this notice will preserve both the historical role of the FHA in providing liquidity to the housing and mortgage markets during periods of economic volatility, as well as HUD's social mission of helping underserved borrowers access capital when the private sector needs additional credit enhancement to do so.

IV. Solicitation of Public Comments

FHA welcomes comments on the proposed risk management initiatives for a period of 30 calendar days. All comments will be considered in the development of the final **Federal Register** notice announcing the risk management initiatives and providing their effective date.

V. Findings and Certification

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this notice under Executive Order 12866 (entitled "Regulatory Planning and Review"). The notice was determined to be a "significant regulatory action," as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order).

In this notice, FHA proposes three policy changes that FHA can implement to replenish the MMIF capital reserve account. First, FHA proposes to reduce the amount of financing costs a property seller or other interested party may pay on behalf of a homebuyer using an FHA-insured mortgage. This proposed cap on "seller concessions" will more closely align FHA's single family mortgage insurance programs with standard industry practice and minimize FHA exposure to the risk of adverse selection. Secondly, FHA proposes to introduce a two-part credit-score threshold, with one lower bound for loans with loan-to-value ratios of 90 percent or less, and a higher threshold for those with loan-to-value ratios up to the statutory maximums. This will be the first time that FHA has ever instituted an absolute lower-bound for borrower credit scores. Borrowers with low credit scores present higher risk of default and mortgage insurance claim. Third, FHA will tighten underwriting standards for mortgage loan transactions that are manually underwritten. Such transactions that lack the additional credit enhancements proposed under this Notice result in higher mortgage insurance claim rates and present an unacceptable risk of loss. The benefit of these set of actions will be to reduce the net losses due to high rates of insurance claims on affected loans, while the cost will be the value of the homeownership opportunity denied to the excluded borrowers. The total saving to the FHA would be $96 million in reduced claim losses and the net cost to society of excluding reduced homeownership rates could be as high as $82 million.

With respect to expected benefits of this policy change, as noted earlier, the direct purpose of the policy change is to achieve the statutorily mandated minimum capital reserve ratio of 2 percent. The broader purpose of the policy change, however, and of the capital reserve ratio requirement itself, is to ensure the financial soundness of the FHA throughout a wide range of economic conditions. The current financial crisis has led to a credit crunch in which FHA has become the only source of mortgage credit for households who lack significant funds for downpayments and who do not have pristine credit histories. FHA's share of the single family mortgage market today is approximately 30 percent—up from a low point of just 3 percent in 2007. The dollar volume of insurance written jumped from just $56 billion in 2007 to over $300 billion in 2009. Facilitating the provision of credit during a liquidity crisis is a welfare-enhancing activity and the FHA provides such a public benefit. Quantifying the benefit involves measuring the extent to which this Notice increases the abilities of the FHA to meet its mission requirements without having to substantially increase insurance premiums, and then estimating the value of the net economic benefits provided to households by the housing options afforded them through FHA insurance.

With respect to possible costs of this policy change, FHA recognizes that tightening its underwriting guidelines will cause excluded households to either delay transition to homeownership status or else never make that transition. For refinance loans, the proposed restrictions will cause higher housing costs until such time as the excluded households can improve their credit histories and/or gain more home equity through general market-level house price appreciation. Individuals may face other costs from being excluded from an FHA-insured loan, one of which is a search cost for an alternative. However, an individual lender or broker will offer a wide variety of products to a potential customer. An FHA loan is only one of many products offered by the typical lender so that the typical potential borrower is not likely to go to another lender. The lender would inform the applicant that FHA guidelines have changed and that given their credit score, there are no loans for that individual. Some consumers may wish for a second opinion, however, in which case they would expend additional resources and time. If for example, a consumer spent two hours valued at $40 per hour and another $20 for an additional credit report, then the search cost would be $100 for a fraction of the excluded borrowers.

The foregoing provides only a brief overview of the analysis that HUD undertook in assessing costs and benefits. HUD's full analysis can be found at *http://www.hud.gov/offices/hsg/sfh/hsgsingle.cfm.*

The docket file is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This notice does not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This notice would not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal

Information Relay Service at 800–877–8339.

Dated: July 9, 2010.

David H. Stevens,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2010–17326 Filed 7–14–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5410–N–01]

Federal Housing Administration (FHA) First Look Sales Method for Grantees, Nonprofit Organizations, and Subrecipients Under the Neighborhood Stabilization Programs (NSP)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice outlines the process by which governmental entities, nonprofit organizations, and subrecipients participating in the Neighborhood Stabilization Program (NSP) (eligible NSP purchasers) are provided a preference to acquire FHA real estate-owned (REO) properties under FHA's temporary NSP First Look Sales Method. Eligible NSP purchasers may acquire such REO properties for any of the eligible uses under the NSP, including rental or homeownership. Today's notice also outlines how REO property sales under the FHA First Look Sales Method will be facilitated to ensure that NSP and FHA requirements are met, and to ensure that compliance with these requirements does not impede or otherwise disqualify eligible NSP purchasers from successfully participating in the FHA First Look Sales Method.

While there are currently two separate NSP programs (NSP1 and NSP2) created under their own respective authorizing legislation, for purposes of this notice the term "NSP" shall be used to refer in general to all current or future NSP programs, as well as to their respective eligible program participants.

DATES: The FHA First Look Sales Method announced in this notice shall be in effect from the date of publication of this notice through May 31, 2013.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9172, Washington, DC 20410; telephone number 202–708–1672 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800– 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Neighborhood Stabilization Program (NSP)

Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110–289, approved July 30, 2008) (HERA) appropriated $3.92 billion for emergency assistance for the redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as the Neighborhood Stabilization Program (NSP). HERA authorizes the Secretary to specify alternative requirements to any provision under Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 *et seq.*) (HCD Act), except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint), in accordance with the terms of section 2301 of HERA and for the sole purpose of expediting the use of grant funds.

On October 6, 2008 (73 FR 58330), HUD published a notice in the **Federal Register** advising the public of the allocation formula and allocation amounts, the list of grantees, alternative requirements, and waivers granted. On June 19, 2009 (74 FR 29223), HUD published a second notice in the **Federal Register** advising the public of substantive revisions to the October 6, 2008, notice, primarily as a result of changes to NSP authorized under the American Recovery and Reinvestment Act (Pub. L. 111–005, approved February 17, 2009) (Recovery Act).

Title XII of Division A of the Recovery Act also appropriated additional funding under NSP. On May 4, 2009, HUD posted on its website the Notice of Funding Availability (NOFA) for the Neighborhood Stabilization Program 2 (NSP2) under the Recovery Act. HUD announced the posting of the NSP2 NOFA through a **Federal Register** notice published on May 7, 2009 (74 FR 21377). The NSP2 NOFA announced the availability of approximately $1.93 billion in competitive grants authorized under the Recovery Act. Following issuance of the NSP2 NOFA, HUD made some revisions.

A notice posted on June 11, 2009 clarified, among other things, how applicants were to meet the geographic targeting requirements. A second notice posted on November 9, 2009, revised the NSP2 NOFA to: (1) Correct an inconsistency in the NSP2 NOFA regarding when the lead member of a consortium must enter into consortium funding agreements with consortium members; and (2) extend the deadline for submission of such agreements to January 29, 2010. A third notice posted on January 21, 2010, specified the NSP2 NOFA deadline date for submission of consortium funding agreements. Additional notices posted by HUD on April 2, 2010, revise the definitions of "foreclosed" and "abandoned" for the purposes of the NSP programs. Notices of the changes listed above were published in the **Federal Register** on June 17, 2009 (74 FR 28715), November 16, 2009 (74 FR 58973), January 27, 2010, (75 FR 4410), and April 9, 2010 (75 FR 18228), and are available on HUD's Web site at: *http://www.hud.gov/nspta.*

B. FHA Temporary First Look Sales Method for Eligible NSP Purchasers

The purpose of the FHA real estate-owned (REO) property disposition program is to dispose of properties in a manner that expands homeownership opportunities, strengthens neighborhoods and communities, and ensures a maximum return to the mortgage insurance funds. HUD's regulations for the program are codified at 24 CFR part 291 (entitled "Disposition of HUD-Acquired Single Family Property"). Under the part 291 regulations, HUD has considerable flexibility in determining appropriate methods of sale for REO properties. Section 291.90 provides that "HUD may, in its discretion, on a case-by-case basis or as a regular course of business, choose from among" several sales methods identified in the regulations. Further, § 291.90(e) provides that "HUD may select any other methods of sale, as determined by the Secretary."

Consistent with the goals of both NSP, to aid in the redevelopment of abandoned and foreclosed homes, and of HUD's REO sales program, to expand homeownership opportunities and strengthen communities, this notice announces a temporary REO sales method under the authority conferred by § 291.90(e). Through the FHA First Look Sales Method described in this notice, HUD will afford eligible NSP purchasers with a preference ("First Look") to acquire FHA REO properties that are available for purchase within NSP areas. Eligible NSP purchasers may