

(2) the seller reasonably believes the review is fake; or

(3) the review is wholly unrelated to the products or services offered by or available at the website or platform.

#### § 465.8 Misuse of Fake Indicators of Social Media Influence.

It is an unfair or deceptive act or practice and a violation of this Rule for anyone to:

(a) sell or distribute fake indicators of social media influence that can be used by persons or businesses to misrepresent their influence or importance for a commercial purpose; or

(b) purchase or procure fake indicators of social media influence to misrepresent their influence or importance for a commercial purpose.

#### § 465.9 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall continue in effect.

By direction of the Commission.

**April J. Tabor,**  
Secretary.

[FR Doc. 2023–15581 Filed 7–28–23; 8:45 am]

BILLING CODE 6750–01–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 203

[Docket No. FR–6353–P–01]

RIN 2502–AJ66

#### Modernization of Engagement With Mortgages in Default

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** HUD’s regulations require that mortgagees of Federal Housing Administration (FHA) insured single family mortgages (mortgagees) meet in person, or make a reasonable effort to meet in person, with mortgagors who are in default on their mortgage payments. This rule proposes to modernize this requirement by updating HUD’s regulation to better align with advances in electronic communication technology and mortgagor engagement preferences, while preserving consumer protections. Specifically, this rule proposes to update HUD’s current in-person, face-to-face meeting requirements by permitting mortgagees

to utilize methods of communication most likely to receive a response from the mortgagor as determined by the Secretary, including electronic and other remote communication methods, such as telephone calls or video calls, to meet with mortgagors who are in default on their mortgage payments. This proposed rule would also expand the meeting requirement to all mortgagors in default, including mortgagors who do not reside in the mortgaged property and those with a mortgaged property not within 200 miles of their mortgagee, its servicer, or a branch office of either.

**DATES:** *Comment Due Date:* September 29, 2023.

**ADDRESSES:** There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at [www.regulations.gov](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 comments immediately available to the public. Comments submitted electronically through [www.regulations.gov](http://www.regulations.gov) can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that website to submit comments electronically.

2. *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.

**Note:** To receive consideration as a public comment, comments must be submitted through one of the two methods specified above.

*Public Inspection of Public Comments.* HUD will make all properly submitted comments and communications available for public inspection and copying during regular business hours at the above address. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or

communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Graham Mayfield, Acting Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street SW, Room 9278, Washington, DC 20410, telephone 202–768–2838 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

**SUPPLEMENTARY INFORMATION:** First codified in 1976, HUD’s regulations at 24 CFR 203.604 require mortgagees to meet in person, or make a reasonable effort to meet in person, with mortgagors who are in default on their mortgage payment. This requirement for an in-person meeting with the mortgagor, commonly referred to as the “face-to-face meeting” requirement, originated during a time when mortgage lending and servicing activities were conducted in person at locations in the local communities a mortgagee served. At that time, a “face-to-face” meeting was the most effective way to discuss and facilitate loss mitigation options because knowledgeable mortgagee staff were available at locations near the mortgaged property. Beginning in the mid-1990s, many mortgagees began consolidating origination and servicing activities in centralized locations. Today, many mortgagees have a national presence and often employ a single national servicing center or a limited number of regional servicing centers, operate without retail places of business altogether, and tend to conduct origination and servicing activities with employees and clients not being in close physical proximity. In addition, mortgagors prefer to conduct business online or through other remote methods. This proposed rule would permit the use of electronic and other remote communication methods to make it more convenient for mortgagors in default to participate in meetings with their mortgagee.

The current face-to-face meeting requirement also reflects a time when electronic methods for conducting virtual meetings were not widely

available or commonly used. Since 24 CFR 203.604 was last amended, significant advances have been made in the mortgage industry's use of technology and mortgagors' access to such, including smartphones, tablets, and live video communications. Over the years, HUD has updated certain mortgage servicing policies to increase requirements for mortgagees to engage with mortgagors in default on their mortgage payments. To adapt to changing uses of communication technology, in updates to the FHA Single Family Policy Handbook, HUD has expanded its acceptable methods for communicating with mortgagors in default situations, which currently include phone calls, emails, web portals, and other previously used electronic methods.<sup>1</sup> In addition to HUD increasing its requirements for mortgagees to engage with mortgagors in default, the Consumer Financial Protection Bureau (CFPB) servicing regulations at 12 CFR part 1024 and State laws in many jurisdictions require engagement with mortgagors, causing mortgagees to expand their outreach processes to offer mortgagors timely loss mitigation options.

As a result of mortgagees' expanded outreach processes to mortgagors and mortgagors' ability to independently research loss mitigation options, mortgagees reported very few mortgagors who agreed to participate in face-to-face meetings with their mortgagees prior to the COVID-19 pandemic. Data obtained in 2017 and 2018 from members of the Mortgage Bankers Association (MBA) demonstrate mortgagors' limited participation and mortgagees' burdensome costs associated with face-to-face meetings. "According to data from one mortgagee, the cost of complying with the face-to-face interview requirement in just one year amounted to \$3.9 million; however, these efforts resulted in a successful loss mitigation document collection rate of only 5.8 percent for that same period."<sup>2</sup> As stated in this feedback to HUD, MBA members' "compliance with this requirement results in a significant commitment of resources by mortgagees, and offers no additional benefits or protections to mortgagors than those already required by other consumer protection servicing regulations."<sup>3</sup> In 2018, MBA collected additional data

from three mortgagees that service the largest FHA-insured portfolios, to further illustrate the limited mortgagor acceptance rate for face-to-face meetings. In the data collected by the MBA, one mortgagee that services over 300,000 FHA-insured mortgages reported hand-delivering over 50,000 face-to-face meeting request letters throughout the year. From those letters, the mortgagee conducted or referred 14 mortgagors for face-to-face meetings, resulting in a 0.028 percent acceptance rate. Another mortgagee that services approximately 610,000 FHA-insured mortgages sent 53,000 letters and conducted 18,000 property visits to deliver face-to-face meeting offers. From that population of sent letters and property visits, no mortgagors accepted the face-to-face meeting offer. A third mortgagee that services approximately 930,000 FHA-insured mortgages conducted 145,000 property visits to deliver face-to-face meeting request letters. From these property visits, 124 mortgagors accepted the face-to-face meeting offers, for a 0.085 percent acceptance rate.<sup>4</sup>

Due to public health concerns around the spread of COVID-19, in March 2020, HUD issued a temporary, partial waiver of the face-to-face meeting requirement found in 24 CFR 203.604, which has been extended on three occasions and remains in effect through December 31, 2023 (collectively, the "waiver").<sup>5</sup> Similar to the updates described in this proposed rule, the waiver permitted mortgagees to use alternative methods for contacting mortgagors, including electronic methods of communication, e.g., phone interviews, email, video calling services, and other communication technologies, to meet the requirements of 24 CFR 203.604. With this waiver in place, mortgagees provided over 1.5 million mortgagors in default with loss mitigation assistance during this time. HUD received positive feedback from mortgagees and consumer advocates related to the added flexibility to existing loss mitigation outreach requirements permitted by the waiver.

Mortgagors are demonstrating their preference for interacting with mortgagees through technology. For example, in May 2021, Forbes published the results of a new survey on

borrowing and lending conducted by ICE Mortgage Technology, which found the pandemic has permanently changed the way consumers utilize technology and those looking to buy or refinance a home are seeking lenders who offer online tools to complete their mortgage loans from home.<sup>6</sup> According to the survey, "the importance of lenders offering digital solutions such as online applications during the lending process increased for borrowers in 2020, with 58 percent saying the availability of an online application would affect their lender decision (up from 50 percent in 2018)." Respondents to the survey who were offered online and/or mobile options by their lenders took advantage of these tools during the mortgage loan process. "Sixty-one percent of borrowers used an online application in 2020, slightly up from 58 percent in 2018. Sixty-one percent also used an online portal for electronically signing and notarizing documents, compared to 56 percent in 2018." As expected, decreased in-person interactions became more important in 2020 due to the COVID-19 pandemic. Only 37 percent of survey respondents in 2018 cited "no need to meet in person" as an aspect they preferred about their online application process. "Whether they had been through the mortgage loan process or not, 63 percent of consumers surveyed believe that an online mortgage process would make buying a home easier than an in-person process."

Even prior to the COVID-19 pandemic, mortgagees were taking note of the trend of mortgagors' preference for interacting with their mortgagee using technology. As an example, in 2018, the Federal Reserve Bank of New York published research conducted on the role of technology in mortgage lending.<sup>7</sup> While the report focused on mortgage originations by 'FinTech lenders,' which are lenders that offer an application process that can be completed entirely online, similar mortgagor preferences and behaviors are exhibited in mortgage servicing as well. The Federal Reserve Bank of New York's research revealed that "FinTech lender originations have grown annually by 30 percent from \$34bn of total originations in 2010 (2 percent of

<sup>1</sup> FHA Single Family Housing Policy Handbook 4000.1, section III.A.2.h. Early Default Intervention.

<sup>2</sup> MBA letter re: Docket No. FR-6030-N-01, Reducing Regulatory Burden; Enforcing the Regulatory Reform Agenda Under Executive Order 13777, addressed to HUD's Office of General Counsel, Regulations Division, June 14, 2017.

<sup>3</sup> Id.

<sup>4</sup> Correspondence from the MBA to HUD regarding face-to-face meetings, March 14, 2023.

<sup>5</sup> The original waiver issued on March 13, 2020, and subsequent additional temporary, partial waivers to the face-to-face meeting requirement in 24 CFR 203.604 are posted on HUD's Housing Waivers web page, available at [https://www.hud.gov/program\\_offices/administration/hud\\_clips/waivers](https://www.hud.gov/program_offices/administration/hud_clips/waivers).

<sup>6</sup> Brenda Richardson, Forbes, "How Digital Technology Changed the Face of the Mortgage Industry," May 13, 2021, <https://www.forbes.com/sites/brendarichardson/2021/05/13/how-digital-technology-changed-the-face-of-the-mortgage-industry/?sh=555736f82856>.

<sup>7</sup> Andreas Fuster, Matthew Plosser, Philipp Schnabl, James Vickery, The Role of Technology in Mortgage Lending, Federal Reserve Bank of New York, February 2018, [https://www.newyorkfed.org/medialibrary/media/research/staff\\_reports/sr836.pdf](https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr836.pdf).

market) to \$161bn in 2016 (8 percent of market). The growth has been particularly pronounced for refinances and for mortgages insured by the Federal Housing Administration (FHA), a segment of the market which primarily serves lower income borrowers.” The study also found that “default rates on FinTech mortgages are about 25 percent lower than those for traditional lenders, even when controlling for detailed loan characteristics.”

The evidence shows mortgagees are seeking ways to automate, simplify, and expedite mortgage origination and servicing processes through technological innovation. HUD’s proposed updates to the in-person meeting requirement, as described below, align with such advances and better support mortgagor engagement preferences.

## I. This Proposed Rule

### A. Mortgages Insured Pursuant to 24 CFR Part 203, Except Mortgages Insured on Indian Land Pursuant to Section 248 of the National Housing Act<sup>8</sup>

HUD’s current regulations at 24 CFR 203.604 require mortgagees to conduct a face-to-face meeting or make a reasonable effort to arrange such a meeting, with mortgagors who are in default on their mortgage payments. For mortgages insured pursuant to 24 CFR part 203, except mortgages insured on Indian Land pursuant to section 248 of the National Housing Act, HUD proposes to make it more convenient for mortgagors in default to meet with their mortgagee by updating the requirement that mortgages must have a face-to-face meeting requirement with mortgagors to permit mortgagees to meet with mortgagors who are in default on their mortgage payments either through a face-to-face meeting or other communication methods as determined by the Secretary, including electronic or other remote communication methods such as telephone or video calls. Additionally, given these expanded methods of engagement permitted and recent FHA policy updates that make loss mitigation options available to mortgagors who do not reside in the mortgaged property, HUD proposes to

<sup>8</sup> This section describes proposed requirements for mortgages insured pursuant to 24 CFR part 203, except mortgages insured on Indian Land pursuant to section 248 of the National Housing Act. Due to statutory requirements, the in-person, face-to-face meeting requirement found at 24 CFR 203.604 for mortgages insured pursuant to section 248 of the National Housing Act will remain in place. This proposed rule proposes certain other changes to 24 CFR 203.604 regarding mortgages insured pursuant to section 248 of the National Housing Act, those proposed changes are described later in this preamble.

eliminate two of the exemptions to the meeting with the mortgagor requirement currently found in 24 CFR 203.604(c). The exemptions proposed to be eliminated are that (1) mortgagees are not required to meet with a mortgagor if the mortgagor does not reside in the mortgaged property and (2) a meeting with the mortgagor is not required if the mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either. Finally, the proposed updates would amend the definition of a “reasonable effort” to arrange a meeting with the mortgagor to align with the proposed updates regarding the addition of the option to use electronic or other remote communication methods as determined by the Secretary to conduct a meeting with the mortgagor.

HUD believes that these proposed updates to 24 CFR 203.604 would improve mortgagee engagement with mortgagors, reduce the cost of mortgage default servicing, and align HUD’s regulations with advancements made in electronic communication technology and in mortgagor communication preferences, while preserving consumer protections. According to the survey results published by Forbes in 2021, discussed above, “online applications and online portals are currently the digital tools most commonly offered by lenders, with more than 9 in 10 offering both options to borrowers (91 percent). Of lenders who offer online applications, 38 percent said that more than 80 percent of their applications were completed online in 2020, while 60.4 percent said that more than half of all loan applications were submitted online. Homeowners who used an online application appreciated the simpler application process (55 percent) reduced time to close (53 percent) and fewer in-person interactions (49 percent).”<sup>9</sup>

While HUD’s proposed updates would update the acceptable method(s) that mortgagees may use to meet with a mortgagor in default, the purpose for the meeting remains the same. The meeting requirement is the mortgagor’s opportunity to meet directly with trained mortgagee staff who can provide information about FHA loss mitigation options to assist the mortgagor in curing the default episode and bringing the FHA-insured mortgage current or otherwise avoiding foreclosure. Generally, mortgagors are unfamiliar

<sup>9</sup> Brenda Richardson, Forbes, How Digital Technology Changed the Face of the Mortgage Industry, May 13, 2021, <https://www.forbes.com/sites/brendarichardson/2021/05/13/how-digital-technology-changed-the-face-of-the-mortgage-industry/?sh=555736f82856>.

with FHA’s home retention loss mitigation options and do not understand what a short-term forbearance, loan modification, or partial claim would entail. Many are also unaware that FHA provides home disposition options for mortgagors in default who are unable to retain their homes and want to avoid foreclosure. In addition to the meeting providing an opportunity for mortgagors in default to meet with knowledgeable mortgagee staff who can explain all loss mitigation options available, the meeting also provides the opportunity for the mortgagee to begin collecting the information needed to evaluate mortgagors for FHA’s loss mitigation options.

With the addition of other Secretary approved options for mortgagees to conduct the meeting with the mortgagor, the proposed updates would permit mortgagees to utilize more flexible communication and scheduling options to meet with the mortgagor at the mortgagor’s convenience. Additionally, the proposed updates would reduce the expense incurred by mortgagees and the difficulties associated with making at least one trip to see the mortgagor at the mortgaged property to schedule a meeting with the mortgagor.

HUD is committed to requiring mortgagees to engage with mortgagors in default to provide information about loss mitigation options available to mitigate losses to HUD’s Mutual Mortgage Insurance Fund and avoid foreclosure. This proposed rule would maintain the requirement that mortgagees meet, or make a reasonable effort to meet, with mortgagors who are in default on their mortgage by updating HUD’s regulations to align with advances in electronic communication technology and changes in mortgagor engagement preferences, while preserving consumer protections. This proposed rule would also expand the meeting requirement to all mortgagors in default, including mortgagors who do not reside in the mortgaged property and those with a mortgaged property that is not within 200 miles of the mortgagee, its servicer, or a branch office of either. A paragraph-by-paragraph summarized explanation and description of the proposed updates to 24 CFR 203.604 are outlined immediately below.

### Proposed 24 CFR 203.604(a)

HUD proposes to add language to paragraph (a), currently reserved, to clarify that paragraph (a) applies to all mortgages insured pursuant to 24 CFR part 203, except mortgages insured on Indian Land pursuant to section 248 of

the National Housing Act. As described below, the proposed text in paragraph (b) would apply to mortgages insured on Indian Land pursuant to section 248 of the National Housing Act (Section 248 Mortgages on Indian Land).

Proposed 24 CFR 203.604(a)(1)

HUD proposes to add paragraph (a)(1) to § 203.604, which would largely consist of language currently found in § 203.604(b). The proposed paragraph (a)(1) would update the requirement that mortgagees must meet “face-to-face” with mortgagors. As discussed earlier, the proposed updates would require that the mortgagee meet with the mortgagor either through a face-to-face meeting or by using other communication methods as determined by the Secretary. These may include electronic or other remote communication methods such as telephone or video calls. Specific guidance detailing acceptable communication methods that may be used for conducting the meeting with mortgagors in default, in addition to a face-to-face meeting option, will be established through a Mortgagee Letter or an update to the FHA Single Family Housing Policy Handbook 4000.1.

In addition, HUD proposes to eliminate reference to Section 248 Mortgages on Indian Land, as listed in the current paragraph (b), because HUD proposes to describe the face-to-face meeting requirements for Section 248 Mortgages on Indian Land in a revised paragraph (b), as described below. Finally, HUD proposes to eliminate reference to mortgages authorized by section 203(q) of the National Housing Act, as listed in the current paragraph (b), because section 203(q) of the National Housing Act was repealed on July 30, 2008.

Proposed 24 CFR 203.604(a)(1)(i)

HUD proposes to add paragraph (a)(1)(i) to § 203.604, which would largely consist of language currently found in § 203.604(b). The proposed paragraph (a)(1)(i) would clarify that mortgagees are also required to meet with a mortgagor when default occurs on a repayment plan.

Proposed 24 CFR 203.604(a)(2)

HUD proposes to add paragraph (a)(2) to § 203.604, which would replace § 203.604(c), while using most of the language from the current paragraph (c). The proposed paragraph (a)(2), as changed from the language currently in paragraph (c), would remove reference to a “face-to-face” meeting with mortgagors, consistent with and as

described in the proposed paragraph (a)(1).

In proposed paragraph (a)(2), HUD also proposes to eliminate certain exemptions from the meeting with the mortgagor rule, which are currently detailed in paragraph (c). The two exemptions proposed to be eliminated from the current paragraph (c) are (1) a meeting with the mortgagor is not required if the mortgagor does not reside in the mortgaged property, and (2) a meeting with the mortgagor is not required if the mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either.

Loss mitigation options were previously unavailable to mortgagors who do not reside in the mortgaged property. As the availability of loss mitigation has expanded to include these mortgagors, it is appropriate to require that mortgagees meet the same engagement requirements as for mortgagors who occupy the mortgaged property. The current exemption for mortgagors with properties not within 200 miles of the mortgagee was intended to prevent an unreasonable burden on the mortgagor and mortgagee. HUD proposes to eliminate these two exemptions to expand the requirement that mortgagees meet, or make a reasonable effort to meet, with all mortgagors in default on their mortgage payments. These two current exemptions would generally be unnecessary given the proposal that mortgagees would be permitted to meet with mortgagors via electronic communication methods.

Proposed 24 CFR 203.604(a)(3)

HUD proposes to add paragraph (a)(3) to § 203.604, which would replace the language currently found in paragraph (d). The proposed paragraph (a)(3), as changed from the language currently in paragraph (d), would remove reference to a “face-to-face” meeting with mortgagors, consistent with and as described in the proposed paragraph (a)(1). In proposed paragraph (a)(3), HUD also proposes to redefine what constitutes a mortgagee’s “reasonable effort” to arrange a meeting with a mortgagor as required by § 203.604. For the purposes of the proposed paragraph (a)(3), HUD proposes to remove the language currently found in paragraph (d) that a “reasonable effort” consists of the mortgagee sending the mortgagor at least one letter certified by the Postal Service and that the mortgagee must make at least one trip to the mortgaged property in an effort to arrange a meeting with the mortgagor. Instead, HUD proposes to define a “reasonable effort” to arrange a meeting with a

mortgagor to require, at a minimum, two verifiable attempts to contact the mortgagor utilizing methods determined by the Secretary. The definition for a “verifiable attempt” will be established through Mortgagee Letter or an update to the FHA Single Family Housing Policy Handbook 4000.1.

*HUD specifically seeks public comment on its proposed revisions to what constitutes a “reasonable effort,” including what should constitute a “verifiable attempt.”*

*B. Mortgages Insured on Indian Land Pursuant to Section 248 of the National Housing Act*

Due to statutory requirements, HUD is leaving the in-person, face-to-face meeting requirement found in 24 CFR 203.604 in place for Section 248 Mortgages on Indian Land. Unlike other single-family mortgage insurance programs regulated under 24 CFR part 203, the National Housing Act specifically requires that mortgagees conduct a face-to-face meeting with mortgagors who are in default on their mortgage payments for Section 248 Mortgages on Indian Land. Given these statutory requirements, HUD is proposing no substantive updates to the requirements for Section 248 Mortgages on Indian Land found in 24 CFR 203.604; however, HUD is proposing updates to the text of 24 CFR 203.604 to reorganize the paragraph structure and to make the requirements for Section 248 Mortgages on Indian Land easier to understand.

A summarized explanation and description of the proposed updates are outlined immediately below.

Proposed 24 CFR 203.604(b)

HUD proposes to create a new paragraph (b) to § 203.604, which will replace the language currently found in paragraph (e). The proposed paragraph (b) would detail the face-to-face meeting requirements for Section 248 Mortgages on Indian Land. While the language in the proposed paragraph (b) will appear expanded from the text currently in paragraph (e), substantively, the requirements in the proposed paragraph (b) would be the same as the requirements that currently exist for Section 248 Mortgages on Indian Land found in the current paragraph (e). The text in the proposed paragraph (b) appears expanded from the current paragraph (e) because the current paragraph (e) cross references the existing face-to-face meeting requirements that are detailed in the current paragraphs (b), (c), and (d) of § 203.604. Given the proposed updates to the meeting with the mortgagor

requirement for mortgages insured pursuant to 24 CFR part 203, except mortgages insured on Indian Land pursuant to section 248 of the National Housing Act, described above, the face-to-face meeting requirements for Section 248 Mortgages on Indian Land would be directly incorporated into the proposed paragraph (b). Additionally, various wording changes from the current paragraph (e) would be made in the proposed paragraph (b) to ensure clarity and consistency in word choice throughout § 203.604.

### III. Findings and Certifications

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The updates described in this proposed rule would be limited to permitting mortgagees to communicate with mortgagors who are in default on their mortgage methods via electronic or other remote communication methods as determined by the Secretary rather than in-person. Since mortgagees are already required to communicate with these mortgagors, this proposed rule would, if finalized, only alter the options for how mortgagees communicate with this population of mortgagors. If there is an economic effect on mortgagees, it would fall equally on all mortgagees. Further, HUD anticipates that the proposed rule, if finalized, would have a net positive economic impact on mortgagees by reducing the expenses associated with making an in-person visit to a mortgagor's property to comply with the requirements of 24 CFR 203.604.

#### *Environmental Impact*

This proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this proposed rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

#### *Executive Order 13132, Federalism*

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either: (i) imposes substantial direct compliance costs on State and local governments and is not required by statute, or (ii) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does 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 proposed rule would not impose any Federal mandates on any State, local, or Tribal governments, or on the private sector, within the meaning of the UMRA.

#### **List of Subjects in 24 CFR Part 203**

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

For the reasons stated above, HUD proposes to amend 24 CFR part 203 as follows:

#### **PART 203—SINGLE FAMILY MORTGAGE INSURANCE**

■ 1. The authority citation for part 203 continues to read as follows:

**Authority:** 12 U.S.C. 1707, 1709, 1710, 1715b, 1715z–16, 1715u, and 1715z–21; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

■ 2. Revise § 203.604 to read as follows:

#### **§ 203.604 Contact with the mortgagor.**

(a) For mortgages insured pursuant to this part, except those mortgages insured on Indian Land pursuant to section 248 of the National Housing Act:

(1) The mortgagee must conduct a meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid and at least 30 days before foreclosure is commenced, or at least 30 days before assignment is requested if the mortgage is insured on Hawaiian home lands pursuant to section 247 of the National Housing Act. The meeting

with the mortgagor must be conducted in a manner as determined by the Secretary.

(i) If default occurs on a repayment plan, the mortgagee must conduct a meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, within 30 days after such default.

(ii) [Reserved]

(2) A meeting with the mortgagor is not required if:

(i) The mortgagor has clearly indicated that they will not cooperate in the meeting;

(ii) The mortgagor is on a repayment plan to bring the mortgage current, and the mortgagor is meeting the terms of the repayment plan; or

(iii) A reasonable effort to arrange a meeting with the mortgagor is unsuccessful.

(3) A reasonable effort to arrange a meeting with the mortgagor shall consist of, at a minimum, two verifiable attempts to contact the mortgagor utilizing methods determined by the Secretary.

(b) For mortgages insured on Indian Land pursuant to section 248 of the National Housing Act:

(1) The mortgagee must conduct a face-to-face meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid and at least 30 days before assignment is requested.

(i) If default occurs on a repayment plan arranged other than during a face-to-face meeting, the mortgagee must have a face-to-face meeting with the mortgagor, or make a reasonable effort to arrange such a meeting, within 30 days after default or at least 30 days before assignment is requested.

(ii) [Reserved]

(2) A face-to-face meeting is not required if:

(i) The mortgagor has clearly indicated that they will not cooperate in the meeting;

(ii) The mortgagor is on a repayment plan to bring the mortgage current, and the mortgagor is meeting the terms of the repayment plan; or

(iii) A reasonable effort to arrange a meeting with the mortgagor is unsuccessful.

(3) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall include at a minimum, one letter sent to the mortgagor certified by the Postal Service as having been dispatched and at least one trip to see the mortgagor at the mortgaged property. In addition, the mortgagee must document that it has made at least one telephone call to the mortgagor for

the purpose of trying to arrange a face-to-face meeting. The mortgagee may appoint an agent to perform its responsibilities under this paragraph.

(4) The mortgagee must also:

(i) Inform the mortgagor that HUD will make information regarding the status and payment history of the mortgagor's loan available to credit bureaus and prospective creditors;

(ii) Inform the mortgagor of other available assistance, if any; and

(iii) Inform the mortgagor of the names and addresses of HUD officials to whom further communications may be addressed.

**Julia R. Gordon,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2023–16128 Filed 7–28–23; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[REG–121709–19]

RIN 1545–BP63

#### Rules for Supervisory Approval of Penalties; Hearing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking; notice of hearing.

**SUMMARY:** This document provides a notice of public hearing on proposed regulations regarding supervisory approval of certain penalties assessed by the IRS.

**DATES:** The public hearing on this proposed regulation has been scheduled for Monday, September 11, 2023, at 10:00 a.m. EST. The IRS must receive speakers' outlines of the topics to be discussed at the public hearing by Friday, August 11, 2023. If no outlines are received by Friday, August 11, 2023, the public hearing will be cancelled.

**ADDRESSES:** The public hearing is being held in the Auditorium, at the Internal Revenue Service Building, 1111 Constitution Avenue NW, Washington, DC. Due to security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present a valid photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

Send Submissions to CC:PA:LPD:PR (REG–121709–19), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday to CC:PA:LPD:PR (REG–121709–19), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG–121709–19) (preferred).

**FOR FURTHER INFORMATION CONTACT:**

Concerning the proposed regulations, David Bergman, (202) 317–6845; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the public hearing, call Vivian Hayes (202) 317–6901 (not a toll-free number) or by email to [publichearings@irs.gov](mailto:publichearings@irs.gov) (preferred).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed rulemaking (REG–121709–19) that was published in the **Federal Register** on Tuesday, April 11, 2023, (FR 88 21564).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by August 11, 2023.

A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing, and via the Federal eRulemaking Portal ([www.Regulations.gov](http://www.Regulations.gov)) under the title of Supporting & Related Material. If no outline of the topics to be discussed at the hearing is received by August 11, 2023, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to [publichearings@irs.gov](mailto:publichearings@irs.gov) to have your name added to the building access list. The subject line of the email must contain the regulation number REG–121709–19 and the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG–121709–19.

Individuals who want to testify by telephone at the public hearing must send an email to [publichearings@irs.gov](mailto:publichearings@irs.gov)

to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–121709–19 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG–121709–19.

Individuals who want to attend the public hearing in person without testifying must also send an email to [publichearings@irs.gov](mailto:publichearings@irs.gov) to have your name added to the building access list. The subject line of the email must contain the regulation number REG–121709–19 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG–121709–19. Requests to attend the public hearing must be received by 5:00 p.m. EST by Wednesday, September 6, 2023.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to [publichearings@irs.gov](mailto:publichearings@irs.gov) to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–121709–19 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–121709–19. Requests to attend the public hearing must be received by 5:00 p.m. EST by Wednesday, September 6, 2023.

Hearings will be made accessible to people with disabilities. To request special assistance during a hearing please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to [publichearings@irs.gov](mailto:publichearings@irs.gov) (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by Wednesday, September 6, 2023. Any questions regarding speaking at or attending a public hearing may also be emailed to [publichearings@irs.gov](mailto:publichearings@irs.gov).

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**BILLING CODE 4830–01–P**