Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1228

RIN 2590–AB30

Exception to Restrictions on Private Transfer Fee Covenants for Loans Meeting Certain Duty To Serve Shared Equity Loan Program Requirements

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Housing Finance Agency (FHFA) is proposing to amend its regulation that restricts its regulated entities—the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), and the Federal Home Loan Banks (Banks)—from purchasing, investing in, accepting as collateral, or otherwise dealing in mortgages on properties encumbered by certain types of private transfer fee covenants (PTFCs), and in related securities, subject to certain exceptions (PTFC Regulation). The proposed rule would establish an additional exception to the restrictions for loans on properties with PTFCs, and related securities, if the loans meet certain shared equity loan program requirements for Resale Restriction Programs in FHFA's Duty to Serve Underserved Markets Regulation (Duty to Serve Regulation).

DATES: Written comments on the proposed rule must be received on or before November 27, 2023.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB30, by any one of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB30.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB30, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street SW entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB30, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For time sensitive correspondence, please plan accordingly.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Associate Director, Office of Housing and Community Investment (OHCI), 202–649–3157, *ted.wartell@fhfa.gov;* or Sara L. Todd, Assistant General Counsel, Office of General Counsel (OGC), 202–649–3527, *sara.todd@fhfa.gov;* Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. These are not toll-free numbers. The mailing address for each contact is: Federal Housing Finance Agency, Fourth Floor, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Public Comments and Access

FHFA invites comments on all aspects of the proposed rule, and will take all comments into consideration before issuing a final rule. Commenters do not need to answer each of the specific questions asked below. Copies of all comments received will be posted on the FHFA website at *http://www.fhfa.gov,* and will include any personal information you provide, such as your name, address, email address, and telephone number. In addition, copies of all comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule, also located on the FHFA website.

II. Background

A. Statutory and Regulatory Background: Enterprises

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (Safety and Soundness Act), provides that the Director of FHFA has a duty to ensure that the operations and activities of the Enterprises foster liquid, efficient, competitive, and resilient national housing finance markets.[1] To achieve these goals, the Enterprises purchase residential mortgages that fall within the conforming loan limits established pursuant to 12 U.S.C. 1717 and 12 U.S.C. 1454, and issue guaranteed mortgage-backed securities backed by those loans.

In addition, the Safety and Soundness Act provides generally that the Enterprises ''have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families.'' [2] Section 1129 of the Housing and Economic Recovery Act of 2008 (HERA) amended section 1335 of the Safety and Soundness Act to establish a duty for the Enterprises to serve three specified underserved markets (Duty to Serve) in order to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for certain categories of borrowers in those markets.[3] Specifically, the Enterprises are required to provide leadership in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families for the manufactured housing, affordable housing preservation, and rural housing markets.[4] FHFA's Duty to Serve Regulation,[5] which implements these

[1] 12 U.S.C. 4513(a)(1)(B)(ii).

[2] 12 U.S.C. 4501(7).

[3] 12 U.S.C. 4565.

[4] 12 U.S.C. 4565(a). The terms ''very low-income,'' ''low-income,'' and ''moderate-income'' are defined in 12 U.S.C. 4502.

[5] 12 CFR part 1282, subpart C.

Duty to Serve statutory requirements, is discussed further below.

B. Statutory and Regulatory Background: Federal Home Loan Banks

The eleven Banks are wholesale financial institutions organized under the Federal Home Loan Bank Act to support housing finance and further affordable housing and community development.[6] The Banks are cooperatives and carry out their mission primarily by providing products and services to their member institutions. Bank members and eligible housing associates (nonmember mortgagee borrowers such as state housing finance agencies) may obtain access to secured loans, known as advances.[7] These must be fully secured by eligible collateral at the time of issuance or renewal, which may include, among other forms of collateral, residential mortgages and mortgage-backed securities.[8] In addition, the Banks issue standby letters of credit on behalf of members and housing associates, which may be secured by residential mortgages and mortgage-backed securities.

Most Banks also offer Acquired Member Assets (AMA) programs, under which they acquire eligible mortgages from participating members and housing associates, subject to parameters set forth in FHFA's AMA regulation.[9] The Banks are also authorized to invest in mortgage-backed securities and other mortgage-related investments meeting applicable requirements.[10] Finally, the Banks may serve as pass-through entities for mortgage loans acquired by another purchaser.

III. PTFC Regulation

The current PTFC Regulation prohibits the Enterprises and Banks from purchasing, investing in, or otherwise dealing in any mortgages encumbered by PTFCs or related securities, and prohibits the Banks from accepting such mortgages or securities as collateral for advances, unless such PTFCs are ''excepted transfer fee covenants.'' [11] Under the PTFC Regulation, ''PTFCs'' mean obligations that purport to ''run with the land'' in the records of title to real property or to bind current owners of, and successors in title to, such real property, and that obligate a transferee or transferor to pay a private transfer fee upon transfer of the property.[12] A ''private transfer fee'' is defined in the PTFC Regulation as a transfer fee, including a charge or payment, imposed by a covenant, and required to be paid in connection with or as a result of a transfer of title to real estate, and payable on a continuing basis each time a property is transferred (except for transfers specifically excepted) for a period of time or indefinitely.[13]

In adopting the PTFC Regulation, FHFA was concerned that private transfer fees would: (1) be used to fund purely private continuous streams of income for select market participants, either directly or through securitized investment vehicles; (2) not benefit homeowners or the properties involved; and (3) interfere with accurate determination of property values. Therefore, FHFA concluded that mortgages on properties with PTFCs might impair the safety and soundness of the Enterprises and the Banks that purchase, invest in, or otherwise deal in, or in the case of the Banks, that accept as collateral, such mortgages.[14]

The prohibition in the PTFC Regulation does not apply where the PTFC is an ''excepted transfer fee covenant,'' which is defined as a covenant that requires payment to a ''covered association'' and that limits the use of such payment to purposes that provide a ''direct benefit'' to the real property.[15] A ''covered association'' is defined as ''a nonprofit mandatory membership organization comprising owners of homes, condominiums, cooperatives, manufactured homes, or any interest in real property, created pursuant to a declaration, covenant or other applicable law; or an organization described in section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code.'' [16] The PTFC Regulation defines a ''direct benefit'' as meaning that the proceeds of a PTFC ''are used exclusively to support maintenance and improvements to encumbered properties, and acquisition, improvement, administration, and maintenance of property owned by the covered association of which the owners of the burdened property are members and used primarily for their benefit.'' [17] This may include ''cultural, educational, charitable, recreational, environmental, conservation, or other similar activities that (1) are conducted in or protect the burdened community or adjacent or contiguous property, or (2) are conducted on other property that is used primarily by residents of the burdened community.'' [18]

IV. Interaction Between the PTFC Regulation and the Enterprise Duty To Serve Regulation and Activities

Approximately four years after the adoption of the PTFC Regulation, FHFA adopted the Duty to Serve Regulation, which applies only to the Enterprises.[19] Under the Duty to Serve Regulation, each Enterprise is required to prepare an Underserved Markets Plan (Plan), which is subject to Non-Objection by FHFA, and which describes the specific activities and objectives the Enterprise will undertake over a three-year period to fulfill its Duty to Serve in each underserved market.[20] The regulation identifies specific types of activities that are eligible to receive Duty to Serve credit and that an Enterprise may include in its Plan under each underserved market.[21] An Enterprise may also include additional activities in its Plan, subject to FHFA determination of whether they are eligible to receive Duty to Serve credit.[22]

Under the Duty to Serve Regulation, one of the activities eligible for Duty to Serve credit under the affordable housing preservation market is Enterprise support for shared equity programs for affordable homeownership preservation in the form of resale restriction programs administered by community land trusts, other nonprofit organizations, or state or local governments or instrumentalities (collectively, Resale Restriction Programs).[23] The Duty to Serve Regulation further specifies the following criteria for an eligible Resale Restriction Program:

(a) Provides homeownership opportunities to very low-, low-, or moderate-income households (100 percent or less of area median income (AMI));

(b) Utilizes a ground lease, deed restriction, subordinate loan, or similar legal mechanism that includes provisions stating that the program will

[6] *See* 12 U.S.C. 1421 *et seq.*

[7] *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430b.

[8] *See* 12 U.S.C. 1430(a)(3), 1430(b); 12 CFR 1266.7, 1266.17, part 1269.

[9] *See* 12 CFR part 1268.

[10] *See* 12 CFR 1267.3(a)(4)(iv), (v).

[11] 12 CFR 1228.2.

[12] 12 CFR 1228.1.

[13] 12 CFR 1228.1. The definition excludes fees imposed by or payable to the Federal, State, or local government, and fees that defray actual costs of the transfer of the property, neither of which would be modified by the proposed rule.

[14] *See* 77 FR 15566, 15567 (Mar. 16, 2012).

[15] 12 CFR 1228.1.

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] 12 CFR part 1282, subpart C; 81 FR 96242 (Dec. 29, 2016).

[20] 12 CFR 1282.32(a), (b).

[21] *See* 12 CFR 1282.33(c) for eligible activities in the manufactured housing market; 12 CFR 1282.34(c), (d) for eligible activities in the affordable housing preservation market; and 12 CFR 1282.35(c) for eligible activities in the rural housing market.

[22] 12 CFR 1282.32(d)(2).

[23] 12 CFR 1282.34(d)(4)(i)(A).

keep the home affordable for subsequent very low-, low-, or moderate-income families, the affordability term is at least 30 years after recordation, a resale formula applies that limits the homeowner's proceeds upon resale, and the program administrator or its assignee has a preemptive option to purchase the homeownership unit from the homeowner at resale; and

(c) Supports homebuyers and homeowners to promote sustainable homeownership, including reviewing and pre-approving refinances and home equity lines of credit.[24]

The preamble to the 2015 proposed Duty to Serve rule noted that many shared equity loan programs allow the sponsors to charge modest fees that cover the cost of operating the program.[25] However, the preamble to the final Duty to Serve rule did not reiterate this discussion of fees and did not include a reference to fees in the regulatory text. The final Duty to Serve rule also did not refer to or amend the PTFC Regulation specifically to provide an exception to the restriction on PTFCs for loans that meet Resale Restriction Program requirements in the Duty to Serve Regulation.

Between 2018 (the first year of Duty to Serve program implementation) and 2022, the Enterprises, collectively, purchased 595 shared equity loans for Duty to Serve credit. Both Enterprises' 2022–2024 Duty to Serve Plans include plans to purchase shared equity loans under Resale Restriction Programs in 2023 and 2024.

The loans purchased by the Enterprises under many of the Resale Restriction Programs are on properties encumbered by PTFCs that fall within the PTFC Regulation's prohibition because they bind current owners and successors to pay a fee to the program administrator (often a community land trust) on a continuing basis each time the property is transferred. The loans do not meet the definition of an ''excepted transfer fee covenant'' in the PTFC Regulation because they are used by the program administrator to pay for its operating costs, including costs of enforcing the long-term affordability requirements, but they are not limited to costs and activities that are specific to the ''burdened community'' in which the subject property is located, nor are they otherwise required to be used for the purpose of providing a ''direct benefit'' to the property (as these quoted terms are defined in the PTFC Regulation).[26]

During the Enterprises' efforts to implement the shared equity loan objectives in their Duty to Serve Plans, the Enterprises reviewed model organizational documents that were proposed to be used as templates by Resale Restriction Programs. In preparing to establish approved templates, the Enterprises determined that, while Resale Restriction Programs using the templates would meet the criteria for Resale Restriction Programs in the Duty to Serve Regulation (except for the 100 percent of AMI limit), the programs' possible inclusion of private transfer fee payment requirements could cause any loans issued under the terms of the model organizational documents to be ineligible for purchase by the Enterprises pursuant to the PTFC Regulation.

V. Regulatory Waiver for the Enterprises; Proposed § 1228.1

In response to the Enterprises' identification of PTFCs in shared equity loans under Resale Restriction Programs that otherwise could be purchased and qualify for Duty to Serve credit, FHFA reviewed these types of loans and determined that the private transfer fees in these programs are not the types of fees that prompted the concern underlying the PTFC Regulation. Unlike fees paid to the select market participants that concerned FHFA when the PTFC Regulation was adopted, the fees in Resale Restriction Programs reimburse the program administrators, which are typically community land trusts, nonprofits, or local governments, for their ongoing operating expenses related to the purchase and sale of affordable homes under the program. They are not used as a method to provide a continuous income stream to the program administrators with no continuing affordable housing-related services provided. For example, fees in Resale Restriction Programs may be used to pay for: maintaining a list of, and qualifying, prospective program-eligible homebuyers; providing seller representation and outreach to prospective buyers; ensuring that repairs are incorporated into the sale transaction; providing potential homebuyers with homeownership counseling or similar education; exercising the program administrator's option to purchase the home if the homeowner defaults on the first lien or the affordability restriction; enforcing the long-term affordability requirements (such as calculating the maximum resale price according to the resale formula); and executing legal documents with subsequent homebuyers.

Accordingly, FHFA issued a temporary prospective waiver of the private transfer fee restrictions in § 1228.2 of the PTFC Regulation for Enterprise purchases or securitizations of shared equity loans on properties with PTFCs that meet the Duty to Serve shared equity loan program criteria for Resale Restriction Programs in the Duty to Serve Regulation other than the Duty to Serve 100 percent of AMI limit,[27] through the remaining term of the Enterprises' 2022–2024 Duty to Serve Plans, *i.e.,* through December 31, 2024. The waiver did not include an income limit, based on input from the Enterprises and other practitioners familiar with shared equity programs who indicated that these programs typically set income limits up to 140 percent of AMI (which is above the Duty to Serve 100 percent of AMI limit), especially in communities where housing costs are high relative to incomes. Limiting eligibility for the waiver to loans that meet the Duty to Serve 100 percent of AMI limit would require lenders and shared equity program administrators to use a differentiated approach with borrowers above and below this income threshold. Further, it would require lenders to review each loan to ensure eligibility for purchase by the Enterprises and the Banks. This would undermine the objective of standardizing the shared equity homeownership market and increasing the number of Enterprise shared equity loan purchases under the Duty to Serve program.

The waiver also included a retrospective component that waived the restrictions in the PTFC Regulation for shared equity loans on properties with private transfer fees purchased or securitized by the Enterprises with note dates prior to July 1, 2023, regardless of whether the loans met the Duty to Serve shared equity loan program criteria for Resale Restriction Program loans.

Finally, the waiver provided notice of FHFA's intention to promptly engage in notice-and-comment rulemaking to propose amending the PTFC Regulation to codify the waiver provisions. This proposed rule implements that intent. Specifically, the proposed rule would amend the definition of ''excepted transfer fee covenant'' in § 1228.1 of the PTFC Regulation to add as an exception a PTFC that encumbers a property for which a shared equity loan meets the requirements of a Duty to Serve Resale Restriction Program (§ 1282.34(d)(4)(i)(A) and (d)(4)(ii) of this chapter) other than the 100 percent of AMI limit.

[24] 12 CFR 1282.34(d)(4)(ii).

[25] 80 FR 79181, 79203 (Dec. 18, 2015).

[26] *See* 12 CFR 1228.1.

[27] 12 CFR 1282.34(d)(4)(i)(A), (d)(4)(ii).

VI. Interaction Between the PTFC Regulation and the Banks' Activities; Proposed § 1228.1

The current PTFC Regulation also prohibits the Banks from purchasing, investing in, or otherwise dealing in mortgages on properties encumbered by PTFCs, and related securities, and prohibits the Banks from accepting such mortgages or securities as collateral for advances, subject to the exceptions in the regulation.[28] The Banks have indicated that, to their knowledge, they have not purchased, or accepted as collateral, shared equity loans. The same considerations discussed above for the Enterprises (regarding differences in the uses of fees payable at resale to administrators of Resale Restriction Programs and the fees that FHFA was concerned about when the PTFC Regulation was adopted) also apply to the Banks. However, because the waiver for the Enterprises derived from their activities under the Duty to Serve regulation (which does not apply to the Banks), the waiver did not address activities of the Banks with respect to shared equity loans. Because the Banks might decide in the future to purchase, invest in, or otherwise deal in shared equity loans or related securities under Resale Restriction Programs, or accept them as collateral, to facilitate increased liquidity for affordable homeownership, FHFA believes the exception provided in the proposed rule for the Enterprises should also apply for the Banks.

Accordingly, the definition of ''excepted transfer fee covenant'' in § 1228.1 of the PTFC Regulation would continue to apply to both the Enterprises and the Banks, as amended by the proposed rule to add as an exception a PTFC that encumbers a property for which a shared equity loan meets the requirements of a Duty to Serve Resale Restriction Program (§ 1282.34(d)(4)(i)(A) and (d)(4)(ii) of that chapter) other than the 100 percent of AMI limit.

VII. Limitation on Applicability; Proposed § 1228.3

The proposed rule would remove the prospective application and effective date in current § 1228.3 of the PTFC Regulation. Current § 1228.3 includes a grandfather provision for mortgages on certain properties encumbered by PTFCs if those PTFCs were created pursuant to an agreement entered into before the effective date of the PTFC regulation. The regulated entities have been operating under the terms of the current regulation since July 16, 2012, and the Enterprises subsequently have been operating under the terms of the regulatory waiver since July 1, 2023. If this proposed PTFC rule is adopted as a final rule, the prospective application date (*i.e.,* the effective date) of the final rule would be 60 days after the date of its publication in the **Federal Register**. This date will precede December 31, 2024, which is the conclusion of the 2022–2024 Duty to Serve Plan cycle and the date on which the temporary prospective component of the waiver will expire.

Proposed § 1228.3 would include the retrospective component of the waiver by allowing the Enterprises to retain in their portfolios any of the 595 shared equity loans on properties with private transfer fees that were purchased or securitized by the Enterprises with note dates prior to the effective date of the waiver (July 1, 2023), regardless of whether the loans met the Duty to Serve shared equity loan program criteria for resale restriction programs in § 1282.34(d)(4)(i)(A) and (d)(4)(ii) of this chapter.

VIII. Requests for Comments

FHFA specifically requests comments on the following questions (please identify the question answered by the number assigned below):

1. Should the proposed rule apply to the Banks in addition to the Enterprises? Do differences between the Banks and the Enterprises warrant additional or other revisions to the proposed rule as it relates to the Banks?

2. Should all of the Duty to Serve Resale Restriction Program criteria, including the 100 percent of AMI limit, apply to the determination of whether a mortgage loan that is subject to PTFCs, or a related security, is eligible for purchase, investment, otherwise dealing in, or acceptance as collateral by the Banks and Enterprises? If not, which of those specific criteria should apply?

3. Should criteria other than the Duty to Serve Resale Restriction Program criteria, such as an income limit different from 100 percent of AMI, apply to the determination of eligibility?

4. Should criteria in addition to the Duty to Serve Resale Restriction Program criteria apply to the determination of eligibility?

IX. Paperwork Reduction Act

The proposed rule does not contain any information collection requirement. Thus, it would not require approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

X. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act and FHFA certifies that the proposed rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities because the proposed rule is applicable only to the regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

XI. Consideration of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Safety and Soundness Act requires the Director of FHFA to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members and housing associates; affordable housing and community development mission; capital structure; and joint and several liability. In preparing this proposed rule, FHFA considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the proposed rule is appropriate as it would have no impact on four of the five factors and could have a modest, positive impact on the fifth factor—the mission of providing liquidity to members and housing associates. FHFA requests comments regarding whether differences related to those factors should result in any additional or other revisions to the proposed rule.

List of Subjects in 12 CFR Part 1228

Banks, Banking, Condominiums, Cooperatives, Federal Home Loan Banks, Government-sponsored enterprises, Investments, Loan programs—housing and community development, Low and moderate income housing, Mortgages, Nonprofit organizations, Real property acquisition, Securities.

For the reasons stated in the Preamble, and under the authority of 12 U.S.C. 4526, FHFA proposes to amend

[28] 12 CFR 1228.2.

part 1228 of chapter XII of title 12 of the Code of Federal Regulations as follows:

PART 1228—RESTRICTIONS ON THE ACQUISITION OF, OR TAKING SECURITY INTERESTS IN, MORTGAGES ON PROPERTIES ENCUMBERED BY CERTAIN PRIVATE TRANSFER FEE COVENANTS AND RELATED SECURITIES

■ 1. The authority citation for part 1228 is revised to read as follows:

Authority: 12 U.S.C. 4511, 4513, 4526, 4565, 4616, 4617, 4631.

■ 2. Amend § 1228.1 by revising the definition of ''Excepted transfer fee covenant'' to read as follows:

§ 1228.1 Definitions.

* * * * *

Excepted transfer fee covenant means a private transfer fee covenant that:

(1) Requires payment of a private transfer fee to a covered association and limits the use of such transfer fees exclusively to purposes which provide a direct benefit to the real property encumbered by the private transfer fee covenants; or

(2) Requires payment of a private transfer fee under a program meeting the Duty to Serve shared equity loan program criteria for resale restriction programs in § 1282.34(d)(4)(i)(A) and (d)(4)(ii) of this chapter other than the Duty to Serve 100 percent of area median income limit.

* * * * *

■ 3. Revise § 1228.3 to read as follows:

§ 1228.3 Limitation on applicability.

This part is not applicable to shared equity loans, or related securities, that were purchased or securitized by the Enterprises with note dates prior to July 1, 2023, regardless of whether the loans met the Duty to Serve shared equity loan program criteria for resale restriction programs in § 1282.34(d)(4)(i)(A) and (d)(4)(ii) of this chapter.

Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2023–20818 Filed 9–25–23; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–1887; Project Identifier MCAI–2023–00543–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–24–12, which applies to certain Airbus SAS Model A350–941 airplanes. AD 2020–24–12 requires replacing certain center wing box (CWB) fasteners with fasteners having improved friction efficiency. Since the FAA issued AD 2020–24–12, additional work was introduced to ensure the correct application of the fuel vapor barrier structure paint on the outside of the CWB. This proposed AD would continue to require the actions in AD 2020–24–12 and would require the additional work, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 13, 2023.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–1887; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For the EASA AD identified in this NPRM, you may contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* website *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2023–1887.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7317; email *dat.v.le@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–1887; Project Identifier MCAI–2023–00543–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each