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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Parts 203, 206 and 291

[Docket No. FR–6051–F–03]

RIN 2502–AJ47

#### Federal Housing Administration (FHA): Single Family Sale Program

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the requirements for the sale of eligible single family mortgage loans insured by the Federal Housing Administration (FHA) that have been assigned to the Secretary of the Department of Housing and Urban Development (HUD) in exchange for claim payments. The mortgage notes are sold, without FHA insurance, to qualified purchasers in a manner that seeks to maximize recoveries and strengthen HUD's Mutual Mortgage Insurance Fund (MMIF) and to achieve HUD's operational goals for the MMIF. This rule transitions the pilot Single Family Sale Program from a demonstration to a permanent program and removes existing Disposition of HUD-Acquired and -Owned Single Family Property regulations, which provided for a retired program that handled the sale of HUD-held single family mortgage loans.

**DATES:** *Effective:* January 10, 2025.

**FOR FURTHER INFORMATION CONTACT:** John Lucey, Director, FHA Office of Asset Sales, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–8000; telephone: (202) 708–2625 (this is not a toll-free number), or toll-free: (800) 481–9895. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as from 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:**

#### I. Background

Under section 204 of the National Housing Act,<sup>1</sup> HUD has general authority to pay insurance claims and dispose of mortgages and properties acquired under the FHA single family mortgage insurance programs. Section 204(g) specifically grants HUD broad discretion to implement a range of disposition alternatives. The National Housing Act also requires that HUD ensure the MMIF remains financially sound. HUD must effectively manage HUD's defaulted assets and minimize losses to the MMIF to carry out its fiduciary responsibility to ensure the financial soundness of the MMIF.

Since 2002, HUD has operated a demonstration program to implement its broad disposition authority with respect to mortgages and properties acquired under the FHA single family mortgage insurance programs. By notice published in the **Federal Register** on February 5, 2002, HUD announced the establishment of the Accelerated Claim and Asset Disposition (ACD) Demonstration to “address any programmatic concerns” and “assess its success and determine whether to implement the ACD process on a permanent basis, throughout the country.”<sup>2</sup> On October 29, 2002, HUD responded to public comments and conducted its first sale of defaulted mortgages through the ACD Demonstration.<sup>3</sup> HUD has continuously operated the ACD Demonstration for the purpose of paying insurance claims and disposing of mortgages and related properties acquired under the FHA single family mortgage insurance programs.

HUD has used various names to refer to the demonstration program, including the ACD Demonstration, the Single Family Loan Sales (SFLS) Program, and the Distressed Asset Stabilization Program (DASP). For purposes of this rule, HUD will refer to the demonstration as the “Single Family Sale Program,” which encompasses all of the iterations of Single Family Loan Sales, including any sales HUD designates as part of this program. The final rule applies to all Single Family Loan Sales by HUD.

<sup>1</sup> See 12 U.S.C. 1710 (2010), as amended by section 601 of the Fiscal Year 1999 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act (Pub. L. 105–276, approved October 21, 1998) (“FY 1999 Appropriations Act”).

<sup>2</sup> See *Notice of FHA Accelerated Claim Disposition Demonstration*, 67 FR 5418 (February 5, 2002).

<sup>3</sup> See *Notice of FHA Accelerated Claim Disposition Demonstration*, 67 FR 66038 (October 29, 2002).

Absent the Single Family Sale Program, if a borrower is unable to resume their mortgage payments after loss mitigation, the mortgagee in most cases would be required to foreclose the defaulted loan to perfect an insurance claim. If the property cannot be sold to a third party at foreclosure or a second-chance auction, the mortgagee may file a conveyance claim, which gives the property to HUD in exchange for receiving the FHA mortgage insurance claim payment. Prior to filing the conveyance claim, the mortgagee will incur legal and holding costs for which the mortgagee may seek reimbursement from HUD through claim payment. A property conveyed to HUD increases HUD's Real Estate Owned (REO) inventory, posing an additional financial burden on the MMIF for asset management costs. As an alternative to filing a conveyance claim, for a forward loan that has been foreclosed, HUD will pay a claim without conveyance of title claim from the MMIF to the mortgagee if the borrower defaults and the mortgagee loses money after selling the house in a foreclosure or post-foreclosure sale. Disposing of delinquent forward mortgage loans shortens the period between default and claim payment, reducing the financial exposure to these insurance funds for costs incurred after default.

For a Home Equity Conversion Mortgage (HECM) that has been foreclosed, the mortgagee cannot file a conveyance claim but can sell the foreclosed property to a third party and receive claim payment if the mortgagee is owed more than it receives from such sale. For HECMs endorsed before 2009, HUD pays claims from the General Insurance (GI) Fund. For HECMs endorsed in 2009 or after, HUD pays claims from the MMIF.

HUD's sale of defaulted loans through the Program is generally intended to yield a recovery to the MMIF that meets or exceeds the recovery obtained as a result of a foreclosure-based claim.

When a borrower passes away after assignment of a HECM, HUD incurs costs associated with real property when it is vacant or abandoned. HUD's servicing tenure and attempts to foreclose can be delayed by title or jurisdictional issues and backlogs resulting from high volume. These issues result in higher servicing costs along with additional inspection and property preservation costs while the HECMs remain in HUD's portfolio. After foreclosure, HECMs that converted to REO are added to HUD's inventories, increasing asset management costs to protect and dispose of the properties. Disposition of eligible assigned HECMs,

such as HECMs secured by vacant and abandoned properties, can result in significant cost savings to the MMIF and GI Fund, as applicable, and enable better and more timely resolution of these assets.

On June 5, 2006, HUD issued an Advance Notice of Proposed Rulemaking (ANPR) soliciting public comment on HUD's Program.<sup>4</sup> The ANPR solicited public comments to make "possible improvements to the program," including the most efficient way to "maximize the return to the FHA insurance fund" by "minimiz[ing] the time an asset is held."<sup>5</sup>

On April 30, 2007, HUD published a regulatory agenda providing public notice that FHA had withdrawn the ANPR effective March 1, 2007.<sup>6</sup> After this action, HUD adopted additional modifications to the Program, including changing the disposition method from joint venture to whole loan sales.

## II. The Proposed Rule

On July 16, 2024, HUD published for public comment a proposed rule (89 FR 57798) to amend 24 CFR parts 203, 206, and 291. The proposed rule sought to transition the Single Family Sale Program from a demonstration to a permanent program by revising HUD's Single Family Mortgage Insurance, Home Equity Conversion Mortgages, and Disposition of HUD-Acquired and -Owned Single Family Property regulations to provide for the sale of HUD-held single family forward mortgages and Home Equity Conversion Mortgages through competitive sale and direct sale of single family loans. In addition, HUD proposed to remove the existing Disposition of HUD-Acquired and -Owned Single Family Property regulations, which provided for a retired program that handled the sale of HUD-held single family mortgage loans.

HUD sought public comment on all aspects of the rule and sought public feedback on ten (10) specific issues regarding the operation of the Program.

## III. This Final Rule

This final rule adopts the proposed rule with no changes. The next section outlines how various issues raised through public comments may be addressed through guidance or by future updates to sale documents, including but not limited to Conveyance, Assignment, and Assumption Agreements (CAAs), **Federal Register**

Notices (FRNs), and Bidder Information Package (BIP) forms.

## IV. Public Comments

The public comment period closed on September 16, 2024. HUD received 11 distinct responsive comments from individuals, associations, advocacy organizations and a variety of interested parties. The following presents the significant issues and questions related to the proposed rule raised by the commenters, and HUD's responses to these issues and questions. HUD would like to thank all the commenters for their thoughtful responses

### *Specific Questions for Comment From the Proposed Rule*

In section IV of the proposed rule, HUD included several specific questions for public comment. Those specific questions from the proposed rule and public comments received in response to those specific questions are summarized here, along with HUD's responses to the public comments received.

#### *A. Question #1: What Additional Actions HUD Can Take To Provide Greater Bidding Opportunities for Nonprofit Organizations and Governmental Entities*

##### 1. Recommendation To Modify Capital Requirements

One commenter stated that HUD should reduce the capital requirement to participate in the program. The commenter said that the general \$5,000,000 net worth requirement is extremely high, out of scope with the requirements of various localities, and is a mismatch for the relatively low average sale prices in some states. The commenter stated this requirement precludes the participation of entities that know their communities best, including many mission-driven nonprofits and smaller entities, such as smaller minority-led developers.

The commenter stated that while HUD permits nonprofits to participate if they have a net worth of \$3,000,000 or provide an irrevocable letter of credit or performance bond, those are still barriers to participation and should be revisited. The commenter stated that the net worth requirement is arbitrarily high and prevents participation by many nonprofits and community development organizations and recommended that HUD allow nonprofits to jointly participate and bid with a financial partner to meet the net worth requirement, such as a locally situated and active community redevelopment entity.

The commenter recommended that HUD replace the requirement of an irrevocable letter of credit with a lower dollar amount line of credit. The commenter stated that irrevocable letters of credit and performance bonds are expensive and difficult to obtain and maintain and may have impacts on the balance sheets of nonprofit entities, while many nonprofits have access to revolving lines of credit. The commenter also stated that both the irrevocable line of credit and performance bond would likely be unnecessary if HUD implemented a meaningful prioritization and "first look" program so nonprofits could know the capital they would need to bid at the loan sale.

*HUD Response:* HUD appreciates the stakeholder feedback. To maximize the usefulness and applicability of the Program, any capital requirement changes and what documentation may be used to demonstrate financial viability would be addressed not in the rule itself, but via notice or sale documents, such as the Bidder Information Package.

One commenter recommended the establishment of a fund for use by qualified non-profit bidders.

*HUD Response:* HUD appreciates the stakeholder feedback; however, HUD is unable to establish a capital fund absent congressional appropriations that would provide for such a fund.

##### 2. Request To Revisit a 95 Percent Value Requirement

Two commenters recommended that HUD revisit a perceived 95 percent value requirement. The commenters stated that the requirement, based on market rate data, poses a challenge amid rising home prices and limits nonprofit competition. One commenter stated that the Claims Without Conveyance of Title program imposes a similar requirement, which results in very few mission-driven nonprofits participating in the program. The commenters recommended basing the 95 percent requirement on census tract or other methodology that takes into consideration the income of the local area, as opposed to market or asset value. Alternatively, the commenters suggested that the formula take into account rehabilitation costs and holding cost and legal fees for eviction of occupied assets.

*HUD Response:* The Single Family Sale Program does not impose such a requirement on purchasers. The National Housing Act imposes a statutory fiduciary obligation on HUD to ensure the MMIF remains financially sound (12 U.S.C. 1708(a)(3)) while also

<sup>4</sup> See *Accelerated Claim and Asset Disposition (ACD) Program; Advanced Notice of Proposed Rulemaking*, 71 FR 32392 (June 5, 2006).

<sup>5</sup> *Id.*

<sup>6</sup> See *HUD Semiannual Regulatory Agenda*, 72 FR 22694 (April 30, 2007).

directing the Secretary to ensure that it continues to meet the housing needs of the borrowers that the single family mortgage program is designed to serve (12 U.S.C. 1708(a)(7)(B)). Consistent with those obligations, HUD seeks to obtain the maximum recoveries for the agency while also encouraging as many participants in the Single Family Sale Program as practical. HUD believes the current method for valuating loans offered for sale under the Single Family Sale Program appropriately balances those two obligations, but the method used by the Program does not impose the 95 percent requirement referenced by the commenters.

### 3. Participation by Wholly Owned Special-Purpose Entities

Two commenters asked HUD to allow wholly owned special purpose entities, classified as disregarded entities by the Internal Revenue Service (IRS), to participate in the program. A commenter identified the inability of disregarded entities to participate as a barrier faced by nonprofits when seeking HUD recognition as a qualifying nonprofit. The commenters stated that without the requested change, a significant portion of mission-driven organizations that are considered disregarded entities cannot benefit from the incentives HUD is proposing that would benefit nonprofit participation in the program. The commenters recommended that HUD recognize disregarded entities under the definition of a nonprofit and adopt standards that are similar to those used by the IRS.

*HUD Response:* HUD appreciates the stakeholder feedback. HUD may allow a Purchaser to endorse and assign Single Family Loans from HUD to Purchaser's special purpose entity acquisition vehicle on terms permitted in the CAA. HUD can establish eligibility criteria through sale documentation, such as the CAA, and will consider doing in a way that addresses this concern in future loan sales. HUD is not making the requested change through the rule as that method would limit the flexibility that HUD requires to run the Program.

### 4. Third-Party Capital Partners

Two commenters stated that FHA should incorporate flexibility in the use of third-party capital partners by nonprofit entities in both the bidding process and the deployment of equity from upside revenues, with safeguards to prevent abuse. The commenters stated that many nonprofit entities are working with capital partners to unlock additional resources and create more affordable supply. One commenter stated that if FHA's stance on third-

party capital partners remains unchanged, then the commenter suggests creating a fund accessible to qualified nonprofits to allow them to bid more competitively.

*HUD Response:* HUD appreciates the stakeholder feedback. HUD is unable to establish a capital fund absent congressional appropriations that would provide for such a fund. The ability to use third-party capital partners could potentially be addressed through future sale documentation such as the Sale Notice to maintain flexibility for future sales and future market environments.

### B. Question # 2: Whether a Competitive Sale of Single Family Loans Should Disallow Low-Value Mortgages and Properties That Are Vacant

One commenter stated that low-value mortgages and properties that are vacant should not be disallowed and that more of these assets should be made available only to non-profit organizations and at a greater discount. The commenter also stated there should be a mandate to sell these assets to very-low-income buyers and the prices should be low enough to be viable for a non-profit.

Another commenter said that HUD should include low-value mortgages as they may still be valuable to specialty servicers who can offer modifications not available under FHA's waterfall to borrowers with low cash flow but substantial equity, to enable impacted borrowers to keep their homes.

The same commenter stated that HUD should remove the "exclusion of low-value mortgages secured by vacant properties" from § 203.413(b) as loan sales may offer a fast path to re-occupancy by a new owner and result in cost savings and more timely resolution of those assets.

*HUD Response:* HUD appreciates the stakeholder feedback. HUD is retaining the exclusion of low-value mortgages secured by vacant properties in the § 203.413(b) of the final rule. HUD believes that selling low-value, vacant, forward loans in bulk note sales is detrimental for neighborhoods because investors have few to no incentives to invest in these properties, and, without investor interest, they will blight neighborhoods which is contrary to the purposes of the Single Family Sale Program. Instead, HUD will address the sale of low-value mortgages secured by vacant properties through other means.

### C. Question # 3: Should All Single Family Sales Require a "First Look" Program for Loans That Convert to Real Estate Owned Property

Three commenters supported the inclusion of a "first look" program, with various recommended changes.

One commenter stated that a "first look" program geared towards nonprofit entities would be impactful and allow for participation by the local community and local organizations. The commenter stated a recurring and regularly scheduled "first look" would add predictability and enable nonprofit organizations to assemble the required team, paperwork, and financing. The commenter also stated that stakeholders with proven community development experience, including community-based organizations and national nonprofits, should have priority to bid over investors and "unknown nonprofits".

One commenter recommended that the language be revised to "may", rather than "will", include a "first look" program. The commenter stated that applying the requirement to every Participating Service Agreement (PSA) may lengthen rehabilitation and re-occupancy timelines, increase holding costs, and reduce the purchase price of the loans and the corollary benefit to the Insurance Fund. The commenter stated that the PSA should set the first-look requirements and enable the evaluation of a nonprofit's capital and capacity to support a nationwide first look program in specific non-performing loan sale localities on a sale-by-sale basis.

*HUD Response:* HUD appreciates the stakeholder feedback. This final rule will maintain the "first look" program for every sale and will not make it optional. In addition to minimizing losses to the MMIF, the purpose of the Single Family Sale Program is to further HUD's historic mission of providing housing opportunities for low- and moderate-income families. The "first look" requirement serves that important purpose by providing owner-occupant buyers, governmental entities, and eligible nonprofit organizations the first opportunity to purchase property that converts to real estate owned (REO) property by foreclosure or deed-in-lieu of foreclosure following the sale of a mortgage loan under the Single Family Sale Program.

HUD believes every sale should have this requirement and the final rule retains the proposed language in § 291.615(a) that post-sale requirements for Single Family Loans that convert to real estate owned property through foreclosure or deed-in-lieu of foreclosure will include a "first look

program, providing an exclusive listing period for owner occupant, nonprofit organization, governmental entities, and other prospective buyers as permitted by HUD.”

*D. Question #4: Whether Post-Sale Servicing Requirements Should Include Loss Mitigation Requirements That Match or Exceed FHA Loss Mitigation Requirements for Insured Mortgage Loans, What Loss Mitigation Options Have Been Successful, and What Loss Mitigation Standard and Waterfall Should Be Utilized*

1. Comments on Loss Mitigation Options and Scope

Several commenters were supportive of the importance of loss mitigation options and the proposal to require buyers under the Single Family Sale Program to offer loss mitigation options that are as or more generous than the FHA loss mitigation options.

Two commenters stated that the requirement to provide FHA loss mitigation options should be a floor and that the waterfall of allowable outcomes should be broader. One commenter suggested that servicers should be encouraged to consider options such as principal forgiveness and payment deferral. One commenter stated that the first priority should be foreclosure prevention, and all buyers should offer borrowers options to reinstate, enter a trial, or permanent modification and, if that’s not possible, to assist the buyer with a short sale, deed in lieu of foreclosure or short payoff.

One commenter said required loss mitigation would not place a significant burden on servicers as the options are set out in the FHA Single Family Housing Policy Handbook and there is increased standardization of streamlined loss mitigation reviews in the industry.

Two commenters noted the importance of loss-mitigation options that take into account the needs of specific borrowers. One commenter stated that the National Housing Act and the obligation to affirmatively further fair housing require HUD to take into account the needs of specific borrowers and design systems to promote the success of those borrowers. The commenter said that the obligation to affirmatively further fair housing is particularly relevant to FHA’s insured loan program because Black and Latino borrowers rely heavily on it to purchase homes.

One commenter stated that requiring the loss-mitigation options would mitigate the risk of investors purchasing notes for the purpose of foreclosing and

avoid the unfairness of stripping away the benefits of FHA servicing options when there is a default. The commenter also noted that a borrower’s circumstances may have changed and another opportunity to receive an affordable workout option is essential.

One commenter stated that post-sale loss mitigation options should not be “as or more generous” as the FHA waterfall as the requirement is undefined and may force purchasers to offer the same options as those in the FHA waterfall to avoid allegations that the loss mitigation terms were less generous.

One commenter stated that if foreclosure is unavoidable the buyer should be required to assume HUD’s responsibility to create affordable homeownership for new owner/occupants, a requirement that benefits very low-, low-, and moderate-income buyers should be in place, and purchasers should be required to provide a percentage of outcomes in all categories. The commenter also stated that exceptions should be made only after a written request to HUD and HUD approval should be required before a sale to investors.

One commenter raised concerns that loss-mitigation practices by private equity firms may not comply with FHA servicing requirements. The commenter provided an example of an entity that uses data to assess borrowers’ “job security” to determine when to pursue loan modification or foreclosure, which does not consider other important factors or involve interactions with the borrower.

One commenter stated that loss mitigation is extremely important, the foreclosure process is detrimental to families and communities, and it is important to allow families who are traditionally ostracized by mortgage lenders an opportunity at homeownership and second chances during hard economic times.

*HUD Response:* HUD acknowledges the importance of loss mitigation in providing stability for families and communities, especially those traditionally marginalized by mortgage lenders. The final rule retains language in § 291.615(a) requiring Purchasers to offer loss mitigation options “that are as or more generous than FHA loss mitigation options,” as outlined in the FHA Single Family Housing Policy Handbook. This standard ensures that borrowers receive robust support, with the flexibility for Purchasers to offer additional, tailored assistance as needed.

HUD values the commenters’ concerns and encourages Purchasers not

to be deterred from providing expanded or customized loss mitigation options that exceed FHA standards. While the final rule specifies baseline requirements, HUD will address further enforcement of these requirements and any necessary future adjustments in sale notifications and legal documentation, allowing for adaptability as needs evolve.

2. Loss Mitigation Standards Should Be Publicly Available

Two commenters stated that HUD should require Purchasers to make loss mitigation standards public. The commenters cited examples where a lack of transparency harmed borrowers and stated that without access to the guidelines and loss mitigation standards, borrowers and their advocates will be unable to effectively challenge denials and other errors, leading to avoidable foreclosures.

A commenter considered it a major omission that the requirement to make loss mitigation standards public was not in the proposed rule. The commenter urged HUD to make the obligation to make loss mitigation guidelines accessible to the public clear in the final rule and in the FHA Single Family Housing Policy Handbook.

*HUD Response:* HUD appreciates the stakeholder feedback. Due to the specificity and the potential for needed changes in the future, HUD’s decisions to publish the Purchaser’s loss mitigation requirements would be captured in future sale legal documentation (the CAA) and/or sale notifications such as a **Federal Register** Notice if this is desired, and not in the rule.

3. Importance of an Enforcement Mechanism

One commenter stated it is essential that FHA develop proactive enforcement mechanisms to ensure that note purchasers are complying with their loss mitigation obligations. The commenter also stated that HUD should not rely on self-certification by purchasers, and purchasers that violate these loss mitigation obligations must face serious consequences, including bans from future note sales and civil prosecution.

*HUD Response:* HUD appreciates the stakeholder feedback. Due to the specificity and the potential for needed changes in the future, HUD’s decisions to enforce loss mitigation requirements would be captured in future sale legal documentation and/or sale notifications if this is desired, and not in the rule.

*E. Question # 5: Should HUD Allow Nonprofit Organizations and Governmental Entities To Qualify for Priority Bidding Status in Single Family Sales*

Several commenters supported priority bidding status to allow nonprofit entities to be awarded up to 50 percent of the loans in a sale. One commenter recommended a priority bidding status for up to 75 percent of the loan pool for nonprofit entities. One commenter stated HUD should offer priority bidding for nonprofit entities and proven community investment and community redevelopment organizations and create a preferred order of qualifications and priority to purchase homes (owner-occupant, nonprofits, and government).

Two commenters recommended that a portion of assets in a sale should be set aside for nonprofit organizations with priority bidding status. One commenter recommended a 50 percent set aside and one commenter recommended a 75 percent set aside for both Single Family Sale Program and HECM loan sales. The commenters recommended that if the set aside has not been reached and a nonprofit is bidding on an asset, the nonprofit should win even if it is below the reserve. The commenters also recommended that if there are no nonprofit bids for assets in the set-aside, nonprofits should be offered a last look on the assets in an effort to obtain nonprofit bids. One commenter recommended that the last look include pricing of the available assets in the pool to obtain more nonprofit bids and a reserve disclosure to allow nonprofits to better target their bid strategy.

Two commenters stated that acquisition by private investors leads to the conversion to high priced rental units that drive up housing costs and private investors tend to bid over reserve and win properties in locations where the need for affordable homeownership is great and impact potential is high. The commenters stated that nonprofits should be awarded properties that are closer to transit, have access to favorable jobs, and where homeownership equity is hardest to achieve.

One commenter stated that the priority status for nonprofits must have adequate and enforceable safeguards to protect against fraud and sham nonprofit organizations.

One commenter supported HUD's efforts to enforce mechanisms that allow owner occupants, nonprofit organizations, and government entities to acquire loans through the Program and recommended that HUD offer loan

pools for sale through auctions limited to single family buyers, similar to the prior Neighborhood Stabilization Program.

*HUD Response:* HUD appreciates the stakeholder feedback. If HUD decides to revise the carve-out percentage and how it will be applied to various sale types, it will be captured in future sale legal documentation and/or sale notifications and not in the rule itself. Such a change would also need to be reviewed by the Office of Management and Budget under the A-11 Circular. Maintaining this potential change as part of the sale documents and/or sale notification creates greater opportunities for HUD to retain some flexibility for future sales.

*F. Question #6: Whether HUD Has Proposed a Workable and Efficient Process for Direct Sales of Single Family Loans*

Several commenters stated that nonprofits should be able to request a direct sale without a unit of government involved. One commenter suggested HUD consider extending the opportunity to qualified, capitalized non-profit organizations with proven track records. Two commenters suggested that nonprofit organizations that often partner with government should be able to request a direct sale without a unit of government involved, so long as HUD ensures the nonprofit is controlling the management and disposition of the assets.

*HUD Response:* HUD appreciates the stakeholder feedback. HUD's implementation of the specifics of the direct sales will be established via Sale Notice pursuant to the Secretary's authority to "prescribe requirements for a Direct Sale of Single Family Loans through Sale Notice" as set out in § 291.619(a) of the final rule. HUD is currently considering allowing direct sales to nonprofits as permitted by § 291.617 of the final rule.

*G. Question #7: Should a Borrower Loan Sale Notification Be Required and What Information Should Be Included*

1. General Comments Regarding Borrower Loan Sale Notification

One commenter strongly supported a requirement for pre-sale notice as an essential due process protection for borrowers that would enhance compliance with FHA's loss mitigation guidelines and protect the insurance fund from unnecessary losses. The commenter recommended that all servicers be required to provide the form to borrowers when a loan is referred to HUD for inclusion in a future loan sale.

The same commenter stated that the notice should be a HUD form or HUD-approved template and include: (1) a description of the Single Family Loan Sale Program; (2) a summary of the FHA loss mitigation options; (3) a chronology of the servicer's review of the borrower for the FHA loss mitigation options, including dates for waterfall reviews and outcomes or, if a waterfall review was not conducted, the reasons it did not occur, including dates of outreach and reference to specific communications; (4) notification that the borrower can still seek a loss mitigation review from the servicer under FHA guidelines if the borrowers' circumstances have changed since a prior review; (5) information about how the borrower can dispute the servicer's representations about past loss mitigation reviews; (6) notification that the loan will not be placed in a loan sale pool as long as a dispute over past loss mitigation conduct is pending or a new loss mitigation review based on changed circumstances is underway; and (7) information about referrals to housing counselors and legal aid offices in the borrower's vicinity.

One commenter questioned whether an advance notice is helpful or detrimental to the distressed borrower's wellbeing and suggested adding information to the default/delinquency notice instead.

One commenter stated that FHA should allow servicers to comply with the requirement by adding elements to the servicing transfer notification already required under 12 CFR 1024.33(b). The commenter suggested this approach would reduce the borrower's confusion, the cost, and the environmental impact of sending two separate interrelated letters.

*HUD Response:* HUD appreciates the stakeholder feedback. The final rule retains language in § 291.605(a)(5) that requires the Participating Servicer to ensure that the Loan Sale Notification is provided to each borrower and any other parties required by the Secretary. The details around how the Loan Sale Notification to the borrower is structured and what information must be included in such notification will be set out in more detail by HUD in the Sale Notice or Mortgage Letter.

2. Post-Notice Loss Mitigation Reviews

One commenter stated that if the borrower informs the servicer that they had a change in financial circumstances before the sale occurs, the servicer should reconsider the borrower's eligibility under the HUD waterfall. The commenter stated that the presale notice will prompt those discussions with

borrowers who have improved their financial circumstances and HUD should clearly state the expectation that servicers will re-review before the sale.

*HUD Response:* HUD appreciates the stakeholder feedback. Due to the specificity and the potential for needed changes in the future, HUD's decisions around post-notice loss mitigation reviews would be captured in future sale legal documentation, such as the Participating Servicer Agreement, and/or sale notifications if this is desired, and not in the rule.

### 3. Recommended Dispute Resolution System

One commenter stated that HUD should provide a more comprehensive dispute resolution system through its National Servicing Center (NSC), with the capacity to directly address borrower disputes regarding loss mitigation. The commenter stated that the NSC should review complaints, maintain written records of the reviews, and produce a memorandum of findings and conclusions. The commenter further stated that HUD should conduct a final review of the NSC's determination at the request of the borrower and HUD decisions should be subject to review under the Administrative Procedures Act. The commenter further stated that the presale notice should give details about a dispute resolution process for borrowers and direct the borrower or their representative to address the complaint to the NSC and the servicer.

*HUD Response:* HUD appreciates the stakeholder feedback regarding the importance of a comprehensive dispute resolution system through the HUD National Servicing Center (NSC). The NSC will be consulted to develop a framework to address borrower disputes related to loss mitigation, including the maintenance of written records and the provision for final review requests. Specific details about a dispute resolution process will be included in future sale legal documentation and notifications rather than in the rule itself, ensuring that borrowers are informed about how to address their complaints effectively. HUD remains committed to enhancing transparency and responsiveness in the resolution of borrower disputes.

### H. Question #8: What Information Should HUD Include in Periodic Reports on Single Family Sales Loan and Property Outcomes

#### 1. Content of Data Collection and Reports

One commenter stated that reporting the post-sale status of loans sold through the Single Family Sale Program is important to fully assess the impact of the program on communities and borrowers. The commenter recommended that the data be publicly available, updated at least annually, and include: (1) post-sale loss mitigation activities, including approvals and denials of options, including the levels and nature of payment changes, and (when available) old and new borrower debt-to-income ratios; (2) demographic and geographic data about homeowners and loss mitigation; (3) data on the long-term performance of loans after loss mitigation, including rates of redefault; and (4) data on subsequent sales and rentals involving the properties. The commenter stated that reports with this type of data were produced by government entities, including during and after the 2008 foreclosure crisis.

Two commenters stated that racial and other demographic data about homeowners is important to ensure the program is affirmatively furthering fair housing.

A commenter stated that buyers should include the number of loss mitigation approvals and denials and the outcomes of all loans or properties that they or related entities control and that information should be made public and regularly updated.

A commenter stated that HUD should provide performance outcomes for each buyer at least once annually. The commenter stated HUD should also provide qualified bidders with defaulted buyer information and should consider allowing performing buyers with the opportunity to acquire assets from those buyers in default.

One commenter stated that the proposed rules maintain the current standard of four years of outcome data and that is an insufficient period of time to properly assess program outcomes.

One commenter requested that FHA publish more information broken down by note pools, including information on vacancy rates and a breakdown by pool of unpaid loan balances. The commenter also requested that FHA provide more data broken down by note purchaser, including unpaid loan balances and sales prices.

*HUD Response:* HUD appreciates the stakeholder feedback regarding data transparency and reporting on Single

Family Sales outcomes. HUD recognizes the value of detailed reporting, including post-sale loss mitigation activity, demographic and geographic data, and long-term loan performance metrics. The final rule continues to provide that outcome data and the timeline for reporting will be set out in the CAA, which will generally continue to provide for outcome data over a four-year period, while sale notification and sale documentation may address updates to reporting requirements and additional data presentation as deemed necessary to support program goals.

#### 2. Requested Clarity on Reporting Obligations

A commenter stated that the proposed rule appears to direct subsequent transferees from initial buyers to comply with post-sale reporting obligations. The commenter recommended that the language be edited to make that point clear as the post-sale reporting obligation would have little value if it did not apply to transferees.

*HUD Response:* HUD appreciates the stakeholder feedback and will review the current reporting requirements and the information gathered. Any changes to the reporting requirements and how HUD presents the information will be captured through sale notifications like the **Federal Register** Notice and/or sale legal documents, including the BIP and the CAA. This will provide flexibility for the Department and the ability to improve and enhance reporting based on program experience.

#### 3. Oversight and Enforcement of Reporting Obligations

One commenter identified concerns about reliance on self-reporting to assess servicers' post-sale performance and recommended that loan purchase agreements authorize limited direct HUD oversight of servicers before and after the four-year mandatory post-sale reporting period. The commenter stated that such oversight would help determine whether a property remains owner-occupied or was converted to a rental investment property and would allow assessment of the long-term efficacy of loss-mitigation options offered by post-sale servicers. The commenter also stated that HUD should assess meaningful sanctions, including disqualification from future sales and financial penalties, for substantial noncompliance with reporting requirements.

*HUD Response:* HUD appreciates the stakeholder feedback and will review the current reporting requirements, and the information gathered. Any changes to the reporting requirements and how

HUD presents the information will be captured through sale notification and/or sale legal documents.

*I. Question #9: Should Eligibility Criteria for a Single Family Sale Include Satisfaction of HUD's Loss Mitigation Requirements*

One commenter strongly supported the language in the proposed rule that requires satisfaction of HUD's loss mitigation requirements as a condition for sale eligibility. The commenter stated that HUD has long represented that compliance with HUD's loss mitigation requirements is a condition to a loan's eligibility for a sale, which is consistent with HUD's requirement that mortgagees certify comply with HUD's regulations as a condition to payment on an insurance claim.

The commenter stated that HUD should develop a system to ensure compliance by servicers and that servicer check-box self-certification is insufficient. The commenter provided examples of improper self-certifications and stated that HUD Office of the Inspector General reports have found problems with self-certification by servicers and failures by servicers to provide correct loss mitigation assistance.

The commenter stated that HUD should require documentation of the servicer's loss mitigation review as a condition to a loan's eligibility for early claim payment and a sale of the loan. The commenter stated the loss mitigation waterfall in the FHA Single Family Housing Policy Handbook requires servicers to have a record of how the HUD waterfall was applied and if a servicer cannot produce that documentation, it must be required to establish compliance with the HUD outreach requirements as set out in the Handbook.

One commenter stated that a loss mitigation addendum should be signed with every application approval and a report indicating each outcome should be provided on a quarterly basis, including whether it is a reinstatement, trial or permanent modification, short sale or payoff, deed in lieu, or if after foreclosure than evidence of sale to an owner/occupant, lease to an income-qualified tenant, and evidence of sale to a community of color or marginalized individual if available.

*HUD Response:* HUD appreciates the stakeholder feedback on ensuring servicers' compliance with loss mitigation requirements for loan sale eligibility. HUD reaffirms that satisfying these requirements is essential for sale eligibility and is a post sale requirement under § 291.615(a) of the final rule.

HUD acknowledges that flexibility may be needed for certain scenarios, such as disaster-related sales. The final rule sets out actions HUD may take in the event there is a failure to meet post-sale requirements or any submission of false information or misrepresentation § 291.621. Any related criteria will be detailed in the sale notification or sale documents, rather than the rule, to allow for adaptable policy implementation.

*J. Question #10: Should HUD Offer Favorable Sale Terms to Governmental or Nonprofit Entities*

1. Potential Favorable Sale Terms

Several commenters directly supported providing favorable sale terms to nonprofit entities. A commenter stated that a government or non-profit operator is more likely to utilize the program for community benefit and sell or lease the home to an income qualified person or person of color. A commenter said that more favorable sale terms and conditions for nonprofit organizations and community-based entities, such as allowing a first look, will help organizations know what properties are coming into the sale and how they can be poised to obtain a property and return it to a useful purpose.

One commenter recommended reducing the reserve price to better facilitate transitions of the property to nonprofit organizations at a price that is closer to fair market value. The commenter recommended additional favorable terms such as bulk bidding to allow for greater flexibility and faster disposition and allow a financial incentive to nonprofit organizations in the form of a reduced price for a larger purchase.

One commenter stated HUD should allow a waiver of certain reporting criteria, such as proof of ethnicity, familial status or income as most purchasers cannot ask those questions and it is not always possible to get a HUD-approved non-profit organization to engage in the process. The commenter recommended that HUD use census tract information to help the buyer with this situation.

*HUD Response:* HUD appreciates the feedback supporting favorable sale terms for nonprofit entities and community-based organizations. Adjustments such as reduced reserve prices, first-look provisions, bulk bidding, and streamlined reporting requirements could enhance nonprofits' participation and community impact. HUD will consider making modifications to sale terms in sale

notifications and sale documentation to address this concern.

2. Safeguards on Benefits to Nonprofit Organizations

One commenter stated that any system created for the benefit of nonprofit organizations must have appropriate safeguards to prevent abuse of the system by straw buyers and there should be adequate enforcement and oversight.

*HUD Response:* HUD appreciates the feedback regarding safeguards to prevent misuse of systems established for nonprofit organizations. The Department is committed to preventing bid abuse and ensuring fair qualification processes. Any adjustments to the bidding or qualification criteria will be implemented through sale notifications including the **Federal Register** and sale documents like the BIP and the CAA rather than in the rule, allowing for greater flexibility in enforcement and oversight.

3. Recommended Deadline Extensions for Nonprofits

Two commenters recommended that nonprofits be allowed 60 days to perform pre-bid due diligence and 90 days to close. The commenters stated that nonprofits often request extensions from HUD because they rely on debt to finance the sales and do not have immediate access to substantial cash reserves and providing the additional time up front would alleviate pressure on both nonprofits and HUD. One commenter stated an extended pre-bid due diligence period would allow more time to assess the interest of affiliate networks in the properties.

*HUD Response:* HUD appreciates the feedback regarding extended timelines for nonprofits to conduct pre-bid due diligence and close sales. HUD acknowledges the unique challenges nonprofits face in securing financing and recognizes that additional time could alleviate pressures on both nonprofits and HUD. Any timeline extensions would likely apply to all bidder types to ensure equity. Such changes would be implemented through sale notifications (such as the **Federal Register** Notice) and sale documentation (the Qualification Statement, the BIP and CAA) rather than in the rule itself, providing the Department greater flexibility.

*Public Comments and Recommendations*

*A. General Support*

A number of commenters expressed overall support for the rulemaking and appreciated that the proposed rule

incorporated prior stakeholder input. Several commenters expressed support for converting the Single Family Sale Program from a pilot to a permanent program.

*HUD Response:* HUD appreciates the stakeholder feedback in support of the Single Family Sale Program and this rule.

#### *B. Racial Homeownership Disparities*

Several commenters discussed racial homeownership disparities, the racial wealth gap, and the importance of homeownership to individuals and communities. One commenter stated that Black and Latino homeowners are disproportionately impacted by HUD note sales and the related impacts to communities that are targeted by institutional investors. One commenter said that the obligation to affirmatively further fair housing is particularly relevant to FHA's insured loan program because Black and Latine borrowers rely heavily on it to purchase homes.

*HUD Response:* HUD appreciates the comments on racial disparities in homeownership, the racial wealth gap, and the vital role of homeownership in supporting communities. The Department understands concerns that Black and Latine homeowners may be disproportionately affected by note sales and institutional investor involvement. Recognizing the importance of affirmatively furthering fair housing, HUD is aware of the critical role FHA-insured loans play for many Black and Latine borrowers. HUD remains committed to promoting equitable outcomes and strengthening protections for communities impacted by systemic inequities. These insights support HUD's ongoing efforts to foster fair housing access and reduce disparities across all communities.

#### *C. Support for Nonprofit Organizations and Concerns Regarding Private Investors*

Several comments were submitted that provide general support for nonprofit and community-based organizations and raise concerns regarding the role of private investors. Commenters noted the importance of nonprofit and community-based organizations in single family loan sales, and said these organizations have the experience and expertise to meaningfully invest in communities, navigate public and private funding, and foster homeownership.

A number of commenters raised concerns regarding the impacts of private investors in loan sales. One commenter provided data on the impact of purchases by institutional investors

and stated HUD's goal should be to end the practice of selling FHA notes to private investors. Two commenters stated that market forces alone cannot address the cost constraints placed on low- and moderate-income families. A commenter noted that if private investors continue to purchase loans, strong enforcement of borrower protections and public reporting data regarding the program and outcomes will be important. One commenter stated that given the capacity limits of nonprofit organizations, profit-motivated investors will likely remain a major part of the program and stated it is important for HUD to mitigate the harm that profit-motivated investors could impose on FHA borrowers if those investors are left with largely unfettered discretion.

*HUD Response:* HUD appreciates the strong support expressed by commenters for nonprofit and community-based organizations and acknowledges the valuable role these organizations play in single family loan sales. HUD recognizes that nonprofits have a unique capacity to positively impact communities through their extensive expertise, commitment to fostering homeownership, and ability to navigate public-private funding sources effectively.

HUD also notes the concerns raised by commenters regarding the role of private investors in loan sales, including the potential challenges market-driven entities may pose for low- and moderate-income families. While HUD anticipates that private investors will continue to participate alongside nonprofits due to capacity constraints within the nonprofit sector, HUD is committed to exploring avenues to balance investor involvement with strong borrower protections and community-focused objectives. To this end, HUD will continue to enforce borrower protections and enhance transparency by providing public reporting on program outcomes.

HUD remains dedicated to reviewing feedback on how best to support nonprofit organizations while ensuring private investor participation aligns with HUD's mission of promoting sustainable, affordable homeownership opportunities. The Department will carefully consider all suggestions as part of its ongoing commitment to improve the Single Family Sales Program.

#### *D. Recommendation That HUD Impose and Enforce Income Limits*

Two commenters recommended that HUD bolster the objective of selling to households earning less than 120 percent AMI and renting to households

at or below 80 percent AMI by requiring that both non-profit and for-profit comply with those AMI limits and barring entities that do not comply with those objectives from future sales.

*HUD Response:* HUD appreciates the stakeholder feedback. Any requirements related to income limits, eligibility, or restrictions on future participation for non-compliance will be outlined within the sale notifications (such as the **Federal Register** Notice) and associated legal documents like the Qualification Statement, the CAA and the BIP) rather than in the rule itself. Addressing these criteria through sale documentation provides HUD with the flexibility needed to adjust and strengthen program requirements in response to changing market conditions and program goals. HUD remains committed to transparency and will ensure stakeholders have clear guidance through publicly accessible sale documents.

#### *E. Clarify That the Participating Servicer Agreement (PSA) Controls Eligibility Criteria*

One commenter stated that in order to set proper expectations with Participating Servicers, § 203.413(b) should expressly state that the "acceptability criteria include to the satisfaction of the Single-Family Sale loss mitigation eligibility requirements as defined in the PSA".

*HUD Response:* HUD appreciates the stakeholder feedback. HUD acknowledges the importance of clearly setting expectations for Participating Servicers. This clarification will be addressed through the PSA and associated sale documentation rather than in the rule itself. This approach allows HUD the flexibility to update and refine the criteria as necessary in response to evolving program needs, while ensuring that servicers understand their obligations under the PSA. These documents will be publicly posted for each sale, ensuring transparency for all stakeholders.

#### *F. Repurchase Protocol When Participating Servicer Is Engaged in Significant Misconduct*

One commenter recommended that HUD implement a protocol for the repurchase of loans in cases where a participating servicer engaged in significant misconduct and identified ambiguity in the current requirements. The commenter stated that the rules provide that HUD can withdraw a loan from a sale for any reason, including noncompliance with the Conveyance, Assignment and Assumption Agreement (CAA), at any time prior to the



settlement date and the definitions of CAA and Sale Notice state that the documents will include certain “repurchase requirements”. The commenter stated that the comments to § 291.605 mentions “repurchase criteria” applicable to servicers, although it is not clear whether the “repurchase” mechanism is distinct from the “withdrawal” of a loan before the settlement.

The commenter also stated that HUD should not terminate repurchase obligations at the post-sale settlement date. The commenter recommended that the Sale Notice and CAA inform purchasers that the loans are subject to repurchase as long as they are held by the initial purchaser. The commenter recommended that if it becomes apparent after a sale that the Participating Servicer misrepresented its compliance with FHA loss mitigation guidelines, the purchaser should not be permitted to foreclose. Instead, the commenter stated that HUD should require the noncomplying Participating Servicer to repurchase the loan, comply with FHA loss mitigation guidelines and provide other remedies available under FHA guidance. The commenter stated this would deter routine misrepresentations of compliance with FHA guidelines.

*HUD Response:* HUD appreciates the stakeholder feedback. The Department acknowledges the importance of ensuring transparency and accountability in the sale process, particularly when there are potential compliance issues with FHA loss mitigation guidelines. HUD will review the possibility of more clearly distinguishing between the “withdrawal” of a loan prior to settlement and the “repurchase” mechanism applicable post-settlement. This may include ensuring that the definitions of the CAA and Sale Notice reflect these distinctions more explicitly.

The commenter’s suggestion that repurchase obligations extend beyond the post-sale settlement date in cases of noncompliance with FHA guidelines will also be carefully considered. HUD agrees that robust mechanisms should be in place to deter misrepresentations of compliance and ensure that loans are managed in accordance with FHA’s loss mitigation guidelines.

As stated in the rule, the repurchase criteria and related terms will be more clearly defined in the Sale Notice, which will be publicly posted for each sale. Any adjustments to these terms will be addressed through the legal documents rather than in the rule itself, as this provides the flexibility needed to

adapt to evolving concerns and ensure compliance with FHA’s standards.

#### *G. Clarification Making the Purchaser Bound by the Terms of the CAA and Notice of Sale*

A commenter supported the requirement that “any subsequent transferee of or servicer” of the initial loan purchaser comply with the terms of the CAA and Notice of Sale. The commenter stated that the proposed rule specifies that subsequent transferees and their servicers must offer loss mitigation options that meet the same standard as those of the original purchaser.

The commenter stated that the term “transferee” in § 291.615(a) is not defined in the regulations and could be open to interpretation. The commenter stated that further Handbook or Mortgagee Letter of clarification would be appropriate to clarify it if means transferees of the note, assignees of the mortgage, or transferees of title to the real property. The definition is relevant because transferees of the promissory note may not have knowledge of the terms of the CAA and Sale Notice. To avoid later enforcement issues, HUD could require information about the CAA and Sale Notice obligations to be included in the recorded assignment of the mortgage to the initial purchaser and recording the CAA in property records would also provide notice to subsequent purchasers.

*HUD Response:* HUD appreciates the stakeholder feedback. The Department acknowledges the commenter’s concern regarding the interpretation of the term “transferee” in § 291.615(a) and its potential ambiguity in the absence of a defined meaning within the regulations.

HUD agrees that further clarification—potentially through a Handbook or Mortgagee Letter—could be useful to specify whether “transferee” refers to transferees of the note, assignees of the mortgage, or transferees of title to the real property. Additionally, HUD recognizes the concern that transferees of the promissory note may not be aware of the terms of the CAA and Sale Notice, which could lead to enforcement challenges.

HUD will consider incorporating information about the CAA and Sale Notice obligations into the recorded assignment of the mortgage to the initial purchaser and may review the potential for recording the CAA in property records to provide notice to subsequent purchasers. Any changes to the recorded assignment requirements or sale terms will be addressed within the sale agreements and related legal documents.

As noted in the rule, these documents will be publicly posted for each sale, and making changes through these legal documents allows HUD the flexibility to adapt to evolving needs and stakeholder feedback.

#### *H. Clarify That Reporting Requirements in 24 CFR 291.615(b) Apply to Transferees and Their Servicers*

A commenter stated it is unclear who must comply with the purchaser reporting requirements in § 291.615(b) and requested that HUD clarify that subsection. The commenter stated that § 291.615(b) refers to the obligation of the “purchaser”, while § 291.615(a) specifically extends the obligations to subsequent transferees and their servicers. The commenter suggested the absence of a reference to transferees and their servicers in § 291.615(b) may be an oversight and requested that HUD clarify by specifically designating the reporting obligations as applicable to transferees and their servicers.

*HUD Response:* HUD appreciates the stakeholder feedback. While § 291.615(a) specifically extends obligations to subsequent transferees and their servicers, HUD acknowledges that the absence of a reference to transferees and their servicers in § 291.615(b) may cause some confusion.

To clarify, the reporting obligations do extend to transferees and their servicers, as detailed in the sale agreements and related documentation. These requirements are more fully defined within the legal agreements governing each sale. As stated in the rule, HUD will publicly post these documents for each sale, providing greater transparency on the obligations of purchasers, transferees, and servicers. Any future changes to sale terms or definitions will be reflected through these legal agreements to maintain flexibility in adapting to evolving program needs.

#### *I. Transactional Documents Should Be Made Available to the Public*

One commenter stated that the rule should make clear that all key transactional documents described in § 291.601, and adapted for the specific sale, will be accessible to the public on HUD’s website. The commenter stated that documents such as the Participating Servicer Agreement, Bidder Information Package, the Conveyance, Assignment and Assumption Agreement, the Interim Servicing Agreement, and the Desk Guide are referenced and defined by the proposed rule. The commenter also stated that the rule provides that an “Addendum” to each of the documents will be published on HUD’s website for

each Single Family Sale. The commenter is unclear whether “Addendum” means the form as adapted to the specific loan sale, but strongly support the provision if that is the intended meaning.

The commenter stated that transparency is important so borrowers can know the post-sale servicing obligations that are binding on a loan purchaser and its assignees, including the Conveyance, Assignment and Assumption Agreement and the Sale Notice. The commenter said that without easy access to those documents, borrowers and their advocates will not know the eligibility requirements for loss-mitigation options and that will prevent borrower’s from effectively challenging errors in servicing and will lead to unnecessary foreclosures.

*HUD’s Response:* HUD appreciates the stakeholder feedback. HUD is committed to ensuring transparency in the single family sale program process. As stated in the rule, key documents—including the Participating Servicer Agreement (PSA), Conveyance, Assignment and Assumption Agreement (CAA), Interim Servicing Agreement (ISA), and Desk Guide—will be made available to the public on HUD’s website.

The Bidder Information Package (BIP), however, will only be made available to qualified bidders to protect the integrity of the bidding process. Regarding the commenter’s question about the “Addendum,” HUD clarifies that the term refers to the document as adapted for each specific loan sale, and this will also be made available as part of the public documentation for each sale.

HUD recognizes the importance of transparency so that borrowers and their advocates are informed about post-sale servicing obligations and loss-mitigation options. By providing public access to these documents, HUD aims to ensure borrowers have the information they need to challenge servicing errors and avoid unnecessary foreclosures.

#### *J. Recommended Flexibility to Curtailment Provisions*

One commenter advocated for reform to FHA’s claims curtailment rules for all claim types. The commenter was concerned by the provision that “HUD will curtail Debenture Interest” in § 203.413(d), even if a claim remains suspended for reasons beyond the servicer’s control. The commenter was also concerned that HUD’s definition of “Debenture Interest” included “approved reimbursable expenses” subject to curtailment.

The commenter recommended that the final rule: (a) limit curtailment to

deadlines missed due to factors within the servicer’s control and (b) clarifying that servicers may file supplemental claims under FHA Single Family Housing Policy Handbook if necessary. The commenter stated that addressing curtailment provisions would encourage participation in the Single Family Sales Program as servicers will not be penalized when making every effort to comply with claims filing deadlines. The commenter suggested that without this change the prospect of losing interest and out of pocket costs may chill participation.

*HUD’s Response:* HUD appreciates the stakeholder feedback; however, the curtailment of claims, including debenture interest and reimbursable expenses, is outside the scope of this current rulemaking. HUD acknowledges the importance of addressing these issues and encourages continued engagement on how to improve the claims process. HUD will consider this feedback for future policy updates and administrative guidance.

#### *K. Required Sales to Owner-Occupants*

One commenter stated that given the negative effects market speculation on the single-family home market, there should be a requirement that 100 percent of the properties sold end up in the hands of owner occupants. The commenter criticized the HVLS program for not doing enough to ensure a broader market effort to maintain affordable homes for first time buyers and younger generations.

*HUD’s Response:* HUD appreciates the thoughtful feedback regarding the impact of market speculation on the single-family home market and the suggestion to ensure that 100 percent of properties sold end up in the hands of owner-occupants. HUD is committed to supporting affordable homeownership opportunities, particularly for first-time homebuyers and younger generations.

HUD will carefully consider this proposal as part of our ongoing efforts to enhance the Home Equity Conversion Mortgage Loan Sales (HVLS) program and other Single Family Sale Program initiatives. However, any modifications to the percentage of properties designated for owner-occupants would be implemented through the sale notifications and legal documents, rather than the rule itself. This approach allows the Department the flexibility to adapt sale requirements as needed in response to evolving market conditions and program goals.

HUD remains committed to exploring all options to increase affordable homeownership and reduce market

pressures on low- and moderate-income buyers.

#### *L. Recommended Convening of Practitioners*

Two commentors recommended that FHA convene practitioners with experience using the program to allow HUD to better understand the concerns of nonprofits working to expand their single-family housing footprint. The commentors suggested that providing an opportunity for mission-driven stakeholders to share best practices would expand the reach and effectiveness of the program and continue to inform necessary reforms.

*HUD Response:* HUD appreciates the insightful comments regarding the value of convening practitioners with experience in the Single Family Sale Program. HUD recognizes the importance of engaging mission-driven stakeholders to better understand the challenges nonprofits face as they work to expand their single-family housing footprint. HUD agrees that providing a forum for practitioners to share best practices would not only strengthen program effectiveness but also support broader affordable housing goals.

HUD is committed to expanding collaboration with the nonprofit community and will explore opportunities to convene experienced practitioners. Such a platform could enhance stakeholder engagement, facilitate knowledge sharing, and inform ongoing program reforms, ensuring that the needs and expertise of nonprofits are integrated into future improvements of the program. HUD welcomes continued dialogue on this important initiative.

#### *M. Credit Scores for First-Time Homeowners*

One commenter stated that credit scores should not be a consideration for first-time homeowners, who can build credit through homeownership.

*HUD Response:* HUD appreciates the comment regarding the consideration of credit scores for first-time homebuyers. HUD understands the viewpoint that homeownership itself can serve as a pathway to building credit. However, credit scores play an important role in assessing a borrower’s ability to repay a loan and managing overall risk within the housing market.

At the same time, HUD remains committed to expanding homeownership opportunities and continues to explore ways to responsibly assist first-time homebuyers, including offering programs with more flexible credit requirements. HUD values input on this

issue and will take it into account as we seek to balance financial accessibility with sustainable homeownership outcomes.

## V. Findings and Certifications

### *Regulatory Review—Executive Orders 12866, 13563, and 14094*

Pursuant to Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant, and therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The order also directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand or repeal them in accordance with that was been learned.” Executive Order 13563 further directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. Executive Order 14094 entitled “Modernizing Regulatory Review” (hereinafter referred to as the “Modernizing E.O.”) amends section 3(f) of Executive Order 12866 (Regulatory Planning and Review), among other things.

As previously discussed, this rule would provide flexibility for the management of defaulted loans, more efficiently accept assignment, and dispose of assigned mortgages through loan sales and reduce the overall financial exposure of the MMIF. This final rule was determined not to be a “significant regulatory action” as defined in section 3(f) of Executive Order 12866 as amended by Executive Order 14094.

### *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. Small entities include small businesses, small not-for-profit organizations, and small governmental jurisdictions.

This rule makes the Single Family Sales Program permanent and makes changes to HUD’s regulations to implement parts 203, 206, respectively referring to Single Family Forward loans and HECM, and part 291 to efficiently manage HUD’s defaulted single family assets and minimize losses to the MMIF. While small entities such as mortgage service providers may be affected by this Program, these entities would not incur a significant economic impact because the Program would provide servicers with the chance to assign burdensome and problematic loans to HUD. Therefore, the undersigned certifies this proposed rule will not have a significant economic impact on a substantial number of small entities.

### *Environmental Impact*

This rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 under 24 CFR 50.19(c)(1) because it does not direct, provide 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.

### *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 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.

### *Paperwork Reduction Act*

The information collection requirements contained in this final rule have not been revised from those provided in the proposed rule and have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) for review and approval.

### *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 rule does not impose any Federal mandates on any State, local, or Tribal government, or on the private sector, within the meaning of the UMRA.

## List of Subjects

### *24 CFR Part 203*

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

### *24 CFR Part 206*

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, and Reporting and recordkeeping requirements.

### *24 CFR Part 291*

Community facilities, Conflicts of interest, Homeless, Lead poisoning, Low- and moderate-income housing, Mortgages, Reporting and recordkeeping requirements, and Surplus government property.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 203, 206, and 291 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. Add § 203.413 to read as follows:

### **§ 203.413 Amount of payment—Single Family Sale assignments.**

(a) *Time of payment.* Upon an assignment of a mortgage insured under this part *that is acceptable to the Commissioner, made pursuant to a Single Family Sale and* in accordance with § 291.609 or § 291.619 of this chapter, the Commissioner shall pay to the mortgagee the unpaid principal balance of the loan at the time of assignment and an amount calculated in accordance with the Participating Servicer Agreement (PSA), as defined in § 291.601 of this chapter.

(b) *Acceptability criteria.* For assignment, the mortgagee must determine and certify the mortgage satisfies the Commissioner’s acceptability criteria for the Single Family Sale. Acceptability criteria includes satisfaction of the Single Family Sale loss mitigation eligibility requirements and exclusion of low-

value mortgages secured by vacant properties.

(c) *Reduction in claim.* The mortgagee's claim for insurance will be reduced for failure to take the required actions within the specified schedule of dates for the Single Family Sale, as specified in the PSA.

(d) *Curtailement of Debenture Interest.* HUD will curtail Debenture Interest at the thirtieth (30th) day following the earliest anticipated claim submission date, as identified on the schedule of dates in the PSA, if:

(1) The mortgagee's claim for insurance is not submitted to HUD; or

(2) The claim for insurance is in a suspended status.

(e) *Debenture Interest.* For purposes of this section, *Debenture Interest* means interest at the debenture rate as computed by HUD in accordance with its rules and requirements for such calculations, on the unpaid principal balance as of the claim payment date, plus the approved reimbursable expenses identified in the PSA, minus any amount of such interest or expenses that would have been curtailed or for which the Participating Servicer would have been denied reimbursement pursuant to HUD's requirements for servicing defaulted notes and processing claims, including § 203.402(k)(1)(i) and (ii), had the Participating Servicer conveyed title to the property securing the Single Family Loan to the Secretary rather than assigned the Single Family Loan in connection with an insurance claim.

(f) *Rejection of claim.* HUD may reject the mortgagee's claim for insurance and exclude the related mortgage from settlement if within the thirty (30)-day period prior to the claim's submission cut-off date, as identified on the schedule of dates in the PSA:

(1) Any insurance claim is not submitted; or

(2) Any suspended insurance claim is not resolved.

#### **PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE**

■ 3. The authority citation for part 206 continues to read as follows:

**Authority:** 12 U.S.C. 1715b, 1715z-20; 42 U.S.C. 3535(d).

■ 4. Add § 206.130, under the undesignated center heading "Claim Procedure," to read as follows:

#### **§ 206.130 Amount of payment—HECM Single Family Sale assignments.**

(a) *Time of payment.* Upon an assignment of a mortgage insured under this part that is acceptable to the

Commissioner, made pursuant to a HECM Single Family Sale and in accordance with § 291.609 or § 291.619 of this chapter, the Commissioner shall pay to the mortgagee the unpaid principal balance of the loan at the time of assignment and an amount calculated in accordance with the Participating Servicer Agreement (PSA), as defined in § 291.601 of this chapter.

(b) *Acceptability criteria.* For assignment, the mortgagee must determine and certify the mortgage satisfies the Commissioner's acceptability criteria for the Single Family Sale.

(c) *Reduction in claim.* The mortgagee's claim for insurance will be reduced for failure to take the required actions within the specified schedule of dates for the Single Family Sale, as specified in the PSA.

(d) *Curtailement of debenture interest.* HUD will curtail debenture interest at the thirtieth (30th) day following the earliest anticipated claim submission date, as identified on the schedule of dates in the PSA, if:

(1) The mortgagee's claim for insurance is not submitted to HUD; or

(2) The claim for insurance is in a suspended status.

(e) *Debenture Interest.* For purposes of this section, *Debenture Interest* means interest at the debenture rate as computed by HUD in accordance with its rules and requirements for such calculations, on the unpaid principal balance as of the claim payment date, plus the approved reimbursable expenses identified in the PSA, minus any amount of such interest or expenses that would have been curtailed or for which the Participating Servicer would have been denied reimbursement pursuant to HUD's requirements for servicing due and payable notes and processing claims, including § 206.129(d)(3)(x), had the Participating Servicer foreclosed or the borrower sold the property in connection with an insurance claim.

(f) *Rejection of the claim.* HUD may reject the mortgagee's claim for insurance and exclude the related mortgage from settlement if, within the thirty (30)-day period prior to the claim's submission cut-off date, as identified on the schedule of dates in the PSA:

(1) An insurance claim is not submitted; or

(2) Any suspended insurance claim is not yet resolved.

#### **PART 291—DISPOSITION OF HUD-ACQUIRED AND -OWNED SINGLE FAMILY PROPERTY**

■ 5. The authority citation for part 291 continues to read as follows:

**Authority:** 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, 1551a, and 3535(d).

#### **SUBPART D—[Removed and Reserved]**

■ 6. Remove and reserve subpart D, consisting of §§ 291.301 through 291.307.

■ 7. Add subpart G, consisting of §§ 291.601 through 291.621, to read as follows:

#### **Subpart G—Sale of HUD-Held Single Family Mortgage Loans**

Sec.	
291.601	Definitions.
291.603	Purpose, scope, and applicability.
291.605	Participating Servicers.
291.607	Qualified participants.
291.609	Bidding process.
291.611	Post-bid process and HUD's execution of the CAA.
291.613	Settlement requirements.
291.615	Purchaser servicing requirements.
291.617	General policy—Direct Sales of Single Family Loans.
291.619	Direct Sale of Single Family Loans process.
291.621	Disqualifications.

#### **§ 291.601 Definitions.**

For purposes of this subpart, the following definitions apply:

*Aggregate Loan Database (ALD)* means the electronic data file containing Single Family Loan information available for Qualified Participants to review before a Single Family Sale.

*Bidder Information Package (BIP)* means the documents prepared for participants in a Single Family Sale, which may include, but are not limited to, the following: an executive summary of the Programs; the Single Family Sale post-sale servicing and reporting requirements published by HUD; due diligence information and reports; Single Family Loan information; the Conveyance, Assignment and Assumption Agreement (CAA); bidding and settlement information; and necessary information and requirements as determined by the Secretary.

*Bidder Qualification Statement* means HUD Forms 9611 and 9612, or any form approved for similar purpose in the future as prescribed by the Secretary. (OMB number 2502-0576)

*Claim Date* means, with respect to each Single Family Loan, the date on which the Single Family Sale assignment claim is paid by HUD to the P-Servicer.

*Competitive Sale of Single Family Loans* means a sale of an individual or group of Single Family Loans to Qualified Participants through a bid process prescribed by the Secretary in competition with other Qualified Participants in accordance with § 291.609.

*Confidentiality Agreement* means a nondisclosure agreement under which the individual or entity seeking to participate in Single Family Sales agrees that Single Family Loan data and documentation shared with the individual or entity as due diligence will remain confidential in accordance with the terms of the agreement as determined by the Secretary.

*Conveyance, Assignment and Assumption Agreement (CAA)* means the contract between HUD and a Purchaser, along with all applicable exhibits and riders, that governs the terms of the Single Family Sale as prescribed by the Secretary. The CAA will include any sale-specific post-sale servicing and outcome requirements, representations, repurchase requirements, schedule of dates, and reporting requirements published by the Secretary for the Single Family Sale through a Sale Notice.

*Cut-off date or claim submission cut-off date* means the last date specified by the Secretary on which the P-Servicer is permitted to submit to HUD a Single Family Sale insurance claim for payment under 24 CFR 203.413 and 206.130.

*Desk Guide* means the technical manual included in the PSA detailing the P-Servicer's steps for submitting Single Family Loans related to a Single Family Sale, including but not limited to the process for identifying eligible Single Family Loans, uploading due diligence files, and submitting insurance claims.

*Direct Sale of Single Family Loans* means a sale of an individual or group of Single Family Loans to a Qualified Participant through the process described in § 291.619.

*Home Equity Conversion Mortgage (HECM)* means reverse mortgages insured in accordance with 24 CFR part 206 under the FHA Home Equity Conversion Mortgage insurance program.

*Interim Servicing Agreement (ISA)* means the agreement between a Purchaser and P-Servicer that governs the servicing and administration of the purchased loans, including but not limited to transfer of mortgage information and loss mitigation evaluations, during the Interim Servicing Period in accordance with the terms prescribed by the Secretary.

*Interim Servicing Period* means the period commencing with Claim Date and ending with the Servicing Transfer Date.

*Low-value means, in reference to a Mortgage, the value minimum stated in the Participating Servicer Agreement (PSA).*

*Nonprofit organization* means an entity that is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. 501(c)(3)) and meets the qualification requirements prescribed by the Secretary for participation in a Single Family Sale.

*Participating Servicer (P-Servicer)* means a mortgagee that complies with § 291.605 and submits Single Family Loans for a Single Family Sale.

*Participating Servicer Agreement (PSA)* means the agreement between HUD and a P-Servicer that governs the P-Servicer's submission of Single Family Loans to be sold in a Single Family Sale on terms as prescribed by the Secretary.

*Purchaser* means a Qualified Participant to which HUD has awarded one or more Single Family Loans through a Single Family Sale, as of the date of notification of the award.

*Qualified Participant* means an individual or entity that satisfies the requirements in § 291.607 for participation in Single Family Sales.

*Sale Notice* means an announcement published by HUD for an upcoming Single Family Sale and includes any stated mission objectives and additional sale, participant qualification, and loan eligibility requirements; representations; post-sale servicing, outcomes, and reporting requirements; and repurchase requirements for inclusion in the Qualification Statement, PSA, ISA, and CAA as applicable.

*Servicing Transfer Date* means, with respect to any Single Family Loan, the date on which the actual servicing duties for such Single Family Loan has been or will be transferred from the P-Servicer to the Purchaser's servicer. The latest Servicing Transfer Date will be set forth in a schedule of dates prescribed by the Secretary and included in the PSA, ISA, and CAA.

*Single Family Loan* means any HUD-selected eligible forward mortgage loan insured under Section 203 of the National Housing Act (12 U.S.C. 1709) that has or will be assigned to HUD and any HUD-selected eligible HECM insured under section 255 of the National Housing Act (12 U.S.C. 1715z-20) that has or will be assigned to HUD, or any other eligible single family mortgage loans owned by the Secretary that will be sold in a Single Family Sale.

*Single Family Sale* means a Competitive Sale of Single Family Loans

or Direct Sale of Single Family Loans conducted by HUD in accordance with this subpart.

*Vacant* means a mortgaged property is determined to be vacant or abandoned in accordance with the requirements of 24 CFR part 203 and FHA policy.

#### **§ 291.603 Purpose, scope, and applicability.**

The sale of Single Family Loans is at the discretion of the Secretary. All Single Family Loans will be sold without recourse to HUD and without FHA insurance. HUD may sell individual Single Family Loans or groups of Single Family Loans to Qualified Participants as a Competitive Sale of Single Family Loans, § 291.609, or as a Direct Sale of Single Family Loans, § 291.619. Nothing in this section shall be construed to prevent HUD from grouping Single Family Loans with other types of HUD assets for sale, including grouping any associated HUD-held mortgages subordinate to the respective assets. The procedures set out in this subpart, including any cross-referenced regulations, documentation, and published notices detailed in this subpart, govern the Single Family Sales.

#### **§ 291.605 Participating Servicers.**

(a) *Participation.* To participate in a Single Family Sale, a Participating Servicer must:

- (1) Be an FHA-approved Mortgagee contributing eligible Single Family Loans and assigning loans to HUD; and
- (2) Execute a PSA and agree to execute an ISA, as needed.

(b) *Sale.* For each Single Family Sale, the Participating Servicer must:

- (1) Identify mortgages that meet the eligibility criteria in accordance with terms of the PSA;
- (2) Conduct all sale activities in accordance with the PSA and ISA;
- (3) Comply with any Single Family Sale and Loan Sale Notification requirements as prescribed by the Secretary through notice; and
- (4) Comply with the terms of the Sale Notice.

(5) Ensure the Loan Sale Notification is provided to each borrower and any other parties as required by the Secretary and the Loan Sale Notification complies with all applicable law. Loan Sale notification requirements will be announced to the Participating Servicer through notice.

(c) *Claim payment requirements.* The Participating Servicer must comply with the claim payment process and requirements for Single Family Sales in accordance with the PSA and processes outlined in §§ 203.413 and 206.130, as applicable.

(d) *Interim servicing.* During the Interim Servicing Period, the Participating Servicer must service the purchased Single Family Loans on behalf of the Purchaser in accordance with the ISA.

(e) *Transfer documents and servicing.* The Participating Servicer must conduct the servicing transfer of the Single Family Loans in accordance with the requirements of the PSA and ISA and must service the purchased Single Family Loans in accordance with all applicable state and Federal law requirements, including applicable Consumer Finance Protection Bureau (CFPB) requirements.

#### § 291.607 Qualified participants.

(a) *Confidentiality Agreement and Bidder Qualification Statement.* Individuals or entities must become a Qualified Participant before they may bid or purchase Single Family Loans in a Single Family Sale. An individual or entity seeking to participate in a Single Family Sale must sign a Confidentiality Agreement and complete a Bidder Qualification Statement form(s) are applicable to a particular Single Family Sale and any additional sale specific qualification criteria through notice. HUD will only provide access to sensitive Single Family Sale materials to Qualified Participants.

(b) *Process for determining Qualified Participant.* HUD will qualify any individual or entity seeking to participate in a Single Family Sale if they have met the qualification requirements and executed the applicable Bidder Qualification Statement for the Single Family Sale.

#### § 291.609 Bidding process.

(a) *Sale notice.* The Secretary will prescribe requirements for a Single Family Sale through the Sale Notice. For each Single Family Sale, HUD will publish the PSA Addendum, Desk Guide, ISA Addendum, CAA Addendum, and Sale Notices on HUD's public website.

(b) *Submission of bids.* All bids by a Qualified Participant must be submitted to HUD in accordance with the Sale Notice and the instructions in the BIP. By submitting a bid, the Qualified Participant is considered to have made an offer to purchase Single Family Loans as presented in the BIP. Submission of a bid constitutes acceptance of the terms and conditions set forth in the BIP. Along with the bid, the Qualified Participant must submit an executed copy of the CAA and ISA, as applicable.

(c) *Bids by brokers or agents.* Any bid submitted by a broker or agent for a Qualified Participant must be made in the name of the Qualified Participant and signed by the broker or agent as the attorney-in-fact for the Qualified Participant. All such bid documents must bind the Qualified Participant. Each bid must also include a power of attorney satisfactory to HUD as to form and content.

(d) *Earnest money deposits.* The Qualified Participant must submit to HUD, along with its bid, an earnest money deposit, as required in the CAA or Sale Notice. The earnest money deposit is nonrefundable for a Qualified Participant whose bid is selected for award and will be credited toward the purchase price. If a Qualified Participant's bid is not selected for any award, their earnest money will be returned.

(e) *Timing for withdrawal of bids.* A Qualified Participant may withdraw a submitted bid in accordance with the instructions in the BIP for a Single Family Sale. However, a previously submitted bid may not be withdrawn once the bidding has closed.

(f) *Termination of Single Family Sale.* HUD reserves the right to terminate a Single Family Sale in whole or in part at any time before the bid date.

(g) *Withdrawal of Single Family Loans.* HUD reserves the right to withdraw Single Family Loans from a Single Family Sale prior to the settlement date. Any earnest money deposits made by a Purchaser relating to withdrawn Single Family Loans will be retained by the Secretary and credited toward the total purchase price of the remaining Single Family Loans in the pool, in accordance with the CAA and BIP. After the bid date, HUD can withdraw Single Family Loans or not deliver all the Single Family Loans for settlement for any reason, including those set forth in the BIP and CAA.

(h) *Rejection of bids.* At HUD's discretion, any bid may be rejected under the following circumstances:

(1) The bid does not conform with the instructions in the BIP;

(2) HUD determines that an award based on the bid would not be in the best interests of the Secretary because the award would not further HUD's fiduciary responsibility to the mutual mortgage insurance fund (MMIF) or any stated mission objectives in the Sale Notice; or

(3) HUD can also issue a conditional rejection that would provide the opportunity for the bid to be amended and resubmitted for acceptance upon fulfillment of HUD's requests.

#### § 291.611 Post-bid process and HUD's execution of the CAA.

After HUD evaluates conforming bids, HUD may request an adjustment to a bid in accordance with the BIP. After any bid adjustments, HUD will select bids for award and provide notice of award in a manner set forth in the BIP. After selection of a Purchaser, HUD will execute the CAA.

#### § 291.613 Settlement requirements.

(a) *Settlement payment.* On the settlement date of a Single Family Sale, the Purchaser must pay to HUD the settlement payment, consisting of the balance of the amount due on the bid price, as adjusted in accordance with the CAA.

(b) *Settlement statement.* When the Purchaser delivers to HUD the documents required at settlement and the settlement payment in paragraph (a) of this section, HUD will execute and deliver to the Purchaser a settlement statement and updated Single Family Loan schedule for the CAA to document the Single Family Loans sold to the Purchaser in the Single Family Sale.

(c) *Endorsement and assignment.* HUD may grant a temporary Limited Power of Attorney to the Purchaser to effect endorsement and assignment of the Single Family Loans to the Purchaser.

(d) *Purchaser's special purpose entity.* HUD may allow a Purchaser to endorse and assign Single Family Loans from HUD to Purchaser's special purpose entity acquisition vehicle on terms permitted in the CAA.

#### § 291.615 Purchaser servicing requirements.

(a) *Purchaser post-sale servicing.* The Purchaser and its servicer, and any subsequent transferee of or servicer for the Single Family Loan, must comply with the terms of the CAA and the Sale Notice post-sale loss mitigation and outcome requirements. Post-sale requirements will include a requirement that any Single Family Loan that converts to real estate owned property via foreclosure or deed-in-lieu of foreclosure be offered for sale through a first look program, providing an exclusive listing period for owner occupant, nonprofit organization, governmental entities, and other prospective buyers as permitted by HUD. Post-sale requirements will also include requirements that Purchasers offer borrowers loss mitigation options that are as or more generous than the FHA loss mitigation options, a prohibition on reselling real estate owned property through a contract for deed or similar financing mechanism, a

requirement that the Purchaser obtain prior approval from HUD before entering into a lease-purchase agreement with a prospective purchaser, and a prohibition on releasing liens on particular categories of properties, including vacant properties. Purchasers must take all lawful steps to service the Single Family Loans and collect amounts due in accordance with requirements as set forth by the CAA and all state and Federal law requirements, including applicable CFPB requirements.

(b) *Purchaser reporting requirements.* Purchasers must report on the post-sale servicing actions and outcomes obtained for each Single Family Loan purchased as prescribed by the CAA. HUD will publish reports for the public on loan and property outcomes and will include a breakdown of outcomes in different geographies. HUD will prescribe the reporting period as a specified period after settlement in the CAA.

(c) *Remedy for performance failures.* HUD may pursue appropriate remedies, including, but not limited to, the ability to deny future participation in loan sales, for a Purchaser's failure to comply with Single Family Sale requirements, including CAA obligations.

**§ 291.617 General policy—Direct Sale of Single Family Loans.**

The Secretary may pursue a Direct Sale of Single Family Loans to individuals or entity type the Secretary determines may be eligible to qualify as set forth in the Sale Notice. The Direct Sale of Single Family Loans will be subject to the requirements of this subpart, excluding §§ 291.609 and 291.611. The Secretary will publish in the Sale Notice, sale specific Single Family Loan eligibility criteria.

**§ 291.619 Direct Sale of Single Family Loans process.**

(a) *Sale Notice.* The Secretary will prescribe requirements for a Direct Sale of Single Family Loans through a Sale Notice.

(b) *Sale feasibility.* In all stages of the Direct Sale of Single Family Loans process, HUD may determine whether continuation with the Direct Sale of Single Family Loans is feasible and in HUD's interest, consistent with HUD's fiduciary responsibility to the MMIF and any stated mission objectives.

(c) *Direct Sale of Single Family Loans process.* An individual or entity interested in purchasing Single Family Loans through a Direct Sale of Single Family Loans must:

(1) Meet the Secretary's prescribed requirements for the Direct Sale of Single Family Loans in the Sale Notice;

(2) Submit a letter of interest to the Secretary that includes, at a minimum:

(i) The description of the individual or entity and a statement about how it would be able to satisfy the participant eligibility requirements and mission objectives, if any;

(ii) The geographic area of interest where the party wishes to purchase the loans;

(iii) The individual or entity's goals and how this purchase would assist in achieving these goals through post-sale outcomes;

(iv) The approximate timeframe for the purchase;

(v) The approximate number of loans or, alternatively, the approximate gross sale amount desired; and

(vi) The organizational documents for an entity including, but not limited to organizational documents, any required authorizing resolutions, and disclosure of all nonprofit organization or private entity partnership interests in the Direct Sale of Single Family Loans transaction.

(d) *HUD determination.* Upon receipt of a letter in paragraph (c)(2) of this section, HUD will respond in writing to the submitter to confirm receipt of the letter and, if necessary, request additional information needed for a final determination.

(e) *Secretary's determination to proceed.* (1) If the Secretary makes a final determination to proceed, the Secretary will request from the individual or entity, a business plan proposal from the individual or entity that details its ability to meet any stated mission objectives in the Sale Notice along with its goals and how these goals will be achieved with post-sale outcomes. Business plans must be received by HUD within 30 business days of request.

(2) Upon receipt and review of business plan proposal, HUD will:

(i) Reject the business plan proposal;

(ii) Issue a conditional rejection that would provide the opportunity for a business plan proposal to be amended and resubmitted for approval upon fulfillment of HUD's request; or

(iii) Approve the business plan proposal.

(3) Upon approval of such business plan proposal, HUD and the individual or entity will begin the Direct Sale of Single Family Loans process that includes:

(i) An executed Confidentiality Agreement;

(ii) An executed Bidder Qualification Statement;

(iii) A P-Servicer executed PSA; and

(iv) Review of Single Family Loans from P-Servicer(s) or HUD.

(4) HUD and the individual or entity reviews the ALD and will agree on the

Single Family Loan Sale List for the Direct Sale of Single Family Loans.

(f) *Direct Sale of Single Family Loans.* After satisfaction of the requirements in paragraph (d) of this section, HUD will conduct its valuation review, and issue a final price determination and a CAA, containing an estimated settlement date, to the individual or entity. If accepted, a final Settlement date is scheduled, and the Single Family Loan List is appended to the CAA.

(g) *Settlement.* HUD and the Purchaser will execute the CAA for settlement. The remaining settlement and transfer requirements will follow those in § 291.613.

**§ 291.621 Disqualifications.**

(a) *Fraudulent information.* If HUD determines there is any information indicating any certification or required document provided by any party participating in a Single Family Sale, including but not limited to P-Servicer, Purchaser, Qualified Participant, or a Purchaser's servicer, is false, misleading, or constitutes fraud or misrepresentation, HUD will not approve that party's participation in the Single Family Sale and will revoke any prior approval. The submission of false information or misrepresentation by an approved lender or mortgagee may result in the referral of the mortgagee to the Mortgage Review Board.

(b) *Participant ineligibility.* An individual or entity is ineligible to participate in a Single Family Sale if, at the time of the Single Family Sale, that individual or entity is suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under 2 CFR part 180 or 2424, 24 CFR part 25, 48 CFR part 9, subpart 9.4, or under similar procedures of any other Federal agency.

(c) *Future participation.* Purchasers that made misrepresentations in the qualification process or failed to meet their contractual obligations under CAAs, including failing to meet post-sale requirements, for previous Single Family Sales in which they participated may be disqualified from participation in one or more future Single Family Sales or for a set period of time at the discretion of the Secretary.

**Julia R. Gordon,**

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