

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**Office of the Assistant Secretary for Housing—Federal Housing Commissioner****24 CFR Parts 202 and 203****[Docket No. FR-3957-I-01]****RIN 2502-AG57****Streamlining Mortgagee Requirements****AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.**ACTION:** Interim rule.**SUMMARY:** This rule revises FHA's mortgagee requirements to streamline and make the FHA process more flexible for mortgagees and FHA's customers and clients.**DATES:** Effective date: February 26, 1996.
Comment due date: March 26, 1996.**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.**FOR FURTHER INFORMATION CONTACT:** William M. Heyman, Director, Office of Lender Activities and Land Sales Registration, Room 9156, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (voice) (202) 708-1515, (TDD) (202) 708-4594. (These are not toll-free numbers.)**SUPPLEMENTARY INFORMATION:****Background**

Earlier this year an FHA Single Family Business Practices Working Group was established to develop recommendations to streamline the FHA process, reduce or eliminate unnecessary requirements, promote greater opportunities for first-time homebuyers and minorities, and maintain a responsible risk management program. The Working Group was comprised of representatives of mortgage lenders, State and local governments, trade associations, realtors, government-sponsored enterprises, and other interested parties.

The revisions made by this rule result from the efforts and recommendations made by the Working Group. They will make the FHA process more flexible for mortgagees, and for State and local governments and nonprofit associations, and also expand homeownership opportunities. They will also assist in making the FHA a more effective organization to serve the needs of our customers and clients. The revisions should also minimize the differences between FHA and conventional loan processing and place greater reliance and accountability on mortgagees.

A number of recommended changes did not require rulemaking and, therefore, were made effective immediately with the issuance of Mortgagee Letter 95-36, dated August 2, 1995. However, some of the recommended changes require either rulemaking or modification of existing data systems. This rule sets forth the changes that require rulemaking for implementation. Changes effected as a result of modifications of existing data systems will be announced later.

This Interim Rule

This interim rule makes the following changes:

- Section 202.11(a)(5) is revised to establish uniform requirements on the use of authorized agents by supervised and nonsupervised mortgagees. For conforming reasons, §§ 202.13(e) and 202.17(d) are removed.
- Section 202.12(m) is revised to eliminate the requirement that a branch office of a mortgagee must be approved by FHA to originate FHA mortgages. A branch registry process is permitted. However, a nonsupervised loan correspondent will be required to provide evidence that it complies with the net worth requirements for itself and all of its branches, as set forth in § 202.12(n)(3).
- Section 202.15(c)(1) is revised to eliminate the requirement that loans must be closed in the name of the Loan Correspondent, and to permit such mortgages to be closed in either the name of the Loan Correspondent or its Sponsor(s).
- Section 202.15(c)(5) is revised to eliminate the compliance report and the report on internal control from Loan Correspondents' annual audited financial statements.
- Section 203.3(b)(2) is revised to eliminate the requirement that FHA individually approve mortgagees' Direct Endorsement underwriters and to establish a registry process for the underwriter. Also, The requirement

that the technical staff utilized by the mortgagee be approved by the Secretary is removed. For conforming reasons, §§ 203.3(b)(3) and (c) are eliminated.

Other Matters**Justification for Interim Rule**

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that public procedure is contrary to the public interest and unnecessary.

No mortgagees or potential mortgagors will be adversely affected by the revisions made by this rule without prior public comment. To the contrary, the revisions will streamline and make the FHA processes more flexible for mortgagees and FHA's customers and clients.

For these reasons, HUD has concluded that the public interest would not be served by the delay that issuance of a proposed rule would involve.

Environmental Finding

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the

various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule are directed to insuring mortgages and do not impinge upon the relationship between the Federal government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order because it revises mortgagee requirements.

The Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary by his approval of this rule hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the changes made by this rule are primarily procedural and will not have a significant economic impact.

List of Subjects in Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

List of Subjects in Part 203

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

Accordingly, Subchapter B of Chapter II of title 24 of the Code of Federal Regulations is amended as follows:

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subchapter B—Mortgage and Loan Insurance Programs Under National Housing Act and Other Authorities

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

1. The authority for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709, and 1715b; 42 U.S.C. 3535(d).

2. Part 202 is amended by revising—
a. In § 202.11, paragraph (a)(5) to read as follows:

§ 202.11 Approval, recertification, withdrawal of approval and termination of approval agreement.

(a) * * *

(5) A mortgagee approved under §§ 202.13, 202.14, or 202.17 may, with the approval of the Secretary, designate another mortgagee approved under §§ 202.13 or 202.14 as authorized agent for the purpose of submitting applications for mortgage insurance in its name and on its behalf.

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b. In § 202.12, paragraph (m) to read as follows:

§ 202.12 General approval requirements.

* * * * *

(m) *Branch offices.* A mortgagee approved under §§ 202.13 or 202.14, or a mortgagee that meets the definition of a supervised mortgagee under § 202.13 and applies for approval as a loan correspondent under § 202.15, may maintain branch offices for the submission of applications for mortgage insurance, provided that registration of such branches is maintained with the Secretary. A nonsupervised loan correspondent approved under § 202.15 will be required to provide evidence that it complies with net worth requirements for itself and all of its branches, as set forth in § 202.12(n)(3). The mortgagee shall remain fully responsible to the Secretary for the actions of its branch offices.

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§ 202.13 [Removed]

c. In § 202.13, paragraph (e) is removed.

d. In § 202.15, the first sentence of paragraph (c)(1) and paragraph (c)(5) are revised, to read as follows:

§ 202.15 Loan correspondents.

* * * * *

(c) * * *

(1) A loan correspondent shall close all mortgages in its own name or the name of its sponsor(s). * * *

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(5) It shall file an audit report with the Secretary within 90 days of the close of its fiscal year (or within an extended time if, at the discretion of the Secretary, an extension is granted), and at such other times as may be requested, unless it meets the definition of a supervised mortgagee in § 202.13(a).

Audit reports shall be based on audits performed by a Certified Public Accountant, or by an Independent Public Accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit report shall include:

(i) A financial statement in a form acceptable to the Secretary, including a balance sheet and a statement of operations and retained earnings and analysis of the loan correspondent's net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds; and

(ii) Such other financial information as the Secretary may require.

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e. In § 202.17, paragraph (d) is removed.

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

3. The authority for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1715b; 42 U.S.C. 3535(d). Subpart C also, is issued under 12 U.S.C. 1715u.

4. In § 203.3, paragraph (b)(2) is revised, and paragraphs (b)(3) and (c) are removed and reserved, to read as follows:

§ 203.3 Approval of mortgagees for Direct Endorsement.

* * * * *

(b) * * *

(2) The mortgagee has on its permanent staff an underwriter that is authorized by the mortgagee to bind the mortgagee on matters involving the origination of mortgages through the Direct Endorsement procedure and that is registered with the Secretary and such registration is maintained with the Secretary. The technical staff may be employees of the mortgagee or may be hired on a fee basis from a roster maintained by the Secretary. The mortgagee shall use appraisers permitted by § 203.5(e).

(3) [Reserved].

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(c) [Reserved].

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Dated: November 29, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

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