

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4461-D-01]

Delegation of Authority Under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to the Assistant Secretary for Housing-Federal Housing Commissioner and the Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: This notice delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner certain of the Secretary's powers and authorities under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

EFFECTIVE DATE: February 5, 1999.

FOR FURTHER INFORMATION CONTACT: Janet A. Tasker, Acting Director, Government Sponsored Enterprise Staff, Room 6154, telephone (202) 708-2224; or for legal questions, contact Kenneth Markison, Assistant General Counsel for GSE/RESPA, Room 9262, telephone (202) 708-3137 (these are not toll-free numbers). The address for both persons is Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. For hearing- and speech-impaired persons, the telephone numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA) (12 USC 4501 *et seq.*), the Secretary of Housing and Urban Development has general and specific regulatory authorities respecting the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Government-Sponsored Enterprises or GSEs). FHEFSSA's purpose is to establish a regulatory framework for the GSEs that reflects their unique status as government-sponsored enterprises that receive substantial public benefits. FHEFSSA substantially overhauled the regulatory authorities and structure for GSE regulation.

Under FHEFSSA, the Secretary is responsible for establishing housing goals for the GSEs' purchases of mortgages financing: housing for low-

and moderate-income families; housing located in central cities, rural areas, and other underserved areas; and special affordable housing to meet the unaddressed needs of low-income families in low-income areas and very low-income families. In addition, FHEFSSA mandates that the Secretary: prohibit the GSEs from discriminating in their mortgage purchases; require the GSEs to submit data to assist investigations of mortgage lenders under the Fair Housing Act and the Equal Credit Opportunity Act (ECOA); obtain information on Fair Housing Act and ECOA violations and provide such information to the GSEs; direct the GSEs to take remedial actions against lenders with discriminatory lending practices; and periodically review and comment on the GSEs' underwriting and appraisal guidelines to ensure that the guidelines are consistent with FHEFSSA and the Fair Housing Act. FHEFSSA also sets forth requirements for the Secretary's review and approval of the GSEs' new programs, for GSE submission of mortgage purchase data and reports to the Secretary, for the Secretary's dissemination of data and protection of proprietary information, and for enforcement and other proceedings. The Secretary implemented these responsibilities in a regulation codified at 24 CFR part 81.

This notice delegates certain specified powers and authorities of the Secretary under FHEFSSA to the Assistant Secretary for Housing-Federal Housing Commissioner. No previous delegation of this authority has been published in the **Federal Register**. The authority delegated under this notice does not, however, include the Secretary's general regulatory power (except to the extent that it authorizes the issuance of regulations), authority provided to Administrative Law Judges in 24 CFR part 81, or the authority to: determine whether data is proprietary; issue orders providing that data is proprietary; submit annual reports to Congress; or make certain income adjustments or determinations. The authority delegated under this notice includes the authority to issue rules and regulations under FHEFSSA, waive such regulations, and take other appropriate actions, as specified, to implement FHEFSSA. When taking actions involving the Office of Federal Housing Enterprise Oversight (OFHEO), the delegates shall consult with the Secretary.

Accordingly, the Secretary hereby delegates the following:

Section A. Authority

1. With the exception of the income adjustments and determinations under

12 U.S.C. 4502(8)(B), (9), (10)(B), and (19)(B), and the authority and power provided to Administrative Law Judges under 24 CFR 81.82(b)(2) and (b)(3), 81.83(d)(3)-(4), and 81.84, the Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to housing goal activities in 12 U.S.C. 4502 and 4561-88 including, but not limited to: monitoring the GSEs' performance under the housing goals and enforcing compliance with the goals, including determining whether a GSE has failed, or is likely to fail, to meet a housing goal; providing written notices to the GSEs of failure or substantial probability of failure to meet a goal; extending response periods for the GSEs; requiring a housing plan; providing required notices to Congress under the housing goal provisions; reviewing housing plans; approving and disapproving housing plans; monitoring compliance with housing plans; issuing cease-and-desist orders and imposing civil money penalties; requesting the Attorney General to bring actions; settling and depositing civil money penalties; and making orders and agreements publicly available.

2. With the exception of the authority and power provided to Administrative Law Judges under 24 CFR 81.46(e)(1), the Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority under the Fair Housing provisions of FHEFSSA at 12 U.S.C. 4545 and under regulations at 24 CFR part 81, subpart C, including, but not limited to: prohibiting each GSE from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect; requiring each GSE to submit data to assist in investigating whether a mortgage lender with which a GSE does business has failed to comply with the Fair Housing Act; requiring each GSE to submit data to assist in investigating whether a mortgage lender with which a GSE does business has failed to comply with the Equal Credit Opportunity Act (ECOA) and to submit information to ECOA enforcement agencies; obtaining information on Fair Housing Act and

EOA violations and providing that to the GSEs; directing the GSEs to take remedial actions against lenders with discriminatory lending practices; reviewing and commenting on the GSEs' underwriting and appraisal guidelines to ensure that such guidelines are consistent with the Fair Housing Act and FHEFSSA; and requesting the Director of the Office of Federal Housing Enterprise Oversight to bring actions under 12 U.S.C. 4631 and 12 U.S.C. 4636 to enforce violations of 12 U.S.C. 4545.

3. With the exception of the authority and power provided to Administrative Law Judges under 24 CFR 81.82(b)(2) and (b)(3), 81.83(d)(3)–(4), and 81.84, the Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to prior approval of new programs under 12 U.S.C. 4542 including, but not limited to: requiring that GSEs submit information about a program and requiring that GSEs submit new program requests under 24 CFR 81.52; approving and disapproving new program requests; extending the period for new program review.

4. With the exception of the authority and power provided to Administrative Law Judges under 24 CFR 81.82(b)(2) and (b)(3), 81.83(d)(3)–(4), and 81.84, the Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to reporting activities in 12 U.S.C. 1456(e)–(f), 1723a(m)–(n), and 4547, and under 24 CFR 81.102, including but not limited to: determining the form of data submitted; requiring the submission of additional data characteristics; requiring additional reports and other information concerning GSE activities; requiring the GSEs to provide data underlying any of the reports required under 24 CFR part 81 and to conduct additional analyses concerning any report required under 24 CFR part 81; and to independently verify the accuracy and completeness of data, information, and reports provided by each GSE, including conducting on-site verification when such steps are reasonably related to: determining whether a GSE is complying with 12 U.S.C. 4541–4589 and the GSEs' Charter Acts; establishing standards and procedures for and imposing civil money penalties; requesting the Attorney General to bring actions; settling and depositing civil money penalties; making orders and

agreements publicly available;); and requesting the Director of the Office of Federal Housing Enterprise Oversight to bring actions under 12 U.S.C. 4631 and 12 U.S.C. 4636 to enforce violations of 12 U.S.C. 1456(e)–(f), 1723a(m)–(n), and 4547, and 24 CFR 81.102.

5. The Secretary delegates to the Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to access to information activities in 12 U.S.C. 4525, 4543, and 4546 including, but not limited to: recommending the invocation of 5 U.S.C. 552(b)(4), (6), and (8); and not providing public access to proprietary data.

6. The Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to book-entry procedure activities in 24 CFR part 81, subpart H, including, but not limited to establishing certain procedures for Federal Reserve Banks and waiving book-entry regulations.

7. The Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to the Office of Federal Housing Enterprise Oversight (OFHEO) activities in 12 U.S.C. 4513(c), 4516(g)(1)–(2), and 4548(b) including, but not limited to: reviewing and approving certain actions of the OFHEO Director; and receiving and commenting to Congress on OFHEO's financial plans, forecasts, and operations reports. When taking action relating to OFHEO under this paragraph, the Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner shall consult with the Secretary.

8. The Secretary delegates to the Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner all the power and authority with respect to issuing regulations under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) and waiving regulations promulgated under such Act.

9. The Secretary delegates to the Assistant Secretary for Housing—Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing

Commissioner the power and authority to take any appropriate action to implement the power and authority delegated under this delegation.

Section B. Authority to Redelegate

The Assistant Secretary for Housing-Federal Housing Commissioner and the General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner may redelegate to employees of the Department any of the power and authority delegated under this delegation.

Authority: Secs. 1302 and 1331–48 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, 12 U.S.C. 4502 and 4561–88; section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: February 5, 1999.

Andrew Cuomo,
Secretary.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4461–D–02]

Redelegation of Fair Housing And Other Authorities Respecting the Government Sponsored Enterprises Under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 to the Assistant Secretary for Fair Housing and Equal Opportunity

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

ACTION: Notice of redelegation of authority.

SUMMARY: This notice redelegates from the Assistant Secretary for Housing-Federal Housing Commissioner to the Assistant Secretary for Fair Housing and Equal Opportunity the Fair Housing authority, and other authorities necessary to carry out the Fair Housing authority, under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

EFFECTIVE DATE: February 5, 1999.

FOR FURTHER INFORMATION CONTACT: Bryan Greene, Acting Director of Policy and Program Evaluation, Office of Fair Housing and Equal Opportunity, Room 5246, telephone (202) 708–1145; or for legal questions, contact Kenneth Markison, Assistant General Counsel for GSE/RESPA, room 9262, telephone (202) 708–3137 (these are not toll-free numbers). The address for both persons is Department of Housing and Urban Development, 451 Seventh Street, S.W.,