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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR-5742-P-01]

RIN 2502-AJ23

Federal Housing Administration (FHA): Single Family Mortgage Insurance Maximum Time Period for Filing Insurance Claims, Curtailment of Interest and Disallowance of Operating Expenses Incurred beyond Certain Established Timeframes

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish the maximum time period within which an FHA-approved mortgagee must file a claim with FHA for insurance benefits. HUD's current regulations are silent with respect to a deadline by which a claim for insurance benefits must be filed with FHA. Due to the downturn in the housing market, which resulted in a significant increase in mortgage defaults, some mortgagees have refrained from promptly filing claims for insurance benefits and instead have opted to wait and file multiple claims with FHA at a single point in time. The uncertainty regarding a deadline by which a claim must be filed, and the number of claims currently being filed at a single point in time strain FHA resources and negatively impact FHA's ability to project the future state of the Mutual Mortgage Insurance Fund (MMIF), and, consequently, the ability of FHA to fulfill its statutory obligation to safeguard the MMIF. To address this concern, HUD proposes to establish a deadline by which a mortgagee must file a claim for insurance benefits. This rule also proposes to revise HUD's

policies concerning the curtailment of interest and the disallowance of certain expenses incurred by a mortgagee as a result of the mortgagee's failure to timely initiate foreclosure or timely take such other action that is a prerequisite to submission of a claim for insurance.

DATES: Comment Due Date: **[Insert date that is 60 days after date of publication in the FEDERAL REGISTER.]**

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the proposed rule.

No Facsimile Comments. Facsimile (fax) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Ivery Himes, Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9172, Washington, DC 20410; telephone number 202-708-1672 (this is not a toll-free number). Persons with hearing or speech impairments may access this number by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

HUD's regulations for FHA single family mortgage insurance are codified in 24 CFR part 203. These regulations address mortgagee eligibility requirements and underwriting procedures, contract rights and obligations, and the mortgagee's servicing obligations. These regulations also address action to be taken by a mortgagee when a mortgagor defaults on a loan,

such as undertaking loss mitigation as provided in § 203.501. However, if it is determined that the default is not curable, the mortgagor does not remain in the home, or both, the mortgagee is eligible to file a claim for insurance benefits. (See §§ 203.330 through 203.417.) While the current regulations and related guidance¹ and applicable claim form² provide detailed directions about filing a claim for insurance benefits and address various conditions that may be applicable to the filing of a claim (for example, requirements applicable to the title to the property or the condition of the property), the regulations do not establish a deadline by which a mortgagee must file a claim for insurance benefits with FHA except for loans covered under § 203.474. Under the current regulations, as long as the mortgagee complies with all applicable requirements related to a claim for insurance, the mortgagee may file its claim at any time. With respect to payment of the claim, generally FHA pays a claim based on an automated process that includes edit checks and performs post payment reviews.

Mortgagees generally file claims for FHA mortgage insurance within 2 months after the date of the foreclosure sale. In recent years, however, some mortgagees altered this practice and opted to wait and file multiple claims with FHA at a single point in time. In some instances, mortgagees delayed filing claims for 2 years or more after foreclosure sales. The uncertainty regarding the timing of the filing of claims and the high number of claims filed all at once strain FHA resources. This activity has the potential to negatively impact HUD's ability to project the future state of the MMIF, and, consequently, FHA's ability to fulfill the statutory obligation to safeguard the MMIF. A delay in filing a claim also increases interest, property charges and other expenses included in the insurance benefit claim and can result in additional decline in the value of a property that had been the security for the FHA-insured mortgage foreclosed by the

¹ See http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/4330.4 and https://entp.hud.gov/pdf/mp_sfs3_cp_clminpt.pdf.

² <http://www.hud.gov/offices/adm/hudclips/forms/files/27011.pdf>.

mortgagee, thereby reducing the amount FHA could recover on a real estate owned (REO) sales transaction. The proposed rule is designed to address these concerns.

II. This Proposed Rule

Through this rule, HUD proposes to amend FHA's regulations in subpart B of 24 CFR part 203, which govern the contract rights and obligations pertaining to FHA single family mortgage insurance. The proposed rule would add a new § 203.317a which would terminate the contract of insurance if the mortgagee fails to file a claim within the maximum time periods established in this rule. It would also amend § 203.318 to provide that written notice of termination required by this section is not required for termination under new § 203.317a. The proposed rule would add a new § 203.372 that would establish a deadline by which an FHA-approved mortgagee (or its approved servicer) must file a claim for insurance benefits. In addition, the proposed rule would amend § 203.402 to establish a deadline to be eligible for reimbursement of certain expenses related to the filing of a claim for insurance benefits and to refine the process by which FHA would curtail interest and decline to reimburse certain expenses under this section. The proposed rule would also amend the heading of § 203.474. These changes would only apply prospectively and would take effect for mortgages endorsed for insurance on or after the effective date of the final rule.

Termination of Contract of Insurance for Mortgagee's Failure to File a Claim

New § 203.317a of this proposed rule would cause the contract of insurance to terminate if the mortgagee fails to file a claim within the maximum allowable time periods for filing the claim, and the proposed amendment to § 203.318 would exempt this type of termination from the written notice requirements.

Deadline by which Mortgagee Must File a Claim for Insurance Benefits

In general, proposed § 203.372 will prohibit the filing of a claim for insurance benefits after the passage of a specified amount of time following certain events relating to the submission of a claim. Additionally, it will prohibit the filing of any claim more than 12 months after expiration of a period of time from the date of default that is equal to the amount of time provided in the reasonable diligence timeframe established under § 203.356(b). For purposes of this proposed rule, the date of default is the date defined in 24 CFR 203.331, or 203.467 for rehabilitation loans.

For a property acquired by the mortgagee through foreclosure, new § 203.372 would require the mortgagee to file a claim for insurance benefits no later than 3 months from the occurrence of one of the following events, whichever is the last to occur: (1) the date of the foreclosure sale; (2) the date of expiration of the redemption period (the period allowed the mortgagor to redeem and regain ownership of the property); (3) the date the mortgagee acquires possession of the property (i.e., the property is vacant); or (4) such further time as the Secretary or Secretary's designee may approve in writing, but in no case may a claim be filed more than 12 months after expiration of a period of time from the date of default that is equal to the amount of time provided in the reasonable diligence time period established pursuant to § 203.356(b), unless an extension is granted pursuant to § 203.496. If a claim is not timely filed, the mortgagee retains ownership of the property and forfeits its right to file a claim for insurance benefits.

For a property sold through a pre-foreclosure sale (PFS), or Claim Without Conveyance of Title (CWCOT), new § 203.372 would require the mortgagee to file a claim for insurance benefits no later than 3 months following the date of the closing, for PFS, and no more than 12 months after expiration of a period of time from the date of default that is equal to the amount of

time provided in the reasonable diligence time period for foreclosure, for CWCOT. If a claim is not timely filed, the mortgagee forfeits its right to file a claim for insurance benefits.

For a property acquired by the mortgagee through a deed-in-lieu of foreclosure, new § 203.372 would require the mortgagee to file a claim for insurance benefits no later than 3 months following the date of conveyance of the property to the mortgagee or the date of conveyance of the property to HUD, the date of execution of the deed by the mortgagor, or no more than 12 months after the expiration of a period of time from the date of default that is equal to the reasonable diligence time period for foreclosure, whichever occurs first.

The proposed deadline for filing mortgage insurance claims will bring greater certainty to the claims process, thereby facilitating HUD's ability to comply with its statutory obligation to protect the FHA insurance funds. HUD believes that these time periods in which to submit a claim for insurance, as proposed in new § 203.372, provide mortgagees with sufficient time to take all action necessary to file a claim for insurance benefits. The proposed deadlines would not deny mortgagees the administrative benefits of submitting multiple claims at one time, as long as the individual claims being filed fall within the relevant time periods proposed by this rule. Additionally, the filing of a claim will not toll the deadlines proposed in this rule or guarantee an extension of time in which to file or refile a claim that was withdrawn or denied for any reason.

Disallowance of Expenses and Requirement to Curtail Interest Due to Failure to Meet Established Timelines

In addition to establishing a deadline by which a mortgagee must file a claim for insurance benefits, this rule proposes to amend § 203.402 to disallow expenses incurred by a mortgagee prior to the filing of a claim for insurance benefits where such expenses result from a mortgagee's failure to timely initiate foreclosure action or timely take such other action that is a

prerequisite to submission of a claim for insurance as established in the part 203, subpart B, regulations.

The amended § 203.402 emphasizes the need to meet the timelines established in the part 203, subpart B, regulations that pertain to claim procedures and payment of insurance benefits, and where such deadlines are not met, FHA will not reimburse related costs. This proposed rule would refine the time periods in which such expenses are disallowed to provide only for the curtailment of interest and reduction in expenses incurred as a result of the mortgagee's delay. Specifically, in proposed §§ 203.402(k)(1)(ii), 203.402(k)(2)(iii), and 203.402(k)(3)(iii), the interest would be reduced only by the amount determined to have been incurred as a result of the failure of the mortgagee to comply with the specified time periods, rather than for the remaining duration of the life of the mortgage and related FHA insurance contract. The amended § 203.402 would also provide that if the claim is filed after any of the timeframes set forth in new paragraph (u) of this section, then the mortgagee must curtail expenses as provided in that paragraph. The dates that would trigger curtailment of expenses due to failure to meet a deadline on a claim that is filed timely include the following: (1) the timeframe for taking First Legal Action to commence foreclosure; (2) the reasonable diligence timeframe for the state in which the property is located; (3) the timeframe to convey a property after obtaining title and possession; (4) the timeframe for marketing a property; or (5) any other timeframe established under this subpart that is applicable to the claim for insurance benefits. If the amount of incurred expenses is unavailable, then the mortgagee must estimate the expenses incurred (as a prorated amount) as a result of not complying with the deadlines specified for the events numbered (1) through (5). However, nothing in this section limits FHA's right to review a claim for any reason related to protection of the MMIF.

Examples of Claim Curtailment Proration

Example 1

- The mortgagee completes First Legal Action on calendar day 230 instead of the First Legal Action deadline, which is day 180 (i.e., 6 months). The allowable and reasonable costs including interest, attorney fees, taxes, insurance, homeowner association (HOA)/condominium association (COA) fees, maintenance, etc., incurred during the First Legal Action completion period total \$2,750. An extension was either not requested by the mortgagee or was requested and not approved by HUD. Therefore, the mortgagee must curtail $\$597.82 = \{(230-180)/230\} * \$2,750$ of the First Legal Action costs.
- The reasonable due diligence timeframe (which includes 30 days to file a claim) is 15 months from the completion of First Legal Action in this hypothetical example.³ The mortgagee conveys the property in conveyance condition in 13 months. The total allowable and reasonable costs incurred for the above-referenced timeframe for taxes, insurance, and maintenance is \$15,085. Consequently, the mortgagee is not required to curtail any additional cost.
- Final Outcome: The mortgagee is required to curtail total claim expenses of $\$597.82 = (\$597.82 + \$0)$.

Example 2

- A mortgagee receives a 30 day extension to evaluate a mortgagor for loss mitigation because the mortgagor's expenses have decreased since the previous evaluation for loss mitigation. However, the mortgagor does not qualify for loss mitigation. The mortgagee completes First Legal Action on calendar day 252 instead of the First Legal Action

³ Reasonable diligence timeframes are established for each jurisdiction and updated by mortgagee letter.

deadline, which is day 210 (i.e., 6 months + 30 day extension). The allowable and reasonable costs including interest, attorney fees, taxes, insurance, maintenance, HOA/COA fees, etc., incurred during the First Legal Action completion period total \$10,061. Therefore, the mortgagee must curtail $\$1,676.83 = \{[(252-210)/252]*\$10,061\}$ of the First Legal Action costs.

- The reasonable due diligence timeframe, which includes 30 days to file a claim, is 10 months (300 calendar days) from completing First Legal Action in this hypothetical example.⁴ The mortgagee conveys the property in conveyance condition in 540 calendar days. The total allowable and reasonable costs incurred for the referenced timeframe for taxes, insurance, and maintenance is \$30,200. Therefore, the mortgagee must curtail an additional \$13,422.22 of claim cost = $\{[(540-300)/540]*\$30,200\}$.
- Final Outcome: The mortgagee is required to curtail total claim expenses of \$15,099.05 = $(\$1,676.83 + \$13,422.22)$.

Existing § 203.365, which pertains to documents and information to be furnished to the Secretary under a claim review, lists items to be furnished to the Secretary within 45 days after a deed is filed for record in the case of a conveyance claim or within 30 days after the closing of the pre-foreclosure sale in the case of a claim arising from a pre-foreclosure sale. The amended § 203.402 would provide for review of all claims. The amended § 203.402 further provides that, regardless of how FHA reviews a claim for insurance, if FHA determines that a claim includes costs not appropriately curtailed or reduced as established in § 203.402(u)(1), FHA may reduce the claim amount or issue a demand for repayment of all improperly claimed expenses. FHA may also offset future claims if such demand for repayment is not paid by the mortgagee within 30 days.

⁴ Reasonable diligence timeframes are established for each jurisdiction and updated by mortgagee letter.

The regulatory changes proposed by this rule emphasize the importance of meeting established deadlines and provide for the denial of insurance benefits and disallowance of payment of expenses where such deadlines are not met.

III. Costs and Benefits of Proposed Rule

This rule proposes to establish a maximum time period within which an FHA-approved mortgagee must file a claim with FHA for mortgage insurance benefits. Currently, there is not a required timeframe in which mortgagees must file claims for FHA mortgage insurance. The cost to mortgagees of compliance with this proposed rule is expected to be minimal. The cost of compliance for each loan is estimated to be \$100, but mortgagees currently bear these costs when they file a claim. This cost consists of 15 minutes of supervisory review and 45 minutes of staff preparation.

This proposed rule offers many important benefits to FHA, including certainty regarding when payment will be sought on claims and increased recovery on REO sales transactions. In recent years, some mortgagees have opted to wait and file multiple FHA mortgage insurance claims at a single point in time, sometimes delaying the filing of claims for 2 years or more. See Table 1 for data on the timing of the filing of insurance claims. The uncertainty regarding the timing of the filing of claims and the high number of claims filed all at once strain FHA resources. This proposed rule will provide a better measurement of expected claims because it provides a definite date for which the mortgagee is no longer able to file a claim. Additionally, this proposed rule would ease the burden on mortgagees by allowing for the curtailment of interest and expenses associated with the actual delay of the mortgagee, rather than all interest and expenses incurred beyond a missed deadline until the termination of the insurance contract.

Fiscal Year	Number of Claims Processed & Paid (Total)	Claims Filed within 30 days of Good & Marketable Title or Conveyance Extension Expiration	Claims Filed within 31-60 days of Good & Marketable Title or Conveyance Extension Expiration	Claims Filed within 61-90 days of Good & Marketable Title or Conveyance Extension Expiration	Claims Filed within 91-180 days of Good & Marketable Title or Conveyance Extension Expiration	Claims Filed more than 180 days of Good & Marketable Title or Conveyance Extension Expiration
FY 2008	55,700	60.64%	23.57%	4.87%	6.04%	4.88%
FY 2009	68,859	55.72%	26.74%	5.88%	6.45%	5.21%
FY 2010	98,689	49.87%	29.41%	7.30%	8.01%	5.41%
FY 2011	90,218	46.03%	26.33%	9.08%	10.46%	8.10%
FY 2012	100,508	41.20%	22.83%	7.94%	10.08%	17.95%
FY 2013	110,692	35.08%	22.09%	10.73%	17.10%	15.00%
2014 (10/1/2013- 7/18/2014)	50,260	32.30%	17.12%	11.10%	19.03%	20.45%

The uncertainty resulting from long-delayed filing of FHA insurance claims has the potential to negatively impact HUD's ability to project the future state of the MMIF, and, consequently, FHA's ability to fulfill its statutory obligation to safeguard the MMIF. Therefore, establishing a timeframe in which mortgagees must file FHA mortgage insurance claims will bring better predictability to FHA. The ability to better project capitalization of the MMIF will lessen the likelihood of FHA needing to obtain a capital infusion to support the solvency of the MMIF.

When the filing of an FHA insurance claim is delayed, it also results in increased property charges and other expenses included in the insurance benefit claim and can result in additional decline in the value of a property that had been the security for the FHA-insured mortgage foreclosed by the mortgagee, thereby reducing the amount FHA could recover on REO sales transactions. By preventing delayed claim filing, FHA expects to reduce claim cost, primarily due to taxes and insurance, of more than \$1,000 per loan for claims filed after the

reasonable due diligence timeframes. These benefits, coupled with the minimal compliance costs, motivate FHA's pursuit of this new policy.

IV. Findings and Certifications

Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2502-0429. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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.

This proposed rule would address an issue that has arisen recently and that is the high number of defaults resulting from the downturn in the housing market that began in late 2007 and early 2008. Until that point, FHA-approved mortgagees filed insurance claims within a reasonable time following a foreclosure of the property or the last event that must be taken by an FHA-approved mortgagee prior to filing the insurance claim. HUD understands the strain on resources placed on FHA-approved mortgagees facing a high number of defaults by their mortgagors, and that bundling and filing multiple claims at a single point in time may be administratively convenient for the mortgagees. However, submission of a high number of

claims to FHA by one single mortgagee at one single point in time long after the triggering event strains FHA resources and negatively impacts FHA's ability to project the future state of the MMIF, and, consequently, FHA's ability to fulfill its statutory obligation to safeguard the MMIF. The recent filing of multiple claims at a single point in time has emphasized to FHA the need to establish a deadline for filing insurance claims, which are absent from the regulations. While government and the industry have been working diligently since 2008 to implement requirements and measures to be taken to avoid another housing crisis, a clear deadline for filing an insurance claim will benefit both FHA and FHA-approved mortgagees.

HUD believes that the relevant time periods to file a claim for insurance benefits are reasonable periods for all FHA-approved mortgagees, large and small, and will not adversely affect any mortgagee. Additionally, HUD's existing regulations authorize the FHA Commissioner to extend any time period for action to be taken by FHA-approved mortgagees under the regulations of 24 CFR part 203, subpart C, and this authorization allows the FHA Commissioner to take into consideration any difficulties that may be faced by a mortgagee to meet a deadline. Moreover, this rule will benefit mortgagees because it will require mortgagees to only curtail the expenses and interest associated with the length of the delay beyond a required deadline, rather than all otherwise permissible expenses after a missed deadline for the remaining life of the loan, regardless of the length of the delay. At present, a missed foreclosure initiation deadline by one day could result in interest curtailment and disallowance of expenses for the remaining life of the loan, through the entire foreclosure and conveyance process until final termination of the FHA insurance contract.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this

rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble to this rule.

Environmental Impact

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

Executive Order 13132, Federalism

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

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule would not

impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for Mortgage Insurance-Homes is 14.117.

List of Subjects in 24 CFR Part 203

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

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 203 as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

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

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715z-16, 1715u, and 1717z-21; 42 U.S.C. 3535(d).

2. Add § 203.317a to read as follows:

§ 203.317a Termination for mortgagee's failure to file a claim.

For mortgages endorsed for insurance on or after **[insert effective date]**, the contract of insurance shall be terminated if the mortgagee fails to file a claim within the maximum time periods for filing a claim of insurance benefits in § 203.372.

3. Revise § 203.318 to read as follows:

§203.318 Notice of termination by mortgagee.

No contract of insurance shall be terminated until the mortgagee has given written notice thereof to the Commissioner within 15 calendar days from the occurrence of one of the approved methods of termination set forth in this subpart, except that such written notice is not required for termination of the insurance contract under § 203.317a.

4. Add § 203.372 to read as follows:

§ 203.372 Maximum time period for filing a claim for insurance benefits.

(a) This section applies to mortgages endorsed for insurance on or after **[insert effective date]**.

(b) No claim for insurance benefits may be filed, regardless of claim processing type, more than 12 months after expiration of a period of time from the date of default that is equal to the amount of time provided in the reasonable diligence timeframe established under § 203.356(b) for the jurisdiction unless the Secretary has approved an extension. In the event any applicable redemption period exceeds the claim filing timeframe as stated in the previous sentence, the timeframe will be extended by a period of time equal to the applicable redemption period, unless the conveyance is permitted by FHA during the redemption period.

(c) In addition to the time period in paragraph (b) of this section, no conveyance, pre-foreclosure sale, or deed-in-lieu claim may be filed outside of the time period established by claim type under this paragraph.

(1) Property acquired by foreclosure. For a property acquired by foreclosure, a mortgagee must file a claim for insurance benefits no later than 3 months from the date of the occurrence of one the following events, whichever event is the last to occur:

- (i) The date of the foreclosure sale;
- (ii) The date of expiration of the redemption period (the period allowed the mortgagor to redeem and regain ownership of the property);
- (iii) The date that the mortgagee acquires possession of the property (i.e., the property is vacant); or
- (iv) Such further time as the Secretary or the Secretary's designee may approve in writing.

(2) Property not acquired by the Secretary. For a property not acquired by the Secretary that is sold through a pre-foreclosure sale or the claim without conveyance of title (CWCOT) process, the mortgagee must file a claim for insurance benefits no later than 3 months following the date of closing, for a pre-foreclosure sale; or the date determined in paragraph (b)(1) of this section, for a CWCOT.

(3) Property acquired by means other than foreclosure. For a property acquired by deed-in-lieu of foreclosure, the mortgagee must file a claim for insurance benefits no later than 3 months from the date of conveyance of the property to the mortgagee or the date of conveyance of the property to the Secretary, whichever occurs first.

(d) Resubmission of claims. The filing of a claim does not toll the time periods set forth in this section or guarantee an extension of time in which to file or refile a claim that has been withdrawn or denied for any reason, including claims resubmitted after the initial claim resulted in a repurchase of a loan or reconveyance of property.

5. Amend § 203.402 to revise paragraph (k) and add paragraph (u) to read as follows:

§ 203.402 Items included in payment – conveyed and non-conveyed properties.

* * * * *

(k)(1) Except as provided in paragraphs (k)(1)(i) and (ii) of this section, for properties conveyed to the Secretary and endorsed for insurance on or before January 23, 2004, an amount equivalent to the debenture interest that would have been earned, as of the date such payment is made, on the portion of the insurance benefits paid in cash, if such portion had been paid in debentures, and for properties conveyed to the Secretary and endorsed for insurance after January 23, 2004, debenture interest at the rate specified in § 203.405(b) from the date specified in § 203.410, as applicable, to the date of claim payment, on the portion of the insurance benefits paid in cash.

(i) For properties endorsed for insurance on January 24, 2004 through **[insert day before effective date]**:

(A) When the mortgagee fails to meet any one of the applicable requirements of §§ 203.355, 203.356(b), 203.359, 203.360, 203.365, 203.606(b)(1), or 203.366 within the specified time and in a manner satisfactory to the Secretary (or within such further time as the Secretary may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended; and

(B) When the mortgagee fails to meet the requirements of § 203.356(a) within the specified time and in a manner satisfactory to the Secretary (or within such further time as the Secretary may specify in writing), the interest allowance in such cash payment shall be computed to a date set administratively by the Secretary.

(ii) For properties endorsed for insurance on or after **[insert effective date]**:

(A) When the mortgagee fails to meet any one of the applicable requirements of §§ 203.355, 203.356(b), 203.359, 203.360, 203.365, 203.606(b)(1), 203.366, or 203.402(u), within the specified time and in a manner satisfactory to the Secretary (or within such further time as the Secretary may approve in writing), the interest allowance in such cash payment shall be reduced by the amount determined, based on a pro rata calculation of interest by day, to have been incurred as a result of the failure of the mortgagee to comply with the specified time period; and

(B) When the mortgagee fails to meet the requirements of § 203.356(a) within the specified time and in a manner satisfactory to the Secretary (or within such further time as the Secretary may specify in writing), the interest allowance in such cash payment shall be reduced by the amount determined, based on a pro rata calculation of interest by day, to have been incurred as a result of the failure of the mortgagee to comply with the specified time period set administratively by the Secretary.

(2)(i) Where a claim for insurance benefits is being paid without conveyance of title to the Commissioner in accordance with § 203.368 and was endorsed for insurance on or before January 23, 2004, an amount equivalent to the sum of:

(A) The debenture interest that would have been earned, as of the date the mortgagee or a party other than the mortgagee acquires good marketable title to the mortgaged property, on an amount equal to the amount by which an insurance claim determined in accordance with §203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(B) The debenture interest that would have been earned from the date the mortgagee or a party other than the mortgagee acquires good marketable title to the mortgaged property to the date when payment of the claim is made, on the portion of the insurance benefits paid in cash if

such portion had been paid in debentures, except that if the mortgagee fails to meet any of the applicable requirements of §§ 203.355, 203.356, and 203.368(i)(3) and (5) within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(ii) Where a claim for insurance benefits is being paid without conveyance of title to the Commissioner in accordance with § 203.368 and was endorsed for insurance on January 24, 2004 through **[insert day before effective date]**, an amount equivalent to the sum of:

(A) Debenture interest at the rate specified in § 203.405(b) from the date specified in § 203.410, as applicable, to the date that the mortgagee or a party other than the mortgagee acquires good marketable title to the mortgaged property, on an amount equal to the amount by which an insurance claim determined in accordance with § 203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(B) Debenture interest at the rate specified in § 203.405(b) from the date the mortgagee or a person other than the mortgagee acquires good marketable title to the mortgaged property to the date when payment of the claim is made, on the portion of the insurance benefits paid in cash, except that if the mortgagee fails to meet any of the applicable requirements of §§ 203.355, 203.356, and 203.368(i)(3) and (5) within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(iii) Where a claim for insurance benefits is being paid without conveyance of title to the Commissioner in accordance with § 203.368 and was endorsed for insurance on or after **[insert effective date]**, an amount equivalent to the sum of:

(A) Debenture interest at the rate specified in § 203.405(b) from the date specified in § 203.410, as applicable, to the date that the mortgagee or a party other than the mortgagee acquires good marketable title to the mortgaged property, on an amount equal to the amount by which an insurance claim determined in accordance with § 203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(B) Debenture interest at the rate specified in § 203.405(b) from the date the mortgagee or a person other than the mortgagee acquires good marketable title to the mortgaged property to the date when payment of the claim is made, on the portion of the insurance benefits paid in cash, except that if the mortgagee fails to meet any of the applicable requirements of §§ 203.355, 203.356, 203.368(i)(3) and (5), and 203.402(u) within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be reduced by the amount determined, based on a pro rata calculation of interest by day, to have been incurred as a result of the failure of the mortgagee to comply with the specified time period.

(3)(i) Where a claim for insurance benefits is being paid following a pre-foreclosure sale, without foreclosure or conveyance to the Commissioner in accordance with § 203.370, and the mortgage was endorsed for insurance on or before January 23, 2004, an amount equivalent to the sum of:

(A) The debenture interest that would have been earned, as of the date of the closing of the pre-foreclosure sale on an amount equal to the amount by which an insurance claim

determined in accordance with § 203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(B) The debenture interest that would have been earned, from the date of the closing of the pre-foreclosure sale to the date when payment of the claim is made, on the portion of the insurance benefits paid in cash, if such portion had been paid in debentures; except that if the mortgagee fails to meet any of the applicable requirements of § 203.365 within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(ii) Where a claim for insurance benefits is being paid following a pre-foreclosure sale, without foreclosure or conveyance to the Commissioner, in accordance with § 203.370, and the mortgage was endorsed for insurance on January 24, 2004 through **[insert day before effective date]**, an amount equivalent to the sum of:

(A) Debenture interest at the rate specified in § 203.405(b) from the date specified in § 203.410, as applicable, to the date of the closing of the pre-foreclosure sale, on an amount equal to the amount by which an insurance claim determined in accordance with § 203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(B) Debenture interest at the rate specified in § 203.405(b) from the date of the closing of the pre-foreclosure sale to the date when the payment of the claim is made, on the portion of the insurance benefits paid in cash, except that if the mortgagee fails to meet any of the applicable requirements of § 203.365 within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the

interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(iii) Where a claim for insurance benefits is being paid following a pre-foreclosure sale, without foreclosure or conveyance to the Commissioner, in accordance with § 203.370, and the mortgage was endorsed for insurance on or after **[insert effective date]**, an amount equivalent to the sum of:

(A) Debenture interest at the rate specified in § 203.405(b) from the date specified in § 203.410, as applicable, to the date of the closing of the pre-foreclosure sale, on an amount equal to the amount by which an insurance claim determined in accordance with § 203.401(a) exceeds the amount of the actual claim being paid in debentures; plus

(B) Debenture interest at the rate specified in § 203.405(b) from the date of the closing of the pre-foreclosure sale to the date when the payment of the claim is made, on the portion of the insurance benefits paid in cash, except that if the mortgagee fails to meet any of the applicable requirements of § 203.365 within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be reduced by the amount determined, based on a pro rata calculation of interest by day, to have been incurred as a result of the failure of the mortgagee to comply with the specified time period.

* * * * *

(u) Disallowance of expenses due to mortgagee failure to meet timelines.

Notwithstanding any other provision of this section, FHA may deny payment of any amount claimed for any expenses, such as taxes, special assessments, hazard insurance, forced placed insurance, flood insurance, homeowner association (HOA)/condominium association (COA) fees

or dues, utilities, inspections, debris removal, and any property preservation and protection expenses, that were paid or incurred by or on behalf of the mortgagee during any period of delay or as a result of any delay by the mortgagee in taking any required actions prior to the expiration of the time periods set forth in paragraph (u)(1) of this section.

(1) If a mortgagee fails to comply with any of the timeframes established by the Secretary for actions set forth in this paragraph, the mortgagee must curtail all claim expenses in accordance with paragraph (u)(2) of this section:

- (i) The timeframe for taking of First Legal Action to commence foreclosure;
- (ii) The reasonable diligence timeframes established by the state in which the property is located;
- (iii) The timeframe to convey a property after obtaining title and possession;
- (iv) The timeframe for marketing a property; or
- (v) Any other timeframe established under this subpart that is applicable to the mortgagee's filing of a claim for insurance benefits.

(2) For a mortgagee that does not meet one or more of the deadlines in paragraph (u)(1) of this section, the mortgagee must curtail on a prorated basis:

- (i) Expenses in paragraph (u) of this section incurred during or as a result of any failure by the mortgagee to act within the applicable time period; or
- (ii) Expenses that are reasonably estimated to have been incurred during or as a result of any failure by the mortgagee to act within the applicable time period if the amount of expenses specifically incurred beyond the applicable deadline is unavailable or not itemized; and
- (iii) Any additional expenses incurred as a result of the mortgagee's failure to comply with the timeframe.

(3)(i) Regardless of the review type, if FHA determines that the mortgagee's claim included expenses incurred after the expiration of a timeframe listed in paragraph (u)(1) of this section, FHA may, in its discretion:

(A) Reduce the amount of insurance benefits paid to the mortgagee; or

(B) Demand for repayment of all expenses that were not curtailed by the mortgagee.

(ii) FHA may offset any future claims made by a mortgagee if the mortgagee does not satisfy any demand for repayment under paragraph (u)(3)(i)(B) of this section within 30 days of the date FHA issues the demand for repayment.

6. Revise the heading of § 203.474 to read as follows:

§ 203.474 Additional limitation on claim submission for rehabilitation loans secured by other than a first mortgage.

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Dated: May 11, 2015

Edward L. Golding
Principal Deputy Assistant Secretary for Housing

[FR-5742-P-01]

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