



October 4, 2023

The Honorable Julia Gordon
Assistant Secretary for Housing & Federal Housing Commissioner
Federal Housing Administration
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

RE: Temporary, Partial Waiver of 24 CFR § 203.604 Servicing Responsibilities, Contact with the Mortgagor

Dear Commissioner Gordon:

The Housing Policy Council (HPC)¹, Mortgage Bankers Association (MBA)², and the National Mortgage Servicing Association (NMSA)³ (the Associations) recently submitted [comments](#) for your consideration, in response to the Department of Housing and Urban Development's (HUD) proposal to modernize the rules applicable to a Federal Housing Administration-insured (FHA) mortgage servicer's engagement with a borrower in default.⁴ Overall, we were supportive of the proposal, specifically that servicers should be able to utilize successful techniques and technologies to engage borrowers facing financial hardship.

However, along with our support, we raised a significant concern about the December 31, 2023 expiration of the waiver of the face-to-face contact requirement.⁵ The proposed rulemaking comment period closed on September 29, 2023, leaving only 90 days for FHA to catalogue and review all comments, determine how the comments will be incorporated into the final rule, and publish a final regulation with a reasonable effective date, if the agency seeks to complete this activity prior to December 31, 2023 waiver expiration.

We believe that the timeframe is insufficient to perform the full set of APA-required tasks and therefore, we urge HUD to extend the temporary face-to-face contact waiver to minimize potential

¹ The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers; mortgage, hazard, and title insurers; and technology and data companies. Our interest is in the safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market participants, and the promotion of lending practices that create sustainable homeownership opportunities in support of vibrant communities and long-term wealth building for families. For more information, visit www.housingpolicycouncil.org.

² The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 330,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 1,700 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

³ National Mortgage Servicing Association (NMSA), is a nonpartisan organization with member participation representing the nation's leading mortgage servicing organizations. NMSA was formed for the purpose of effecting progress and change while addressing key challenges and opportunities before the mortgage servicing industry. By bringing together decision makers and thought leadership, from across the nation, the NMSA drives the conversation on shaping the American housing industry for the benefit of homeowners.

⁴ Modernization of Engagement with Mortgagors in Default, 88 Fed. Reg. 49392 (proposed July 31, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-07-31/pdf/2023-16128.pdf> (amending 24 C.F.R. § 203.604).

⁵ FHA [issuance](#) of extension of the temporary waiver of face-to-face contact required under 24 CFR § 203.604 Contact with the Mortgagor, December 19, 2022.

disruption that will arise when the proposed rule expires, should servicers need to resume the set of practices that FHA plans to change through this rulemaking. HUD should simply extend the waiver to establish a new expiration date that will align with the effective date set forth in the final rule and associated guidance in the Single-Family Housing Policy Handbook.

We recommend that HUD extend the temporary waiver through calendar year 2024 and, if necessary, rescind the waiver when the new rule and guidance becomes effective. Returning to in-person meetings, even temporarily, unnecessarily complicates a servicer's operations, adding costs and introducing temporary processes that will increase the risk of noncompliance. Moreover, a return to in-person meetings would inconvenience consumers, which HUD acknowledges by citing MBA data reflecting the low acceptance rate of in-person meetings. As noted in a sample of three large servicers, in-person meetings were accepted less than 0.1% of the time. Given these challenges, we believe that FHA should take action to avoid the unintended consequences.

Thank you for the opportunity provide this additional detail to our previous letter. Should you have questions or wish to discuss this issue further, please contact Matt Douglas at Matt.Douglas@housingpolicycouncil.org.

Sincerely,

Housing Policy Council
Mortgage Bankers Association
National Mortgage Servicers Association