



March 9, 2020

Office of Housing, Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410-8000

RE: Proposed Enhancements to Claims Without Conveyance of Title (CWCOT) Program

Ladies and Gentlemen,

On behalf of the Mortgage Bankers Association¹(MBA), the Housing Policy Council (HPC)², and the National Mortgage Servicing Association³ (NMSA) we are jointly submitting feedback on the proposed enhancements to FHA's Claims Without Conveyance of Title (CWCOT) program. We applaud FHA for its efforts to expand this important program. After all, successful CWCOT sales (either at foreclosure sale or second chance sales) result in significantly lower losses to the FHA insurance fund when compared to Conveyance. A more efficient and effective CWCOT program results in getting impacted properties quickly back into the normal fabric of our nation's neighborhoods and communities.

We also appreciate the use of FHA's Office of Single Family Housing "Drafting Table" for purposes of soliciting public feedback on this important policy revision. We appreciate the opportunity to provide feedback on such critical housing programs.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 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 2,300 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mba.org.

² The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers, mortgage and title insurers, and technology and data companies. HPC advocates for the mortgage and housing marketplace interests of its members in legislative, regulatory, and judicial forums. 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.

³ With a membership comprising more than 90 percent of the mortgage servicing market, the National Mortgage Servicing Association (NMSA) is a nonpartisan organization driven by senior executive representation from the nation's leading mortgage servicing organizations, formed for the purpose of effecting progress and change on the key challenges that face the mortgage servicing industry. NMSA is a membership group that is a part of Five Star Global (FSG), a national trade association supporting the U.S. residential mortgage and real estate market through membership groups, publishing, conferences, education services, and strategic events. FSG advocates on behalf of and for industry stakeholders on policy matters and interests established to protect, preserve, and promote homeownership. Learn more at thefivestar.com.



Attached is a list of areas where additional clarification is requested. Given the overall positive impact of the proposed revisions, we do not want to delay finalization of the Mortgagee Letter. We only request clarifying the language concerning extensions for post-foreclosure sales prior to finalizing the policy. With regard to the extension of time, we seek clarification regarding the amount of time provided and the relationship to mortgagee compliance with all foreclosure timelines. We want to ensure that the Mortgagee Letter achieves the goal of increasing overall CWCOT sale rates.

Currently, HUD will approve two consecutive 60-day extensions to the conveyance timeframe. The conveyance timeframe is 30 days from the later of:

- Filing for record the foreclosure deed;
- Recording date of deed in lieu of foreclosure;
- Acquiring possession of the property;
- Expiration of the redemption period; or
- Such further time as the Secretary may approve in writing.⁴

The draft Mortgagee Letter language appears to start the 60 days from only one prong of the conveyance timeframe: "HUD will provide the Mortgagee with an extension of the conveyance timeframes for 60 Days from **the filing for the record of the foreclosure deed** to attempt additional sales efforts..." We would ask that this 60-day timeframe be provided for all the scenarios noted above. Moreover, we assume that this 60-day timeframe is *in addition* to the 30-day conveyance timeframe. We appreciate the automatic 30-Day extension to this deadline if "an acceptable sales contract has been ratified before the expiration of the 60-Day period." We assume that HUD will grant additional extensions upon request based on a case-by-case review. HUD currently provides servicers with two 60-day extensions upon request, and we assume HUD would provide continued consideration for operational challenges. We ask that HUD confirm these assumptions.

Currently, extensions of time for second chance sales are not conditioned on mortgagee compliance with all foreclosure timelines. After all, penalties to mortgagees are already in place for missing these timelines. We seek clarification that mortgagees are still afforded the same extensions of time in cases where foreclosure deadlines are missed.

⁴ 24 CFR 203.359(b)



In conclusion, we appreciate HUD's efforts in examining CWCOT policies in search of ways to increase third party sales relative to conveyances. Decreasing conveyances is a win to the FHA fund, mortgagees and communities.

Sincerely,

Sara Singhas, AMP
Director, Loan Administration
Mortgage Bankers Association

Meg Burns
Senior Vice President for Mortgage Policy
Housing Policy Council

Rachel Williams
Executive Director
National Mortgage Servicing Association

FHA Single Family Housing Feedback

Enhancements to FHA's Claims Without Conveyance of Title (CWCOT) Procedures Proposed Enhancements Posted February 24, 2020

| Feedback Number | Reviewer Name | Reviewer Organization | Phone Number | Email Address | Topic | Feedback |
|-----------------|---------------|-----------------------|--------------|--|---|--|
| | Sara Singhas | MBA/HPC | 202-557-2826 | ssinghas@mba.org | General | Please provide a 90-day effective date from final publication but permit early implementation. |
| | | | | | | HUD makes reference to a new tier-based pricing structure; however, it was not provided with the draft ML. Can HUD provide more details on this aspect of the proposal? |
| | | | | | Qualification Criteria for Use of Commissioner's Adjusted Fair Market Value (III.A.2.p.ii)(B) | Page 3, (B) Standard - last sentence before the bullets, is there a typo with the word "Mortgagee.." - Should it read "A mortgage is eligible for CWCOT when all of the following criteria are met..."? |
| | | | | | Property Valuation and CAFMV III.A.2.p.iii | |
| 1 | | | | - | (A)(3) Subsequent appraisals | Regarding the requirement to obtain a new appraisal before foreclosure if "any delay ...will not cause the foreclosure sale to be cancelled," how does FHA define "cancelled"? Are servicers required to get an appraisal if the foreclosure sale will need to be postponed (not "cancelled"), even if the postponed sale results in a missed deadline or additional expenses? |
| 3 | | | | - | | is it OK to sell via second chance if the loan was not bid CAFMV at foreclosure sale because of a CWCOT eligibility requirement when that requirement was resolved post-sale? |
| | | | | - | | Is the appraisal valid for 120 days for both Foreclosure and Post Foreclosure sales? For properties with a first time vacancy post foreclosure sale that have an updated value, the value will likely expire prior to the Redemption or Confirmation Date. |
| | | | | - | | If there is an ongoing post-sale effort/auction cycle, what is the expectation? Can efforts continue while obtaining appraisal and then run the next possible cycle with an updated CAFMV, or must efforts be placed on hold until appraisal/update is received? If holding is required, will HUD allow extension of time to keep trying post-sale efforts with updated CAFMV? The industry recommends that auction efforts continue until the new appraisal is obtained |
| | | | | - | (A)(4) Required Documentation | Do all completed appraisals need to be uploaded to Yardi/P260 within 30-days of the date the appraisal was completed, or just the new appraisal completed after the initial occupied appraisal? |
| 5 | | | | - | (B) Determining the CAFMV | |
| 6 | | | | - | | Are contributions permitted at the foreclosure sale (first chance)? |
| 7 | | | | - | | Does the 120 day appraisal expiration only pertain to the CAFMV used for the foreclosure sale? Is there any appraisal expiration for Post-Foreclosure Sales Efforts? |
| 10 | | | | - | (G) CWCOT Bidding at the Foreclosure Sale III.A.2.r.ii | The second bullet, regarding "after foreclosure", may be more appropriate under Section (H) CWCOT Post-Foreclosure Sales Efforts. |
| | | | | - | | How often will FHA be updateing the discounts to calculate the CAFMV? Can FHA committ to a schedule (quarterly, bi-annually, or annually)? The current haircuts are from 2017. |
| | | | | - | | If haircuts are updated after calculating CAFMV, is the servicer required to update the foreclosure sale bid? Please set a limit (i.e., 15 days to foreclosure sale) |
| | | | | - | | At Additional sales opportunities, the CAFMV is the FHA calculation, which may be adjusted if the Property had an exterior only appraisal and is vacant after the foreclosure sale. Should this be moved to section (H) CWCOT Post-Foreclosure Sale Efforts |
| | | | | | (H) CWCOT Post-Foreclosure Sales Efforts | |
| | | | | | | If haircuts are updated after calculating CAFMV for post-sale efforts, what is the expectation for updating CAFMV for the next post-sale effort/auction cycle? |
| | | | | | (1) Extension of Timeframes to Engage in Post-Foreclosure Sales Efforts | The draft Mortgagee Letter states that timeframe extensions will be provided "in circumstances where the Mortgagee complied with all the foreclosure time frames." HUD currently provides servicers with two 60-day extensions upon request even when a deadline may have been missed. If milestones are missed, servicers should continue to curtail their claim, accordingly, and properties should continue to flow through the CWCOT program - facilitated by the extension process noted above. Again, we assume HUD intends to continue to provide support for operational challenges. |
| | | | | | | Under current practice, HUD will approve two consecutive 60-day extensions to the current timeframe of 30 days to convey the property to HUD (following acquisition of clear, marketable title by the servicer). This total timeframe of 150 days for either scenario highlighted above is what should be replicated in the draft ML. The draft ML does not comment on a scenario concerning redemption period but the same timeframe should apply there as well. |
| | | | | | | Will the extension be automatic or are servicers still required to submit manually? This is an opportunity to turn away from the need to manually submit and review requests. |
| | | | | | | Currently, HUD will approve two consecutive 60-day extensions to the conveyance timeframe. The conveyance timeframe is 30 days from the later of: filing for record the foreclosure deed; recording date of deed in lieu of foreclosure; acquiring possession of the property; expiration of the redemption period; or such further time as the Secretary may approve in writing. The draft Mortgagee Letter language appears to start the 60 days from only one prong of the conveyance timeframe. We would ask that this 60-day timeframe be provided for all the scenarios noted above. In addition, please confirm that this 60-day timeframe is in addition to the 30-day conveyance timeframe. |
| | | | | | (2) Preservation and Protection During Post-Foreclosure Sales Period | |
| | | | | | | What are considered Eligible Property Preservation expenses? |
| | | | | | | Are property preservation expenses reimbursable when an offer has been received, and the repairs are needed to stop additional damages? |
| | | | | | | Does this also include Cash For Keys? |