May 31, 2022

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, D.C. 20410-0500
Submitted via e-mail to: http://www.regulations.gov

Re: Docket No.: HUD-2022-0024, *Increased Forty Year Term for Loan Modifications*

To Whom It May Concern:

The Mortgage Bankers Association (MBA)[1] and Housing Policy Council[2] appreciate the opportunity to respond to the Department of Housing and Urban Development's (HUD) proposal amending HUD regulation 24 C.F.R. §203.616 to increase the maximum allowable term for a Federal Housing Administration-insured (FHA) loan modification from 360 months to 480 months. We support HUD's proposal to update its regulations to create an additional tool that will help consumers achieve an affordable and sustainable payment, retain their homes, and continue to build generational wealth, while also protecting FHA's Mutual Mortgage Insurance Fund (MMIF).

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 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 more than 2,100 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.

[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. For more information, visit www.housingpolicycouncil.org

In short, we offer the following in response to HUD's proposal:

- A term up to 480 months should be available for the Home Affordable Modification Program (FHA-HAMP) and Presidentially Declared Major Disaster Areas (PDMDA) modification programs either with or without a partial claim modification to achieve the target payment
- The 30-year (360-month) modification should be maintained as a core component of FHA's permanent set of loss mitigation programs
- Like the policy outlined in Mortgagee Letter 2022-07, *Update to COVID-19 Recovery Loss Mitigation Options,* flexibility should be provided to achieve a target payment reduction at a term less than 480 months
- FHA and Ginnie Mae should ensure secondary market certainty before finalizing policy, including multi-issuer pools for extended term modifications

Extended Term Useful for Substantial Hardship and Adverse Market Conditions

HUD's proposal to allow for a modification of up to 480 months will help consumers facing long-term hardships and address the unique challenges of adverse market conditions. For those borrowers for whom a traditional 360-month (30-year) modification does not reduce the monthly payment to an affordable level, the extended term of up to 480-months will be helpful. We agree that this tool will be particularly beneficial to drive payment reduction for more distressed consumers in a higher interest rate environment, which may also include consumers who redefault after completing a COVID-19 Loss Mitigation Recovery Option.

Further, aligning loss mitigation policy across the government and with Fannie Mae and Freddie Mac, all of which have 40-year modification programs, is good policy and has been a long-standing industry priority.[3] The success of industry's efforts to align loss mitigation policies and options after the COVID-19 Pandemic should continue. Consistent program terms help servicers and industry stakeholders communicate and educate consumers on the available loss mitigation options, as well as introduce scalable processes. More standardized programs provide a consistent, easily understandable consumer experience, no matter the hardship reason or the investor/agency backing the loan.

We support the regulatory proposal and recommend that FHA introduce a term of up to 480 months into standard FHA-HAMP *and* PDMDA (natural disaster) waterfalls outlined in the 4000.1 Handbook, Section III., *Servicing and Loss Mitigation* in a future policy update. The extended term modification, on its own, would help consumers achieve the target payment who maximized their life of loan 30% UPB partial claim allowable. If necessary, however, final policy should consider combining an extended term modification with a partial claim to help consumers who have a remaining partial claim amount as an available tool to achieve their target payment. Regardless, FHA should not eliminate the existing loss mitigation structure.

[3] Government Loan Modifications (urban.org); One Mod -Principles for Post-HAMP Loan Modifications.pdf (nysba.org)

Flexibility to Achieve Affordability

To be clear, introducing a modification with a term of up to 480 months (40 years) into FHA's permanent suite of loss mitigation solutions should not replace a standard 30-year modification as a tool in FHA's loss mitigation toolkit. Consumers that can achieve an affordable payment with the standard 30-year modification programs are given the opportunity to limit the amount of additional interest paid and accumulate equity in their home more quickly than they would receiving a 40-year modification. Our members support for a 40-year modification is support for an *additional* option to achieve retention, not the *only* option.

In that same spirit, FHA should also allow for flexibility to qualify a consumer for a home retention option at a term between 360 months and 480 months if such term meets the target payment. In fact, we suggest that FHA consider narrowly tailoring its guidance around the 480-month term extension to provide that servicers incrementally extend the term beyond 360 months only as needed to hit the target payment up to a maximum term extension of 480 months. This will allow servicers to ensure consumers are only extending loan terms beyond 360 months to the duration necessary to achieve affordability and home retention. Likewise, ensuring access to liquidity is also important for extended term modifications.

Secondary Market Certainty

The ability to deliver a modification with an extended term into a Ginnie Mae pool is a necessary condition for servicer participation in a 40-year modification program, as we expressed in our joint response to HUD's proposed *Update to COVID-19 Recovery Loss Mitigation Options.*[4] As you know, access to liquidity is vital for the health of the housing finance system. Although Ginnie Mae introduced a designated security for extended term modifications in October 2021, there is limited data and loan volume to demonstrate a deep and liquid securitization market for these pools. Specifically, Ginnie Mae APM 21-05 created custom, single issuer pools that are a mix of VA, USDA, and FHA loans. FHA Mortgagee Letter 2022-07 is less than two months old as of the date of this letter – insufficient time to create meaningful loan volume. Pricing for the extended term modifications will be based on pool variables, such as the pool composition by loan types, numbers of loans in the pool, and average loan terms. Additional evaluation of the impact of these factors must be studied to address the uncertainty.

Therefore, Ginnie Mae should continue to analyze the secondary market execution data for COVID-19 40-year modifications and publicly disclose trends to market participants to better inform the future market rates for modifications and pricing. If necessary, FHA and Ginnie Mae should revise their policy, including adjustments to Ginnie Mae pooling parameters outlined in APM 21-05. MBA and HPC reiterate our support for the creation of Ginnie Mae multi-issuer pools to increase liquidity by allowing a number of different servicers to collectively pool extended term modifications with common characteristics.

[4] 10272021_letter_hpc-and-mba-40-year-fha-mod-comments.pdf (Pg. 5, 6)

Conclusion

MBA, HPC, and our members have appreciated FHA's direct engagement with industry and servicers throughout the past two years of the COVID-19 pandemic. As HUD finalizes a future policy to implement a 40-year modification, we encourage continued engagement--especially as our industry considers the future of loss mitigation based on lessons learned from the COVID-19 National Emergency. We encourage FHA to use the drafting table to solicit comments on the more expansive FHA guidance that will accompany ultimate execution of modifications with up to 480-month terms.

Thank you in advance for your consideration of these comments. Should you have any questions or wish to discuss further, please contact Brendan Kelleher at (202) 557-2779 and Bkelleher@mba.org, or Meg Burns at (202) 589-1926 and Meg.Burns@housingpolicycouncil.org.

Sincerely,

Mortgage Bankers Association
Housing Policy Council