

May 31, 2022

Office of the General Counsel
Regulations Division
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

RE: Comments regarding Increased Forty-Year Term for Loan Modifications, 87 FR 19037,
Docket No. FR-6263-P-01, RIN 2502-AJ59

Dear Office of General Counsel:

On behalf of the clients, communities, and neighborhoods we represent, we write in support of HUD's proposed amendment to 24 C.F.R. § 203.616, which would increase the maximum payment term of a loan modification from 360 months to 480 months. We look forward to working with HUD on how to best integrate 480-month terms into the FHA loss mitigation waterfall to benefit borrowers and the Mutual Mortgage Insurance Fund (MMIF).

The increased maximum payment term will give HUD an additional tool for providing payment relief to borrowers who need it, which is especially important in a rising interest rate environment. The current mortgage market demonstrates the need for a 480-month option for loan modifications. Mortgage interest rates have climbed by approximately 225 basis points in the past year, and there are approximately 350,000 FHA-insured borrowers in seriously delinquent status. Elevated interest rates make it challenging to provide the targeted payment relief that HUD seeks to achieve for the many borrowers who need the relief. The 480-month modification term will provide needed assistance.

The regulatory change is necessary in order for HUD to allow more borrowers to access payment relief. HUD currently allows limited use of a 480-month term when 1) the borrower has a COVID hardship, and 2) the borrower has partial claim availability. Borrowers who have no more partial claim availability are a key population of borrowers who would benefit from the 480-month term. Such borrowers have few, if any, other options for payment reductions because they have already used their partial claim. The regulatory change will allow HUD to assist these "re-defaulting" borrowers and help them avoid foreclosure.

We support the inclusion of the 480-month term into HUD's waterfall, and we seek further engagement with HUD to help determine how to integrate the 480-month term into the permanent loss mitigation waterfall. There are costs of any extended loan term for borrowers that HUD should consider, because extending loan terms may increase the amount of interest a borrower may pay; however, extending a loan term also reduces the borrower's monthly payment and, thus, reduces the chance that a borrower loses their home due to foreclosure. It is crucial that the agency evaluate the array of possible modification terms in a manner that balances the additional interest cost and slower process of building home equity with the need for immediate payment relief.

In addition, we urge HUD to take further steps to provide payment relief to borrowers because, even with the 480-month term, borrowers need additional tools to achieve sufficient payment relief in today’s increasing interest rate environment.

Most importantly, for all its loss mitigation programs, **HUD should introduce the possibility of reducing or waiving annual mortgage insurance premiums (MIP) to the extent required to help borrowers reach targeted payment relief.** Should FHA pursue this change, we request that the agency work with the industry to develop an efficient and feasible operational process for servicers to remit the reduced MIP.

An analysis of the current COVID waterfall demonstrates the benefit of waiving or reducing MIP. At the current mortgage rate, a loan with a 4.50% note rate and 26 years remaining to maturity¹ would fail to reach a 25% P&I reduction, which is the current COVID waterfall target, even after a 40-year modification that uses the maximum amount of principal deferral. Should mortgage rates continue to rise, the ability of the current Recovery Mod to reach the 25% target P&I reduction would decrease further.

40-year Combo Mod + Max Principal Deferral (25% of UPB)						40-year Combo Mod + Max Principal Deferral (25% of UPB) + MIP Elimination					
Note Rate	Remaining Term (years)					Note Rate	Remaining Term (years)				
	28	26	24	22	20		28	26	24	22	20
3.00%	-2.6%	2.0%	6.8%	12.0%	17.5%	3.00%	13.5%	17.3%	21.4%	25.7%	30.3%
3.50%	2.2%	6.2%	10.6%	15.2%	20.2%	3.50%	17.3%	20.7%	24.4%	28.3%	32.5%
4.00%	6.6%	10.2%	14.0%	18.2%	22.8%	4.00%	20.9%	23.9%	27.2%	30.7%	34.5%
4.50%	10.7%	13.8%	17.3%	21.1%	25.2%	4.50%	24.2%	26.9%	29.8%	33.0%	36.4%
5.00%	14.5%	17.3%	20.3%	23.7%	27.5%	5.00%	27.3%	29.6%	32.2%	35.1%	38.3%
5.50%	18.0%	20.4%	23.2%	26.2%	29.7%	5.50%	30.1%	32.2%	34.5%	37.1%	40.0%
6.00%	21.2%	23.4%	25.9%	28.6%	31.7%	6.00%	32.8%	34.6%	36.7%	39.0%	41.6%

While reducing MIP will cut inflows into the MMIF, reducing the borrowers’ total monthly payment in this way can help them avoid re-default. Avoiding foreclosure and the associated MMIF claim losses is likely to offset all of the lost MIP revenue and will likely benefit the MMIF.

Furthermore, the suggested MIP reductions would be highly targeted to families who otherwise would lose the wealth-building opportunity of remaining in homeownership. As of early April, for example, Black borrowers were more than twice as likely and Hispanic borrowers were 50% more likely to be in forbearance, loss mitigation, or delinquent outside of forbearance or loss mitigation as compared to white borrowers; similarly, borrowers in the lowest income quartile at origination were nearly three times more likely to be past due or in forbearance compared to borrowers in the highest income quartile.²

Two additional steps are needed to help borrowers address COVID-19 hardships. **HUD should allow borrowers to access their statutory maximum partial claims when needed to achieve HUD’s payment target.** Currently, HUD does not allow borrowers to use their full partial claim

¹ Mortgage terms are similar to the average Government-backed mortgage in forbearance as of mid-2021.

² RADAR Group, Federal Reserve Bank of Philadelphia, Examining Resolution of Mortgage Forbearance and Delinquencies (April 22, 2022), available here: https://www.philadelphiafed.org/-/media/frbp/assets/consumer-finance/reports/22-04_tracking-resolutions-of-mortgage-forbearances-and-delinquencies_v3.pdf.

to address COVID-19 hardship. The additional partial claim capacity could be used to defer principal and would generate on average an additional 4 to 6 percentage points of payment reduction. Given the recent increase in mortgage rates, borrowers facing ongoing pandemic-related hardship may need the added payment reduction to create an affordable modification.

Finally, **HUD should set the maximum interest rate for new forty-year modification terms at 25 basis points above Freddie Mac's Primary Mortgage Market Survey (PMMS)** and not the current 50 basis points set out in Mortgagee Letter 2022-07. Adding 50 basis points onto an already high PMMS rate limits the payment relief HUD can offer. The reduction of 25 basis points properly balances the needs of the marketplace with the need to reduce borrower rates. By our estimates, such a reduction would provide an additional 2 to 3 percentage points of payment relief to borrowers.

In conclusion, we support HUD's proposed regulatory amendment as a necessary means to provide payment relief to borrowers. We look forward to continuing our work with the agency on ways to achieve affordable modification options for borrowers during this crisis and in the permanent loss mitigation waterfall.

Sincerely,

Americans for Financial Reform Education Fund
Atlanta Legal Aid Society, Inc. (GA)
Center for Community Progress
Center for Responsible Lending
Community Legal Services of Philadelphia (PA)
Connecticut Fair Housing Center
Consumer Action
Housing and Economic Rights Advocates (CA)
Jacksonville Area Legal Aid, Inc. (FL)
Legal Aid Society of Southwest Ohio, LLC
Long Island Housing Services, Inc. (NY)
Mobilization for Justice, Inc. (NY)
Mountain State Justice, Inc. (WV)
National Community Stabilization Trust
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National Housing Law Project
NHS Brooklyn, CDC, Inc. (NY)
North Carolina Justice Center