

May 31, 2019

Brian Montgomery, Acting Deputy Secretary
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

Re: Docket No.: FR-6051-A-01, Federal Housing Administration (FHA): Single-Family Loan Sale Program; Advance Notice of Proposed Rulemaking and Request for Public Comment

Dear Mr. Montgomery:

On behalf of the clients and communities we represent, the undersigned organizations request that HUD extend the date for public comment on its recently released Advance Notice of Proposed Rulemaking (ANPR) on the Loan Sale Program until it has provided up-to-date information on the performance of the program, including both DASP and HECM sales, as well as an assessment of whether the program complies with HUD's obligation under the Fair Housing Act to affirmatively further fair housing (AFFH).

Buyers of loans under the Distressed Asset Sales Program (DASP) are subject to a four-year post-sale reporting requirement, but HUD has not updated its DASP reporting for more than two years. The agency's most recent report was dated March 2017, and based on data collected up to January 2017. Without more recent data, it is difficult to answer the questions posted in the ANPR concerning the impact and outcomes of the program. Most loans sold under DASP were sold during 2013-2014. The reporting periods for these sales ended during 2017-2018. To make informed comments, we need the opportunity to review the data for the completed reporting periods for the significant 2013-2014 sales. In addition, without this reporting, we cannot tell whether the 2015-2016 changes to the DASP guidelines had any effect on DASP outcomes. Given that the 2015-2016 changes were specifically put into place to better help homeowners avoid foreclosure and increase nonprofit participation, access to this information is necessary for us to meaningfully answer the questions raised in the ANPR.

HUD has also provided no public reporting at all on the ongoing sales of Home Equity Conversion Mortgage (HECM) pools. These loans are sold through the same statutory authority as all other Loan Sale Program auctions, and are therefore included in this ANPR. Yet the failure to provide any data or reports on HECM sales significantly undermines our ability to comment on this type of loan sale. Information about the outcomes of these sales is particularly important since HECMs are reverse mortgages designed to enable older homeowners to stay in their homes as they age.

Since 2013, we have consistently asked HUD to provide reporting on the program through letters, discussions, and Freedom of Information Act (FOIA) requests. HUD is aware that reports are important, yet it is either not producing the necessary reports or not sharing them.

Additionally, as with all of its programs and activities relating to housing and urban development, Section 3608 (e)(5) of the Fair Housing Act requires HUD to administer the Loan Sale Program in a manner to affirmatively further fair housing. Given the outsized role that FHA mortgages play in enabling borrowers of color and other members of protected classes to become homeowners, and the concentration of FHA mortgages in communities of color, it is critical that HUD assess the extent to which its DASP program complies with its AFFH obligations. If HUD has completed such an assessment, interested parties should have an opportunity to review it in advance of addressing the ANPR questions specifically relating to the program's impact on these communities.

Finally, beyond the question of a time extension for the comment period, we agree with the July 14, 2017, HUD Office of Inspector General (OIG) report stating that for HUD to continue to hold sales without engaging in a full rulemaking process violates the Administrative Procedures Act (APA). For that reason, HUD should cease all sales of nonperforming loans, including HECMs, until the rulemaking is completed. We strongly disagree with any claim that dozens of pools sold holding thousands of loans worth billions of dollars and affecting thousands of homeowners were a "demonstration."

Thank you for your attention to this important matter. For any questions or further discussions regarding this matter, please contact Steve Sharpe of the National Consumer Law Center at ssharpe@nclc.org or 513-362-2788.

Sincerely,

Advocates for Basic Legal Equality
Americans for Financial Reform Education Fund
Center for Community Progress
Center for Responsible Lending
Civil Justice, Inc.
Community Legal Services of Philadelphia
Connecticut Fair Housing Center
Consumer Federation of America
Housing and Economic Rights Advocates
Legal Aid Society of Southwest Ohio
Mobilization for Justice, Inc.
Mountain State Justice, Inc.

(cont'd)

National Association of Consumer Bankruptcy Attorneys

National Consumer Law Center (on behalf of its low-income clients)

National Fair Housing Alliance

National Housing Law Project

New Jersey Citizen Action

North Carolina Justice Center

Notre Dame Clinical Law Center

Pro Seniors, Inc.

Prosperity Now

Public Justice Center

Woodstock Institute