



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: May 5, 2022

Mortgagee Letter 2022-08

To: All FHA-Approved Mortgagees
All Direct Endorsement Underwriters
All Eligible Submission Sources for Condominium Project Approvals
All FHA Roster Appraisers
All FHA-Approved 203(k) Consultants
All HUD-Approved Housing Counselors
All HUD-Approved Nonprofit Organizations
All Governmental Entity Participants
All Real Estate Brokers
All Closing Agents

Subject Expanding Affordable Housing Supply Through FHA's Claims Without Conveyance of Title (CWCOT) Process

Purpose This Mortgagee Letter (ML) establishes an exclusive Post-Foreclosure Sales period for specified buyers and extends time frames as part of FHA's CWCOT process.

Effective Date The provisions of this ML may be implemented immediately but must be implemented for all Post-Foreclosure Sales associated with defaulted FHA-insured Mortgages scheduled to occur on or after 90 Days from the date of this ML.

All updates will be incorporated into a forthcoming update of the HUD Handbook 4000.1, *FHA Single Family Housing Policy Handbook* (Handbook 4000.1).

Public Feedback HUD welcomes feedback from interested parties for a period of 30 calendar days from the date of issuance. To provide feedback on this policy document, please send feedback to the FHA Resource Center at answers@hud.gov. HUD will consider the feedback in determining the need for future updates.

Affected Programs

The provisions of this ML apply to Handbook 4000.1, section III.A.2.t.ii(H), CWCOT Post-Foreclosure Sales Efforts.

Background

The Biden-Harris Administration is committed to increasing the supply of affordable housing and expanding access to homeownership for low- and moderate-income homebuyers, particularly households of color. Consistent with those commitments, on September 1, 2021, President Biden announced steps HUD would take to make more single-family homes available to individuals, families, and nonprofits rather than large investors by prioritizing homeownership and creating exclusive periods during which only Governmental Entities, Owner-Occupant Buyers, and HUD-approved Nonprofits are able to bid on foreclosed formerly FHA-insured properties. Through its CWCOT sales procedures, FHA-approved Mortgagees can sell their formerly FHA-insured foreclosed properties directly to third parties, and HUD will pay insurance benefits for losses to the Mortgagee. CWCOT is beneficial to Mortgagees and HUD as it reduces costs for both; however, typically the properties are often sold to large investors rather than Owner-Occupant Buyers, HUD-approved Nonprofits, or Governmental Entities that are less aware of the CWCOT program and may face constraints that limit their ability to move as quickly as private investors in purchasing properties made available through the CWCOT process. Therefore, HUD is implementing changes to its CWCOT procedures to provide an exclusive listing period as part of the Post-Foreclosure Sales period for Owner-Occupant Buyers, Governmental Entities, and HUD-approved Nonprofits to purchase foreclosed properties before they are offered to investors.

Summary of Changes

- This ML:
- establishes an exclusive listing period for purchase by Owner-Occupant Buyers, HUD-approved Nonprofits, or Governmental Entities as part of the Post-Foreclosure Sales period;
 - extends the time frame for completing a sale to these buyers to provide adequate time for financing and closing;
 - adds a new section, III.A.2.t.ii(I), Single Family Default Reporting Requirements for CWCOT, and renumbers subsequent sections;
 - updates the claims requirements for CWCOT in section IV.A.2.d.iv, Submission of Claim Form Parts to HUD for CWCOT; and
 - updates the *Single Family Default Monitoring System (SFDMS) Reporting Codes and Reporting Data Elements*.
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**FHA Single
Family Housing
Policy
Handbook
4000.1**

The policy changes will be incorporated into Handbook 4000.1 as follows:

Conduct of Foreclosure Proceedings (III.A.2.t.ii)

(H) CWCOT Post-Foreclosure Sales Efforts

**Servicing and
Loss Mitigation**

If the Property does not sell to a third party at the foreclosure sale, the Mortgagee may pursue Post-Foreclosure Sales Efforts and may utilize independent third-party providers to conduct such sales prior to making a final decision to convey a Property to HUD.

The Mortgagee's third-party provider must indicate that the Property is being sold in an "as is" condition, and the condition is unknown and may include defects, possible health or safety hazards, or debris, or be located in a Special Flood Hazard Area.

Where the Property is occupied, based on the appraisal or property inspection, the Mortgagee's third-party provider must clearly indicate that the Property is occupied in the auction information.

(1) CWCOT Post-Foreclosure Sales Periods

(a) Exclusive Post-Foreclosure Sales Period

Mortgagees that utilize the post-foreclosure sales efforts must list the Properties for sale for an initial 30-Day period exclusively for Owner-Occupant Buyers, HUD-approved Nonprofits, and Governmental Entities.

Where the Property is vacant, the Mortgagee's third-party provider must provide the buyer the opportunity to:

- conduct any non-destructive tests, surveys, appraisals, investigations, examinations, or inspections of the Property as the buyer deems appropriate at the buyer's expense; and
- order a search of title documents, HOA or condominium association records, and other governmental and non-governmental records related to the Property, and conduct due diligence as to the insurability of the Property and types and amounts of insurance required or desired for the Property (e.g., flood, hazard, title, etc.) at the buyer's expense.

(i) Contract Cancellation

The Mortgagee's third-party provider must provide the buyer a minimum of 15 Days after the date of the sales contract

ratification to cancel the sales contract due to property condition.

The Mortgagee's third-party provider must provide the buyer an opportunity to cancel the sales contract due to title issues at least seven Days prior to the closing date.

Upon timely notice of cancellation, the earnest money deposit paid by the buyer shall be returned to the buyer. If the buyer fails to furnish timely written notice of cancellation, the Mortgagee's third-party provider may consider that the buyer has elected to proceed with the transaction.

(ii) Verification of Buyers During Exclusive Sales Period

The Mortgagee must ensure that any successful bidder meets the following buyer type and related requirements for the exclusive sales period:

- Owner-Occupant Buyers must provide a signed statement that they intend to use the Property as their Principal Residence;
- HUD-approved Nonprofits must appear on [the list of HUD-approved Nonprofits](#) under any of the authorizations listed; or
- Governmental Entities must provide a signed statement on their letterhead stating that they are a Governmental Entity.

(b) Extended Post-Foreclosure Sales Period

If the Property does not sell during the exclusive 30-Day period, then the Mortgagee must offer the Property for sale to all third parties for an additional 60-Day period.

(2) Extensions of Time Frames to Engage in Post-Foreclosure Sales Efforts

HUD will provide the Mortgagee with an automatic extension of the conveyance time frames to attempt Post-Foreclosure Sales Efforts and commence possessory action, where applicable, for 90 Days from the date the foreclosure deed is filed for recording, in circumstances where the Mortgagee complied with all foreclosure time frames.

(a) Conveyance Time Frame if Property Does Not Sell

If the Property does not sell through the Post-Foreclosure Sales Efforts, the Mortgagee must convey the Property to HUD within 30 Days of the end of the post-foreclosure sales period.

(b) Extension of Conveyance Time Frame to Allow for Closing

Where a sales contract has been ratified before the expiration of the 90-Day period, HUD will provide the Mortgagee with an additional, automatic 60-Day extension to the deadline for conveyance, from the date the sales contract has been ratified, to allow for closing of the sale.

(3) Preservation and Protection During Post-Foreclosure Sales Periods

The Mortgagee must preserve and protect the Property in accordance with HUD requirements during the Post-Foreclosure Sales periods and throughout any approved extensions to deadlines for conveyance. HUD will reimburse the Mortgagee through the FHA insurance claim for all reasonable preservation, protection, and eviction expenses incurred prior to the expiration of any extension of the deadlines for conveyance, as listed in [Property Preservation Allowances](#) (III.A.2.v.iii.(B)(5)).

(I) Single Family Default Reporting Requirements for CWCOT

Mortgagees must report the Delinquency/Default Status (DDS) Codes that apply to the foreclosure sale, CWCOT, or CWCOT Post-Foreclosure Sale outcomes at the end of each reporting cycle. For Properties marketed Post-Foreclosure Sale, the applicable DDS Code indicating the marketing period must be reported. For all Properties sold, Mortgagees must report the buyer type.

Mortgagees must report the DDS Codes as follows:

- Status Code 1D – Post-Foreclosure Initial Exclusive Period
- Status Code 1J – Post-Foreclosure Extended Sales Period
- Status Code 2U – Owner-Occupant Buyer Successful Bidder
- Status Code 2N – Nonprofit Successful Bidder
- Status Code 2G – Governmental Entity Successful Bidder
- Status Code 2I – Investor/Other Successful Bidder
- Status Code 2R – Borrower Successful Bidder
- Status Code 2S – Servicer Successful Bidder

Mortgagees must report one of the existing termination DDS codes at the conclusion of the default episode:

- Status Code 46 – Property Conveyed to Insurer; expected to follow 2S, 1J, or 1E when a conveyance claim will be filed with HUD.
- Status Code 48 – Claim without Conveyance of Title; expected to follow 2U, 2N, 2G, 2I, 2R, or 2S when a CWCOT claim will be filed with HUD.
- Status Code 29 – Charge-off; expected after a 2S when a Mortgagee cannot pursue HUD disposition options and will not file any termination claim with HUD.
- Status Code 30 – Third-Party Sale; expected to follow 2U, 2N, 2G, or 2I when no claim will be filed with HUD.
- Status Code 73 – Property Redeemed; expected to follow 2S when a borrower redeems the property, and no claim will be filed with HUD.

**FHA Single
Family Housing
Policy
Handbook
4000.1**

**Claims and
Disposition**

The policy changes will be incorporated into Handbook 4000.1 as follows:

Claim Type 06 - Claims Without Conveyance of Title (IV.A.2.d)

iv. Submission of Claim Form Parts to HUD for CWCOT

The Mortgagee must submit Parts A and B simultaneously no later than 30 Days after:

- the date the Mortgagee acquired good and marketable title;
- the date a third party acquired good and marketable title;
- the date the Borrower or other party redeemed the Property;
- the date the redemption period expires; or
- such other date as required by the FHA Commissioner.

When filing via EDI, FHA Catalyst, or FHAC, the Mortgagee must submit Parts A and B no later than two Days after the date the form was prepared. When submitting via FHA Catalyst or paper claim, the Mortgagee must also submit Parts C, D, and E.

In all cases, the Mortgagee must also upload into P260:

- all Parts of form HUD-27011;
- the Closing Disclosure or similar legal document for post-foreclosure sales;
- the appraisal;
- appraisal invoices;
- a worksheet reflecting the Mortgagee’s application of the CAFMV based on the adjustment provided in the instructions on FHAC;
- a third-party service fee invoice for auction services, if applicable; and

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- verification of buyers during exclusive sales period, if applicable. A screenshot of the website of HUD-approved Nonprofits or the signed statement from Owner-Occupant Buyers and Governmental Entities is acceptable verification documentation.

**Paperwork
Reduction Act**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2502-0005; 2502-0059; 2502-0117; 2502-0189; 2502-0302; 2502-0306; 2502-0322; 2502-0358; 2502-0404; 2502-0414; 2502-0429; 2502-0494; 2502-0496; 2502-0525; 2502-0527; 2502-0538; 2502-0540; 2502-0556; 2502-0561; 2502-0566; 2502-0570; 2502-0583; 2502-0584; 2502-0589; 2502-0595; 2502-0600; and 2502-0610. In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Questions

Any questions regarding this ML may be directed to the FHA Resource Center at 1-800-CALL-FHA. Persons with hearing or speech impairments may reach this number by calling the Federal Relay Service at 1-800-877-8339. For additional information on this ML, please visit www.hud.gov/answers.

Signature

Lopa P. Kolluri
Principal Deputy Assistant Secretary
Office of Housing – Federal Housing Administration
