



July 23, 2021

The Honorable Marcia L. Fudge  
Secretary  
U.S. Department of Housing and Urban Development

RE: FHA Mortgage Letter 2021-15

Submitted via Email to the FHA Resource Center at [answers@hud.gov](mailto:answers@hud.gov)

Dear Secretary Fudge:

The National Council of State Housing Agencies (NCSHA)<sup>1</sup> and our state Housing Finance Agency (HFA) members appreciate the opportunity to comment on the Department of Housing and Urban Development's (HUD's) Mortgagee Letter (ML) 2021-15.

Federal Housing Administration (FHA)-insured loans have played an important role in helping state HFAs serve every state's affordable homeownership needs, particularly those of first-time homebuyers and borrowers of color. In 2020, FHA single family insurance backed \$22 billion in state HFA mortgage program loans, helping more than 102,000 lower-income Americans become homeowners. The state HFA share of the FHA book of business represents some of its most deeply targeted assistance. HFA-funded, FHA-insured loans have a well-documented record of strong financial performance.

We are very concerned the Advance Loan Modification (ALM) provisions in the above-referenced Mortgagee Letter would harm the ability of state HFAs to achieve their and the Department's shared objectives in affordable homeownership. Specifically, the provisions could disrupt state HFA Mortgage Revenue Bond (MRB) programs and impose substantial operational costs on HFAs that service FHA-insured loans.

NCSHA requests that FHA exempt state HFA program loans from the ALM requirement to ensure timely repayment of MRB bond loans. The Department provided similar flexibility to state HFAs with respect to the Home Affordable Modification Program created in 2009. We also recommend that FHA clarify that HFAs – and other servicers – can utilize the ALM policy wherever they determine it makes sense in the sequence of loss mitigation options (“waterfall”), not be required to offer it as the first option in every case.

The balance of this letter provides additional information on each recommendation.

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<sup>1</sup> NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

## Ensure No Disruption of Mortgage Revenue Bond Programs

Mortgage Revenue Bonds have been an important source of affordable mortgage finance for decades, and state HFAs have been the primary issuers of them. As of 2019, state HFAs had issued \$323 billion in MRBs to more than 3.3 million affordable mortgages to first-time homebuyers.

In 2019, state HFAs used MRB proceeds to enable 64,258 first-time homebuyers to start building family wealth through homeownership. These borrowers had an average income of \$58,956 and purchased homes with an average price of \$165,297. Thirty-three percent of the homebuyers were persons of color and 33 percent were female heads of household.

MRBs are fixed interest rate and fixed maturity bonds, like Treasury or corporate bonds. MRBs are not pass-through securities or bonds, such as GNMA Mortgage-Backed Securities (MBSs). MRB proceeds are used to finance loans, including down payment assistance. The MRB semi-annual bond principal payments are based on, coincide with, and are designed to be payable from, the related loan principal payments. MRB interest payments are based on and payable from, the loan interest payments. (Under federal tax law rules the loan rates cannot effectively exceed the bond interest rates by more than one percent.) MRB purchasers are guaranteed principal and interest payments by the HFA regardless of what happens to the underlying mortgage loans.

The ALM provisions effectively put the ALM at the top of the FHA loss mitigation waterfall, and would not only reduce the principal and interest received from homeowners when another option might work for them, but also create a mismatch between the MRB principal maturities and those of the mortgage loans that support the MRB principal maturities.

This would force HFAs to tap operating funds to make up the difference in interest and principal payments to bond holders, reducing reserves and potentially resulting in MRB ratings downgrades, as loan cash flow payments timing and reserves are the most significant factors that rating agencies use when determining an HFA's credit rating.

Should this happen, HFAs would not be able to raise funds as cost-effectively to finance affordable mortgage loans. HFAs may also be forced to reduce their funding for other affordable programs that they fund from operating or reserve funds, such as programs for homeowners with forbore loan payments, down payment assistance, rental assistance, and homelessness programs.

Mortgagee Letter 2021-18 appears generally to permit a partial HUD insurance claim for arrearages in loan principal or interest payments, and for any immediate principal reductions. It does not, however, appear to compensate a mortgagee (such as an HFA) for future loan interest rate reductions or for any principal payments that are reduced on a monthly basis or extended beyond the original maturity. As such, the partial claim mechanism would not alleviate the mismatch HFAs would suffer between scheduled MRB debt service and ALM-related modified loan payments.

## Allow Servicer Flexibility to Balance Borrower Needs with Operational Costs

By effectively putting the ALM at the top of the loss mitigation waterfall, borrowers who may have been as well or better served by another option, such as the FHA COVID-19 Partial Claim, will be more likely to choose the option that imposes significant operational costs for HFAs and other servicers. Modified loans would need to be pulled from a Ginnie Mae security, and while they can be re-pooled, it takes months to do so. The ALM will create unnecessary and unanticipated liquidity demands on FHA loan servicers, particularly the smaller ones, such as state HFAs.

In addition, servicers would have to comb through their portfolios and offer an ALM to any borrower who meets the criteria, and that that borrower must reject the offer before the loss mitigation waterfall is run. This means that servicing processes, scripts used with homeowners, and various systems enhancements must be implemented practically immediately. Not only does this put unanticipated demands on HFA servicer resources, it is doing so at a time when many state HFAs are standing up the new Homeowner Assistance Fund (HAF) program or working with sister agencies in their state government to do so. This applies equally to their servicer partners who will receive HAF funds on behalf of the borrower loans they service.

Servicers also would be required to review COVID affected borrowers who are 90-plus days past due for the ALM option first if the borrower qualifies, FHA is assuming that this option will always be in the best interest of the borrower when it might not be. A borrower with a more seasoned loan may be able to achieve the same 25 percent reduction of the principal and interest payment (or more) utilizing the current COVID-19 Stand Alone Modification option at their current remaining term, which would save them a significant amount of unnecessary interest payments.

Finally, it is our understanding that the ALM does not allow servicers to file claims for some of the costs associated with the mandated ALM option. While costs do vary across states and indeed, state counties, some of our agencies have indicated that the cost could be several hundred dollars per modified loan, which, for servicers that have large portions of FHA loans in their portfolio, will add up quickly.

In closing, we understand that FHA invited some servicers to discuss potential Covid-19 policy changes in advance of the issuance of the ML. As longtime partners of FHA doing much of the most mission-focused work in its entire book of business, we are extremely disappointed to have been left out of this outreach. We hope going forward to be engaged as other industry participants have been

Sincerely,



Garth Rieman  
Director, Housing Advocacy and Strategic Initiatives

cc: Julienne Joseph, Deputy Assistant Secretary, Office of Single Family Housing  
Alanna McCargo, Senior Advisor to the Secretary, Housing Finance