

Federal Housing Enterprise Oversight

§ 1730.3

breaches or violations and management's responses; and recommendations for changes in the information security program.

7. *Implementation.* a. Each Enterprise should implement an information security program pursuant to the Guidance.

b. Until January 1, 2004, a contract that an Enterprise has entered into with a service provider to perform services for it or functions on its behalf satisfies the provisions of section 9, even if the contract does not include a requirement that the servicer maintain the security and confidentiality of information, as long as the Enterprise entered into the contract on or before the effective date.

PART 1730—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION

Sec.

1730.1 Purpose.

1730.2 Definitions.

1730.3 Periodic disclosures.

1730.4 Submission of disclosures.

AUTHORITY: 12 U.S.C. 4513; 12 U.S.C. 4514; 12 U.S.C. 4631; and, 12 U.S.C. 4632.

SOURCE: 68 FR 16718, Apr. 7, 2003, unless otherwise noted.

§ 1730.1 Purpose.

(a) The purpose of this part is to require the Enterprises to prepare and submit financial and other disclosures as specified by OFHEO.

(b) This part does not limit or restrict the authority of OFHEO to act under its safety and soundness mandate to regulate the Enterprises, including conducting examinations, requiring reports and disclosures, and enforcing compliance with applicable laws, rules and regulations.

§ 1730.2 Definitions.

For purposes of this part, the term:

(a) *Commission* means the Securities and Exchange Commission (or SEC).

(b) *Disclosure or disclosures* means any report[s], form[s], or other information submitted by the Enterprises pursuant to this part and may be used interchangeably with the terms "report[s]" or "form[s]."

(c) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term "Enterprises" means, collectively, the Federal Na-

tional Mortgage Association and the Federal Home Loan Mortgage Corporation.

(d) *Exchange Act* means the Securities Exchange Act of 1934.

(e) *OFHEO* means the Office of Federal Housing Enterprise Oversight (or the office).

§ 1730.3 Periodic disclosures.

(a) Each Enterprise shall prepare disclosures relating to its financial condition, results of operation, business developments, and management's expectations that include supporting financial information and certifications.

(b) The requirement of paragraph (a) of this section for disclosures will be satisfied if:

(1) In the case of an Enterprise having a class of securities registered pursuant to Section 12 of the Exchange Act, the Enterprise prepares and makes public an annual report, quarterly report and current reports and such other materials that may be required under the rules and regulations of the Commission, including interpretations of the Commission and its staff and rules governing audited financial statements;

(2) The Enterprise files with the Commission all reports, statements, and forms required pursuant to Sections 14(a) and (c) of the Exchange Act and by rules and regulations adopted by the Commission under those sections that would be required to be filed by the Enterprises if the Enterprises has a class of equity securities registered under Section 12(g) of the Exchange Act that were not exempted securities under the Exchange Act; and,

(3) The officers and directors of the Enterprise file with the Commission all reports and forms relating to the common stock of the Enterprise that would be required to be filed by the officers and directors pursuant to Section 16 of the Exchange Act and by rules and regulations adopted by the Commission under that section if the Enterprises had a class of equity securities registered under Section 12(g) of the Exchange Act that were not exempted securities under the Exchange Act.

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§ 1730.4 Submission of disclosures.

Unless otherwise required by OFHEO, the Enterprises shall provide to OFHEO on a concurrent basis copies of all disclosures filed with the SEC pursuant to §1730.3.

PART 1731—MORTGAGE FRAUD REPORTING

Sec.

1731.1 Purpose and scope.

1731.2 Definitions.

1731.3 Unsafe and unsound conduct.

1731.4 Procedures for reporting.

1731.5 Internal controls, procedures, and training.

1731.6 Supervisory action.

AUTHORITY: 12 U.S.C. 4513(a) and 4513(b)(1), (2), and (7).

SOURCE: 70 FR 43627, July 28, 2005, unless otherwise noted.

§ 1731.1 Purpose and scope.

The purpose of this section is to set forth safety and soundness requirements with respect to the reporting of mortgage fraud in furtherance of the supervisory responsibilities of OFHEO under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*).

§ 1731.2 Definitions.

For purposes of this part—

(a) *Director* means the Director of OFHEO, or his or her designee.

(b) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(c) *Mortgage fraud* means a material misstatement, misrepresentation, or omission relied upon by an Enterprise to fund or purchase—or not to fund or purchase—a mortgage, including a mortgage associated with a mortgage-backed security or similar financial instrument issued or guaranteed by an Enterprise. Such mortgage fraud includes, but is not limited to, a material misstatement, misrepresentation, or omission in identification and employment documents, mortgagee or mortgagor identity, and appraisals that are fraudulent.

(d) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

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(e) *Possible mortgage fraud* means that an Enterprise has a reasonable belief, based upon a review of information available to the Enterprise, that mortgage fraud may be occurring or has occurred.

§ 1731.3 Unsafe and unsound conduct.

An Enterprise may not require the repurchase of or may not decline to purchase a mortgage, mortgage backed security, or similar financial instrument because of possible mortgage fraud without promptly reporting to the Director under §1731.4. An Enterprise may decline such purchase or require such repurchase if it is reporting mortgage fraud or possible mortgage fraud in accordance with §1731.4.

§ 1731.4 Procedures for reporting.

(a) *Procedures for reporting*—(1) *Prompt report*. An Enterprise shall report promptly mortgage fraud or possible mortgage fraud in writing to the Director in such format and under such notification procedures as prescribed by OFHEO. The report shall describe the mortgage fraud or possible mortgage fraud in detail sufficient under OFHEO guidance. The Enterprise, at the sole discretion of the Director, may be required to provide additional or continuing information in connection with such mortgage fraud.

(2) *Immediate report*. In addition to reporting in writing under paragraph (a)(1) of this section, in any situation requiring immediate attention by OFHEO, an Enterprise shall report the mortgage fraud or possible mortgage fraud to the Director by telephone or electronic communication.

(b) *Retention of records*. An Enterprise shall maintain a copy of any report submitted to the Director and the original or business record equivalent of any supporting documentation for a period of five years from the date of submission.

(c) *Nondisclosure*. An Enterprise may not disclose, without the prior written approval of the Director, to the party or parties connected with the mortgage fraud or possible mortgage fraud that it has reported such fraud under this part. This restriction does not prohibit an Enterprise from—