

includes, but is not limited to, specifying application forms, mortgage application procedures, certifications or other assurances, and other information collection requirements, subject to such rules, standards and policies as the Board may adopt.

(d) *Other applicable requirements.* Except as may be otherwise provided by the Board, the provisions and requirements in the FHA regulations in 24 CFR part 203, which are generally applicable to all FHA-insured single family mortgage insurance programs, also apply with respect to the insurance of a refinanced eligible mortgage under the Program.

§ 4001.05 Approval of mortgages.

(a) *Eligibility.* In order for a mortgage to be eligible for insurance under this part, the mortgagee originating the mortgage loan and seeking mortgage insurance under this part shall have been approved by the Secretary pursuant to 24 CFR part 202.

(b) *Mortgagee whose loan is to be refinanced.* A mortgagee holding or servicing an eligible mortgage to be refinanced and insured under section 257 of the National Housing Act is not required to be an approved mortgagee as required in paragraph (a) of this section, unless it seeks to be the originator of the refinanced mortgage to be insured by FHA.

§ 4001.07 Definitions.

As used in this part and in the Program, the following definitions apply.

Act means the National Housing Act (12 U.S.C. 1701 *et seq.*).

Allowable closing costs mean charges, fees and discounts that the mortgagee may collect from the mortgagor as provided in 24 CFR 203.27(a).

Board means the Board of Directors of the HOPE for Homeowners Program, which is comprised of the Secretary of HUD, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System (Federal Reserve Board), and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation or the designees of each such individual.

Capital improvements means a repair, renovation, or addition to a property

that significantly enhances the value of the property, but does not include expenses for interior decor, landscape maintenance, or normal maintenance or replacement expenses.

Contract of insurance means the agreement by which FHA provides mortgage insurance to a mortgagee.

Default and delinquency fees means late charges contained in a mortgage/security instrument for the late or non-receipt of payments from mortgagors after the date upon which payment is due, including charges imposed by the mortgagee for the return of payments on the mortgage due to non-sufficient funds.

Direct financial benefit, as used in section 257(e)(1)(A)(ii)(II) of the Act, consists of the greater of two factors:

(1) The amount of initial equity the mortgagor has in the property at the closing for the Program mortgage as determined under § 4001.118; and

(2) The total amount that the existing senior mortgage and all existing subordinate mortgages on the property have been written down.

Disposition means any transaction that results in whole or partial transfer of title of a property other than—

(1) A sale of the property; or

(2) Any transaction or transfer specified in 12 U.S.C. § 1701j-3(d)(1) through (8).

Eligible Mortgage means a mortgage as defined in § 4001.104.

Existing senior mortgage means an eligible mortgage that has superior priority and is being refinanced by a mortgage insured under section 257 of the Act.

Existing subordinate mortgage means a mortgage that is subordinate in priority to an eligible mortgage which is being refinanced by a mortgage insured under section 257 of the Act.

FHA means the Federal Housing Administration.

HOPE for Homeowners Program (or Program) means the program established under section 257 of the Act.

HUD means the Department of Housing and Urban Development.

Intentionally defaulted for purposes of section 257(e)(1)(A) of the Act means the mortgagor:

(1) Knowingly failed to make payment on the mortgage or debt;

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(2) Had available funds at the time payment on the mortgage or debt was due that could pay the mortgage or debt without undue hardship; and

(3) The debt was not subject to a bona fide dispute.

Mortgage has the same meaning as provided in 24 CFR 203.17(a)(1).

Mortgagee has the same meaning as provided in 24 CFR 203.251(f).

Mortgagor has the same meaning as provided in 24 CFR 203.251(e).

Premium pricing means the price for the sale of a mortgage loan with an above market rate of interest.

Prepayment penalties mean such amounts as defined in 12 CFR 226.32(d)(6) of the Federal Reserve Board's Regulation Z (Truth in Lending).

Primary residence means the dwelling where the mortgagor maintains his or her permanent place of abode and typically spends the majority of the calendar year. A mortgagor can only have one primary residence.

Program mortgage means the mortgage into which the existing senior mortgage is refinanced.

Related party of a person means any of the following or another person acting on behalf of the person or any of the following—

(1) The person's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of any of the foregoing, and the person's spouse;

(2) Any entity of which 25 percent or more of any class of voting securities is owned, controlled or held in the aggregate by the person or the persons referred to in paragraph (1); and

(3) Any entity of which the person or any person referred to in paragraph (1) serves as a trustee, general partner, limited partner, managing member, or director.

Secretary means the Secretary of Housing and Urban Development.

Total monthly mortgage payment means the sum of:

(1) Principal and interest, as determined on a fully indexed and fully amortized basis; and

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(2) *Escrowed amounts.* (i) The monthly required amount collected by or on behalf of the mortgagee for real estate taxes, premiums for required hazard and mortgage insurance, homeowners' association dues, ground rent, special assessments, water and sewer charges and other similar charges required by the note or security instrument; or

(ii) For mortgages not subject to escrow deposits, $\frac{1}{12}$ of the estimated annual costs for items listed in paragraph (2)(i) of this definition.

[73 FR 58420, Oct. 6, 2008, as amended at 74 FR 621, Jan. 7, 2009]

Subpart B—Eligibility Requirements and Underwriting Procedures

§ 4001.102 Cross-reference.

(a) All of the provisions of 24 CFR part 203, subpart A, concerning eligibility requirements of mortgages covering one-family dwellings under section 203 of the National Housing Act (12 U.S.C. 1709) apply to mortgages on one-family dwellings to be insured under section 257 of the National Housing Act (12 U.S.C. 1701z-22), except the following provisions: 203.7 Commitment Process; 203.10 Informed consumer choice for prospective FHA mortgagors; 203.12 Mortgage insurance on proposed or new subdivisions; 203.14 Builder's warranty; 203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes; 203.17(d) Maturity; 203.18 Maximum mortgage amounts; 203.18a Solar-energy system; 203.18b Increased mortgage amount; 203.18c One-time or up-front MIP excluded from limitations on maximum mortgage amounts; 203.18d Minimum principal loan amount; 203.19 Mortgagor's minimum investment; 203.20 Agreed interest rate; 203.29 Eligible mortgage in Alaska, Guam, Hawaii or the Virgin Islands; 203.32 Mortgage lien; 203.37a Sale of property; 203.42 Rental properties; 203.43 Eligibility of miscellaneous types of mortgages; 203.43a Eligibility of mortgages covering housing in certain neighborhoods; 203.43d Eligibility of mortgages in certain communities; 203.43e Eligibility of mortgages covering houses in