The revisions made by this rule result from the efforts and recommendations made by the Working Group. They will make the FHA process more flexible for mortgagees, and for State and local governments and nonprofit associations, and also expand homeownership opportunities. They will also assist in making the FHA a more effective organization to serve the needs of our customers and clients. The revisions should also minimize the differences between FHA and conventional loan processing and place greater reliance and accountability on mortgagees.

A number of recommended changes did not require rulemaking and, therefore, were made effective immediately with the issuance of Mortgagee Letter 95–36, dated August 2, 1995. However, some of the recommended changes require either rulemaking or modification of existing data systems. This rule sets forth the changes that require rulemaking for implementation. Changes effected as a result of modifications of existing data systems will be announced later.

This Interim Rule
This interim rule makes the following changes:

- Section 202.11(a)(5) is revised to establish uniform requirements on the use of authorized agents by supervised and nonsupervised mortgagees. For conforming reasons, §§ 202.13(e) and 202.17(d) are removed.
- Section 202.12(m) is revised to eliminate the requirement that a branch office of a mortgagee must be approved by FHA to originate FHA mortgages. A branch registry process is permitted. However, a nonsupervised loan correspondent will be required to provide evidence that it complies with the net worth requirements for itself and all of its branches, as set forth in § 202.12(n)(3).
- Section 202.15(c)(1) is revised to eliminate the requirement that loans must be closed in the name of the Loan Correspondent, and to permit such mortgages to be closed in either the name of the Loan Correspondent or its Sponsor(s).
- Section 202.15(c)(5) is revised to eliminate the compliance report and the report on internal control from Loan Correspondents’ annual audited financial statements.
- Section 203.3(b)(2) is revised to eliminate the requirement that FHA individually approve mortgagees’ Direct Endorsed Underwriters and to establish a registry process for the underwriter. Also, The requirement that the technical staff utilized by the mortgagee be approved by the Secretary is removed. For conforming reasons, §§ 203.3(b)(3) and (c) are eliminated.

Other Matters

Justification for Interim Rule
In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the Department finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is “impracticable, unnecessary, or contrary to the public interest.” (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that public procedure is contrary to the public interest and unnecessary.

No mortgagees or potential mortgagors will be adversely affected by the revisions made by this rule without prior public comment. To the contrary, the revisions will streamline and make the FHA processes more flexible for mortgagees and FHA’s customers and clients.

For these reasons, HUD has concluded that the public interest would not be served by the delay that issuance of a proposed rule would involve.

Environmental Finding

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Officials under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the
various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule are directed to insuring mortgages and do not impinge upon the relationship between the Federal government and State and local governments.

Executive Order 12606, The Family
The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order because it revises mortgagee requirements.

The Regulatory Flexibility Act
In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary by his approval of this rule hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the changes made by this rule are primarily procedural and will not have a significant economic impact.

List of Subjects in Part 202
Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

List of Subjects in Part 203
Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, Subchapter B of Chapter II of title 24 of the Code of Federal Regulations is amended as follows:

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Subchapter B—Mortgage and Loan Insurance Programs Under National Housing Act and Other Authorities

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES
1. The authority for part 202 continues to read as follows:


2. Part 202 is amended by revising—
   a. In § 202.11, paragraph (a)(5) to read as follows:

   §202.11 Approval, recertification, withdrawal of approval and termination of approval agreement.
   (a) * * *
   (5) A mortgagee approved under §§ 202.13, 202.14, or 202.17 may, with the approval of the Secretary, designate another mortgagee approved under §§ 202.13 or 202.14 as authorized agent for the purpose of submitting applications for mortgage insurance in its name and on its behalf.
   * * * * *
   b. In § 202.12, paragraph (m) to read as follows:

   §202.12 General approval requirements.
   * * * * *
   (m) Branch offices. A mortgagee approved under §§ 202.13 or 202.14, or a mortgagee that meets the definition of a supervised mortgagee under § 202.13 and applies for approval as a loan correspondent under § 202.15, may maintain branch offices for the submission of applications for mortgage insurance, provided that registration of such branches is maintained with the Secretary. A nonsupervised loan correspondent approved under § 202.15 will be required to provide evidence that it complies with net worth requirements for itself and all of its branches, as set forth in § 202.12(n)(3). The mortgagee shall remain fully responsible to the Secretary for the actions of its branch offices.
   * * * * *

   §202.13 [Removed]
   c. In § 202.13, paragraph (e) is removed.
   d. In § 202.15, the first sentence of paragraph (c)(1) and paragraph (c)(5) are revised, to read as follows:

   §202.15 Loan correspondents.
   * * * * *
   (c) * *
   (1) A loan correspondent shall close all mortgages in its own name or the name of its sponsor(s).
   * * * * *
   (5) It shall file an audit report with the Secretary within 90 days of the close of its fiscal year (or within an extended time if, at the discretion of the Secretary, an extension is granted), and at such other times as may be requested, unless it meets the definition of a supervised mortgagee in § 202.13(a).

   Audit reports shall be based on audits performed by a Certified Public Accountant, or by an Independent Public Accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit report shall include:
   (i) A financial statement in a form acceptable to the Secretary, including a balance sheet and a statement of operations and retained earnings and analysis of the loan correspondent's net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds; and
   (ii) Such other financial information as the Secretary may require.
   * * * * *
   e. In § 202.17, paragraph (d) is removed.

PART 203—SINGLE FAMILY MORTGAGE INSURANCE
3. The authority for part 203 continues to read as follows:


4. In § 203.3, paragraph (b)(2) is revised, and paragraphs (b)(3) and (c) are removed and reserved, to read as follows:

§203.3 Approval of mortgagees for Direct Endorsement.
   * * * * *
   (b) * * * * *
   (2) The mortgagee has on its permanent staff an underwriter that is authorized by the mortgagee to bind the mortgagee on matters involving the origination of mortgages through the Direct Endorsement procedure and that is registered with the Secretary and such registration is maintained with the Secretary. The technical staff may be employees of the mortgagee or may be hired on a fee basis from a roster maintained by the Secretary. The mortgagee shall use appraisers permitted by §203.5(e).
   * * * * *
   (3) [Reserved].
   * * * * *
   (c) [Reserved].

Nicolas P. Retsinas,
Assistant Secretary for Housing—Federal Housing Commissioner.
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