DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 201 and 202

[Docket No. FR–4246–P–01]

RIN: 2502–AG95

Strengthening the Title I Property Improvement and Manufactured Home Loan Insurance Programs and Title I Lender/Title II Mortgagee Approval Requirements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend HUD's regulations for the Title I Property Improvement and Manufactured Housing Loan Insurance programs. The changes are designed to enhance program controls and strengthen the financial viability of the programs. Among other amendments, this proposed rule would require that lenders disburse the proceeds of a direct property improvement loan in excess of $7,500 using a draw system, similar to that used in construction lending; expand and strengthen the on-site inspection requirements applicable to dealer and direct property improvement loans; and require that a lien securing a property improvement loan in excess of $7,500 must occupy no less than a second lien position. The proposed rule would also require that a lender disburse Title I dealer property improvement loan proceeds either solely to the borrower, or jointly to the borrower and dealer or other parties to the transaction. HUD also proposes to increase the insurance charge for Title I property improvement and manufactured housing loan insurance. Additionally, the proposed rule would also conform the liquidity requirements applicable to the Title I program to those currently applicable to the Title II Single Family Mortgage Insurance program. Finally, the rule would increase the net worth requirements applicable to both the Title I and Title II programs.

DATES: Comments due date: May 30, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–2700 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Title I Loan Insurance

Section 2 of Title I of the National Housing Act (12 U.S.C. 1703) authorizes HUD to insure approved lenders against losses sustained as a result of borrower defaults on property improvement loans and manufactured home loans. The regulations implementing the Title I Loan Insurance programs are located in 24 CFR part 201. Additionally, the HUD regulations at 24 CFR part 202 establish minimum standards and requirements for approval by the Secretary of HUD of lenders and mortgagees to participate in both the Title I programs and the Title II Single Family Mortgage Insurance program. The programs are administered by HUD's Office of Housing-Federal Housing Administration (FHA).

B. Property Improvement Loans

The Title I property improvement loan program is often the most viable, cost-effective mechanism for individuals to finance property improvements. Under the program, HUD–FHA makes it easier for consumers to obtain affordable loans by insuring such loans made by private lenders to improve properties that meet certain requirements. Title I loans may be used to finance permanent property improvements that protect or improve the basic livability or utility of the property. Only lenders approved by HUD specifically for the program can make loans covered by Title I insurance. Eligible borrowers include the owner of the property to be improved, the person leasing the property (with a fixed lease term that expires not less than 6 calendar months after the final maturity of the loan), or someone purchasing the property under a land installment contract.

C. Manufactured Home Loans

HUD has been insuring loans on manufactured homes under Title I since 1969. By protecting lenders against the risk of default, HUD's participation has encouraged them to finance manufactured homes, which had traditionally been financed as personal property through comparatively high-interest, short term consumer installment loans. The Title I manufactured home loan program, therefore, increases the availability of affordable financing for buyers of manufactured homes. All buyers who plan to purchase manufactured homes as their principal place of residence are eligible to participate in the program. Approved lending institutions are eligible for insurance on loans made under the program. Buyers of manufactured homes may obtain insured loans for insurance through HUD-approved lenders or through approved dealers.

D. Changes to the Title I Programs

While HUD believes that Title I property improvement and manufactured home loans fill an important role otherwise unserved by either public or private lending products, HUD also believes that the program can be strengthened by implementing new financial and program controls. HUD recently conducted a comprehensive review of the Title I programs and concluded that several changes are necessary to strengthen the financial viability of the programs. Accordingly, HUD is issuing this proposed rule, which would make several changes to the Title I and lender approval program regulations at 24 CFR parts 201 and 202, respectively. HUD believes these amendments are needed to protect the financial interests of the FHA, taxpayers, and the vast majority of borrowers and lenders who comply fully with the requirements of the Title I programs. The proposed changes to the Title I program regulations are discussed in section II of this preamble.

E. Net Worth Requirements for the Title I and Title II Programs

In addition to the changes described above (which would only apply to the Title I programs), this proposed rule would also revise 24 CFR part 202 to raise the current minimum net worth requirements applicable to loan correspondents under both the Title I and Title II programs. This proposed change is discussed in section III of this preamble.

II. Proposed Regulatory Changes to the Title I Program Regulations

The changes that would be made by this proposed rule to HUD's Title I regulations are as follows. As noted, some of the changes would be applicable to both the property improvement and manufactured home loan programs. Other changes would apply solely to Title I property improvement loans.

1. *Two party disbursements of dealer property improvement loan proceeds (§§ 201.2 and 201.26).* The proposed rule would amend the definition of ''dealer loan'' in § 201.2 to prohibit lenders from disbursing property improvement loan proceeds solely to a dealer. The proposed rule would require that a lender disburse the proceeds either solely to the borrower or jointly to the borrower and dealer or other parties to the transaction. The proposed rule would also make a conforming change to § 201.26, which describes the conditions for disbursement of property improvement loan proceeds.

This regulatory amendment will reduce the risk that property improvement loan proceeds might be released without the borrower's consent. Further, by requiring that the borrower agrees to the payment of funds to the contractor, the proposed amendment will ensure that all property improvement work is completed in an acceptable manner. The proposed requirement will also assure that any disagreements between the borrower and contractor are brought to the lender's attention as quickly as possible.

2. *Lien position for property improvement loans in excess of $7,500 (§ 201.24).* The proposed rule would amend § 201.24 (which describes security requirements) to require that a lien securing a property improvement loan in excess of $7,500 must occupy no less than a second lien position. The current regulation does not specify the position that such a lien must occupy, other than to state that the Title I property improvement loan must have priority over any lien securing an uninsured loan made at the same time.

3. *Disbursement of direct property improvement loan proceeds in excess of $7,500 (§ 201.26).* This proposed rule would amend § 201.26 (which describes the conditions for loan disbursement) to modify the disbursement procedures for direct property improvement loans in excess of $7,500. The proposed rule would require that such disbursements be made using a ''draw'' system, similar to that used in construction lending. Lenders would be required to deposit all of the loan proceeds in an interest bearing escrow account until they are disbursed. The draws would be made in accordance with criteria established by the Secretary. The loan proceeds would be disbursed in three draws—an initial disbursement of 40 percent of the loan proceeds, a subsequent 40 percent disbursement, and a final 20 percent disbursement.

This regulatory amendment will help to reduce opportunities for misuse of funds. However, HUD recognizes that the use of a draw system will impose some additional administrative and other costs on lenders. Accordingly, this proposed rule would only require the use of this disbursement procedure only for direct loans in excess of $7,500.

The proposed draw system would not apply to dealer loans. As explained elsewhere in this preamble, HUD would establish other requirements to safeguard the proper use of dealer loan proceeds. These protections include the prohibition on the disbursement of Title I loan proceeds solely to a dealer (see the discussion of proposed change number 1 above). Further, the proposed rule would establish a telephone interview requirement for the disbursement of dealer loan proceeds (see the discussion of proposed change number 4 below).

4. *Telephone interviews for dealer property improvement loan disbursements (§ 201.26).* The proposed rule would amend § 201.26 to require that the lender must conduct a telephone interview with the borrower before the disbursement of dealer property improvement loan proceeds. The lender, at a minimum, must obtain an oral affirmation from the borrower to release funds to the dealer. As with the proposed dual disbursement requirement discussed above (see proposed change number 1), it is expected that the telephone interview will help to ensure borrower satisfaction with the work being performed by the dealer/contractor. The lender shall document the borrower's oral affirmation.

5. *Liquidity requirement (§§ 201.27, 202.6, 202.7, and 202.8).* The proposed rule would amend the regulations at 24 CFR parts 201 and 202 to conform the liquidity requirements applicable to the Title I program to those currently applicable to the Title II Single Family Mortgage Insurance program. The proposed liquidity requirement would apply to Title I supervised lenders (§ 202.6), Title I unsupervised lenders (§ 202.7), Title I loan correspondent lenders (§ 202.8), and Title I dealers (§ 201.27). Under the proposed rule, these Title I participants would be required to have liquid assets consisting of cash (or its equivalent acceptable to the Secretary) in the amount of 20 percent of their net worth, up to a maximum liquidity requirement of $100,000. For purposes of this proposed rule, HUD will not consider lines of credit to be liquid assets, nor loans or mortgages held for resale by the mortgagee. Liquid assets include cash on hand, checking accounts, savings accounts, certificates of deposit, and marketable securities.

HUD believes that the proposed liquidity requirement will protect the interests of the FHA and consumers by ensuring that only financially sound program participants are eligible to participate in the Title I programs. Further, the liquidity requirement would provide Title I lenders, dealers, and loan correspondents with a reserve of cash upon which to draw if unexpected expenditures arise. HUD believes the new requirement would reduce the temptation to misuse trust funds and escrow accounts. The proposed liquidity requirements would not become applicable until six months after the effective date of the final rule. This delayed effective date will provide Title I lenders, dealers and loan correspondents with adequate time to meet the new requirement.

6. *Reporting of loans for insurance (§ 201.30).* The proposed rule would amend § 201.30 to clarify that required loan reports must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD. This change will ensure that information vital to the proper monitoring of Title I loans (such as the address of the borrower and the applicable interest rate) is properly collected and transmitted to HUD.

7. *Increase in insurance charge for property improvement and manufactured home loans (§ 201.31).* The proposed rule would revise § 201.31(a) to increase the insurance charge for Title I property improvement and manufactured home loan insurance. Currently, Title I lenders are required to pay an insurance charge of 0.50 percent of the loan amount, multiplied by the number of years of the loan term. This proposed rule would increase the applicable percentage to 1.00 percent of the loan amount. The current charge amount has proven insufficient in covering the costs of insurance claims paid by HUD under the program. The proposed increase is necessary to strengthen the financial viability of the Title I program.

Further, the proposed rule would amend § 201.31(b) to conform the procedures governing the payment of the insurance charge for manufactured

home loans with the insurance charge payment procedures for property improvement loans. The current regulations establish an accelerated payment schedule for manufactured home loans with a maturity in excess of 25 months. Given the proposed increase in the insurance charge, HUD also proposes to eliminate this ''front loading'' system for manufactured home loans. Under the proposed rule, the payment schedule for manufactured homes loans with a maturity in excess of 25 months would be identical to that applicable to comparable property improvement loans. Specifically, insurance charge payments for both types of loans would be made in annual installments of 1.00 percent of the loan amount until the insurance charge is paid.

8. *Inspection requirements for all dealer and direct property improvement loans (§ 201.40).* HUD proposes to expand the current on-site inspection requirements for dealer and direct property improvement loans at § 201.40. Specifically, the proposed rule would require that on-site inspections be conducted for all dealer and direct property improvement loans (not just for loans where the principal obligation is $7,500 or more, or where the borrower fails to submit a completion certificate). In the case of dealer and direct property improvement loans of $7,500 or less, the lender would be required to conduct two inspections—a pre-construction inspection and a post-construction inspection. For dealer and direct loans in excess of $7,500 the lender would also be required to conduct a third inspection. Additionally, the proposed rule would also require that photographs of the site be taken as part of all required inspections. The pre-construction inspection and photograph requirements do not apply where emergency action is needed to repair damage resulting from a disaster, as described in § 201.20(b)(3)(ii). The proposed rule would also authorize HUD to grant exceptions to the pre-construction inspection and photograph requirements.

The expanded inspection requirements will protect the interests of borrowers and the FHA by helping to verify that all property improvement work has been completed in a satisfactory manner. In addition, the proposed regulatory amendments will help to ensure that no funding is extended for improvements that were completed prior to obtaining the Title I loan.

III. Increased Net Worth Requirements

In addition to the regulatory changes described in Section II of this preamble (which would only apply to the Title I property improvement and manufactured home programs), this proposed rule would also increase the net worth requirements for both Title I and Title II loan correspondents. Specifically, the rule would amend § 202.8 to raise the minimum net worth requirement for Title II loan correspondent mortgagees and Title I loan correspondent lenders from $50,000 to $75,000. The proposed rule would also amend § 201.27 to raise the current minimum net worth requirements for Title I property improvement loan and manufactured home dealers from $25,000 and $50,000, respectively, to $75,000.

The net worth reforms proposed by this rule are directed toward this goal of ensuring that only responsible and adequately capitalized entities are program participants. In HUD's experience there is less stress on well capitalized companies to misuse restricted funds such as insurance premiums or escrows for operating expenses. The net worth requirements were last raised in 1992 and HUD believes they need to be raised again to take into account inflation as well as increased losses per claim. Since fiscal year 1991, the average Title I claim has increased from $7,020 to $15,314 while the average loss has increased from $6,318 to $13,783. The average Title II claim has increased from $54,905 to $82,226, and the average loss has increased from $24,140 to $31,800. Even with this modest increase in required net worth, a lender would only be able cover indemnification for five Title I loans or two Title II mortgages.

The proposed net worth requirements would not become applicable until six months after the effective date of the final rule. This delayed effective date will provide dealers and loan correspondents with adequate time to meet the new requirements.

IV. Performance-Based Standards for the Title I Program

HUD is planning to develop performance-based standards for determining the continued eligibility of lenders, correspondents and dealers in the Title I program. These would identify objective criteria for loan performance and would ensure management quality. While HUD is still developing data collection and measurement systems for this purpose and is not proposing any requirements in this area under this proposed rule, it is interested in the public's views on using this tool.

V. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in § 201.26(a)(7) (the new telephone interview requirement for dealer property loan disbursements) has been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This is the only new information collection requirement that would be established by this proposed rule. In accordance with the Paperwork Reduction Act, 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.

The average number of dealer transactions per year is 22,000. A single response to the information collection requirement would be required per dealer transaction. HUD estimates that the average time per response would be no more than five minutes. Accordingly, the estimated annual burden that would be imposed by the proposed information collection requirement is 1,833 hours.

In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning this collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4246) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget,

New Executive Office Building, Washington, DC 20503;

and

Ethelene Washington, Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451—7th Street, SW, Room 9114, Washington, DC 20410

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Environmental Impact

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 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows.

With one exception (the increased net worth requirements for loan correspondents), the amendments made by this proposed rule exclusively relate to the Title I program. The majority of financial institutions participating in the Title I program are large depositary institutions and thus the proposed changes pose only minimum burdens for smaller entities seeking to conduct Title I loan transactions. Some of these proposed requirements (such as two-party disbursements for dealer loan proceeds, and ensuring at least a second lien position for certain loans) would impose minimal, or no, economic costs.

Where the proposed rule would impose an economic burden (such as the increased net worth and liquidity requirements), HUD has attempted to minimize the costs to lenders. For example, the proposed increased net worth and liquidity requirements would be ''phased-in,'' and not take effect until six months after the effective date of the other new regulatory requirements. This delayed effective date will provide lenders with additional time to meet the new requirements.

The proposed rule would also increase the net worth requirements for all Title I and Title II loan correspondents from $50,000 to $75,000. HUD is proposing to make this modest increase for a variety of reasons, including the need to make adjustments for inflation since the net worth requirements were last updated—in 1991 for the Title I program (October 18, 1991; 56 FR 52414); and 1992 for the Title II program (December 9, 1992; 57 FR 58326).

Although the primary purpose of setting minimum net worth standards is not to ensure that a lender can absorb the costs of fines or indemnifications, HUD notes that the proposed net worth requirement will cover only three Title I loans, assuming a maximum loan value of $25,000. The proposed net worth requirement would cover only five average Title I loans (assuming a $13,000 average loss). The proposed net worth requirement will cover less than one Title II loan, assuming a maximum loan value of $219,849. The proposed net worth requirement would cover two average Title II loans (assuming a $31,000 average loss). Therefore, the proposed net worth value is not significant in comparison to the typical size of a Title I and Title II loan.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers applicable to the 24 CFR parts 201 and 202 are:

14.110 Manufactured Home Loan Insurance— Financing Purchase of Manufactured Homes as Principal Residences of Borrowers;

14.142 Structures and Building of New Nonresidential Structures; and

14.162 Mortgage Insurance—Combination and Manufactured Home Lot Loans.

List of Subjects

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 201 and 202 to read as follows:

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

1. The authority citation for 24 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 1703 and 3535(d).

2. In § 201.2, revise the definition of ''*Dealer loan*'' to read as follows:

§ 201.2 Definitions.

* * * * *

Dealer loan means a loan where a dealer, having a direct or indirect financial interest in the transaction between the borrower and the lender, assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender. In the case of a property improvement loan, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction. In the case of a manufactured home loan, the lender may disburse the loan proceeds solely to the dealer or the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

* * * * *

3. Revise § 201.24(a) to read as follows:

§ 201.24 Security requirements.

(a) *Property improvement loans.* (1) *Property improvement loans in excess of $7,500.* (i) Any property improvement loan in excess of $7,500 shall be secured by a recorded lien on the improved property. The lien shall be evidenced by a mortgage or deed of trust, executed by the borrower and all other owners in fee simple.

(ii) If the borrower is a lessee, the borrower and all owners in fee simple must execute the mortgage or deed of trust. If the borrower is purchasing the property under a land installment contract, the borrower, all owners in fee simple, and all intervening contract sellers must execute the mortgage or deed of trust.

(iii) The lien need not be a first lien on the property; however, the lien securing the Title I loan must hold no less than the second lien position.

(2) *Property improvement loans of $7,500 or less.* Any property improvement loan for $7,500 or less (other than a manufactured home improvement loan) shall be similarly secured if, including such loan, the total amount of all Title I loans on the improved property is more than $7,500.

(3) *Manufactured home improvement loans.* Manufactured home improvement loans need not be secured.

* * * * *

4. Amend § 201.26 as follows:

a. Redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

b. Add new paragraph (a);

c. Redesignate newly designated paragraphs (b)(6) and (b)(7) as paragraphs (b)(8) and (b)(9), respectively; and

d. Add new paragraphs (b)(6) and (b)(7).

§ 201.26 Conditions for loan disbursement.

(a) *Disbursement of direct property improvement loans in excess of $7,500.* (1) *Escrow account.* For all direct property improvement loans in excess of $7,500, the lender must deposit all of the loan proceeds in an interest-bearing escrow account until they are disbursed in accordance with the requirements of this section.

(2) *Disbursement schedule.* Disbursement of the loan proceeds will be made in a series of ''draws,'' in accordance with criteria established by the Secretary. Disbursement of the loan proceeds will be made using the following schedule:

(i) The lender will disburse 40% of the loan proceeds upon the completion of the pre-construction inspection required under § 201.40(c)(3)(i).

(ii) Subsequent to the initial 40% draw (but before the final draw of the loan proceeds) the borrower may draw up to an additional 40% of the property improvement loan proceeds.

(iii) The lender will disburse the balance of the loan proceeds upon the completion of the inspection required under § 201.40(c)(3)(ii).

(b) * * *

(6) In the case of a dealer loan, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

(7) In the case of a dealer loan, the lender must conduct a telephone interview with the borrower before the disbursement of the loan proceeds. The lender, at minimum, must obtain an oral affirmation from the borrower to release funds to the dealer. The lender shall document the borrower's oral affirmation.

* * * * *

5. Revise § 201.27(a)(1) to read as follows:

§ 201.27 Requirements for dealer loans.

(a) *Dealer approval and supervision.* (1) The lender shall approve only those dealers which, on the basis of experience and information, the lender considers to be reliable, financially responsible, and qualified to satisfactorily perform their contractual obligations to borrowers and to comply with the requirements of this part. However, in no case shall the lender approve a dealer that is unable to meet the following minimum qualifications:

(i) *Net worth.* All property improvement and manufactured home dealers shall have and maintain a net worth of not less than $75,000, plus an additional $25,000 for each branch office, in assets acceptable to the Secretary, up to a maximum required net worth of $250,000.

(ii) *Liquid assets.* A dealer shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

(iii) *Business experience.* All property improvement loan and manufactured home dealers must have demonstrated business experience as a property improvement contractor or supplier, or in manufactured home retail sales, as applicable.

* * * * *

6. Revise § 201.30(a) to read as follows:

§ 201.30 Reporting of loans for insurance.

(a) *Date of reports.* The lender shall transmit a loan report on each loan reported for insurance within 31 days from the date of the loan's origination or purchase from a dealer or another lender. The loan report must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD. Any loan refinanced under this part shall similarly be reported on the prescribed form within 31 days from the date of refinancing. When a loan insured under this part is transferred to another lender without recourse, guaranty, guarantee, or repurchase agreement, a report on the prescribed form shall be transmitted to the Secretary within 31 days from the date of the transfer. No report is required when a loan insured under this part is transferred with recourse or under a guaranty, guarantee, or repurchase agreement.

* * * * *

7. Amend § 201.31 as follows:

a. Revise the first sentence of paragraph (a); and

b. Revise paragraph (b)(2).

§ 201.31 Insurance charge.

(a) *Insurance charge.* For each eligible property improvement loan and manufactured home loan reported and acknowledged for insurance, the lender shall pay to the Secretary an insurance charge equal to 1.00 percent of the loan amount, multiplied by the number of years of the loan term.

* * * * *

(b) * * *

(2)(i) For any loan having a maturity in excess of 25 months, payment of the insurance charge shall be made in annual installments, with the first installment due on the 25th calendar day after the date the Secretary acknowledges the loan report, and the second and successive installments due

on the 25th calendar day after the date of billing by the Secretary.

(ii) For any loan having a maturity in excess of 25 months, payment shall be made in annual installments of 1.00 percent of the loan amount until the insurance charge is paid.

* * * * *

8. In § 201.40, revise the section heading and paragraph (c) to read as follows:

§ 201.40 Pre- and Post-disbursement loan requirements.

* * * * *

(c) *Inspection requirement on dealer and direct property improvement loans.* (1) *General.* The lender or its agent shall conduct on-site inspections on all dealer and direct property improvement loans.

(2) *Inspections for dealer and direct property improvement loans of $7,500 or less.* For dealer and direct property improvement loans of $7,500 or less, the lender or its agent shall conduct:

(i) A pre-construction inspection within 30 days before the start of construction; and

(ii) A post-construction inspection within 60 days after the receipt of the completion certificate, or as soon as the lender determines that the borrower is unwilling to cooperate in submitting a completion certificate, as required under paragraph (b) of this section.

(3) *Inspections for dealer and direct property improvement loans in excess of $7,500.* For dealer and direct property improvement loans in excess of $7,500, the lender or its agent shall conduct:

(i) A pre-construction inspection within 30 days before the start of construction;

(ii) An inspection within 60 days before the disbursement of the loan proceeds (in the case of a dealer loan), or within 60 days before the final draw of the loan proceeds (in the case of a direct loan—see § 200.26(a)(2)(iii)); and

(iii) A post-construction inspection within 60 days after the receipt of the completion certificate, or as soon as the lender determines that the borrower is unwilling to cooperate in submitting a completion certificate, as required under paragraph (b) of this section.

(4) *Purpose of inspections.* The purpose of the inspections is to verify the eligibility of the improvements and whether the work has been completed. Photographs of the site must be taken as part of all inspections. If the borrower will not cooperate in permitting an on-site inspection, the lender shall report this fact to the Secretary.

(5) *Exceptions.* The pre-construction inspection and photograph requirements do not apply where emergency action is needed to repair damage resulting from a disaster, as described in § 201.20(b)(3)(ii). Exceptions to the pre-construction inspection and photograph requirements can be granted in other circumstances if the prior approval of the Secretary is obtained.

* * * * *

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

8. The authority citation for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709 and 1715b; 42 U.S.C. 3535(d).

9. Revise § 202.6(b)(2) to read as follows:

§ 202.6 Supervised lenders and mortgagees.

* * * * *

(b) * * *

(2) *Liquid assets.* The lender or mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

* * * * *

10. Revise § 202.7(b)(2) to read as follows:

§ 202.7 Nonsupervised lenders and mortgagees.

* * * * *

(b) *Liquid assets.* The lender or mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

* * * * *

11. Amend § 202.8 by revising paragraphs (b)(1) and (b)(4) to read as follows:

§ 202.8 Loan correspondent lenders and mortgagees.

* * * * *

(b) * * *

(1) *Net worth.* A loan correspondent lender or mortgagee shall have a net worth of not less than $75,000 in assets acceptable to the Secretary, plus an additional $25,000 for each branch office authorized by the Secretary, up to a maximum requirement of $250,000, except that a multifamily mortgagee shall have a net worth of not less than $250,000 in assets acceptable to the Secretary.

* * * * *

(4) *Liquid assets.* A loan correspondent lender or mortgagee shall have liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of $100,000.

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Dated: March 7, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

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