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MORTGAGE BANKERS ASSOCIATION

February 29, 2016

Regulations Division
Office of General Counsel
Department of Housing and
Urban Development
451 7th Street, SW, Room 10276
Washington, DC 20410-0500

RE: Docket No. FR-5876-N-02
Changes in Certain Multifamily Mortgage Insurance Premiums

To Whom It May Concern:

The Mortgage Bankers Association (MBA)[1] commends and supports HUD's proposed action to reduce FHA Mortgage Insurance Premiums (MIPs) for certain FHA multifamily programs. We believe that HUD has taken a number of very positive steps, including the MIP reduction, to strengthen FHA multifamily programs, enhance the partnership with its lenders, and support the financing of multifamily rental housing and energy efficient housing.

As MBA recommended last year and at subsequent meetings, we believe it is appropriate for HUD to recalibrate MIPs as a reflection of the sustained strong performance of the FHA multifamily insured portfolio with its delinquency rate of less than one-quarter of a percent and because of the growing need for multifamily affordable rental housing. In addition, the FHA multifamily programs generate positive revenue for the U.S. Treasury.

The positive, anticipated boost to FHA production from the proposed reductions in MIP rates will further strengthen the FHA production platform. As MBA has commented previously, MAP production in firm commitments was down from $17.1 billion (FY 2013) to $10.9 billion (FY 2014) and then $10.0 billion (FY 2015) resulting in MAP production shrinking to four percent of the multifamily finance market in 2015. Therefore, we appreciate HUD's actions on the proposed MIP reduction, as well as positive aspects of

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org

the new MAP Guide, to ensure FHA's sustainable and steadfast role in the rental housing market.

To enhance and build upon the proposed changes, we provide specific comments below.

Residential Healthcare Facility Loans in the MIP Reduction.
Recent revisions to both the Lean and MAP Guides have resulted in stronger program requirements, and the partnership among FHA, multifamily and healthcare facility lenders, owners and managers has resulted in a performing, substantial FHA insured portfolio that is a resource for affordable housing for seniors and special populations. MBA recommends that HUD apply the MIP reduction to Office of Residential Healthcare Program loans (a.k.a. Lean). Section 232 programs are also important in providing affordable rental housing through assisted living facilities, skilled nursing homes and other residential healthcare properties supported by the Lean program. And, healthcare facilities would equally benefit from HUD's priority to support more energy efficient properties.

HUD should revise the MIP Notice to incorporate provisions for reduced MIPs on residential healthcare facilities that provide affordable housing. While limited in number, there are Section 232 properties that deploy Low Income Housing Tax Credits to provide affordable housing in residential healthcare settings and such properties should readily qualify for the lower MIPs. More significantly, a large percentage of Section 232 properties provide needed residential healthcare facilities for people dependent on Medicaid. For these properties, MBA recommends a comparable standard to the multifamily housing properties eligible for reduced MIPs. Rather than using a Section 8 standard, we recommend the use of a calculation based on the percentage of resident days at the facility that are attributable to residents receiving Medicaid. Similarly, MIP reductions for energy efficient residential healthcare properties are strongly recommended. Reduced financing costs will have a positive effect on healthcare costs.

Affordable Housing References
To access the reduced MIP rate for "Broadly Affordable Housing," properties must have "achievable and underwritten tax credit rents at least 10 percent below comparable market rents" (p. 4928). MBA members recommend that "achievable and" be deleted because of the confusion it could cause. Also, the definition of "Affordable Housing" should be expanded to include properties with greater than 90 percent affordable units without a 10 percent underwritten gap to market rents.

On long term affordability, we request confirmation that a property will qualify for the MIP reduction if it has project-based Section 8 that runs less than 15 years or is not renewed but the owner will honor the full 15 year use restriction. Also, in the interest of supporting the objective of mixed income occupancy at properties with Section 8 voucher holders, we recommend that the reduced MIP be available in situations where the property owner accepts Section 8 voucher holders for just the affordable units, rather than an unlimited requirement for the entire property. Prospective borrowers could raise concerns about potentially converting an entire property to Section 8 in mixed income property situations.

Energy Efficiency References

While we support the steps taken on MIPs for energy efficient properties, there remain a number of questions on the energy efficiency standards. One observation is that the MIP Notice references "maintaining" energy standards. Given that the Energy Star standard is a moving target, maintaining a 75+ score could be challenging over time, particularly as properties age and newer more efficient properties enter the market. Another question is whether a property could meet the building performance standards in twelve months after new construction/substantial rehabilitation – as it will take time to establish full occupancy and a twelve-month accurate record of energy consumption. More guidance would be helpful. We understand that detailed, thoughtful comments prepared by MBA member third party environmental report provider(s) will be submitted, and we recommend HUD's consideration of these technical suggestions and comments.

We also request that HUD consider how to incentivize improved energy efficiency for refinances of existing properties that could not achieve the Energy Star 75 rating or other standards, such as an intermediate energy consumption improvement could qualify for a more moderate reduction in the MIP.

Loan Fee Limit on Loans over $2 Million.

MBA has several comments on the restriction on lenders' loan fees with regard to the MIP changes proposed in the MIP Notice. As MBA previously commented, the multifamily finance agency market is familiar with the $5 million small loan limit set by the Federal Housing Finance Agency for the Fannie Mae and Freddie Mac small loan programs. Because small loans are widely acknowledged to be challenging to originate, underwrite and service, it may be counterproductive to have a loan fee limit on loans as small as $2.25 million in order to use the reduced MIP rates at precisely the time HUD is encouraging MAP lenders to participate in its Small Building Risk Share Initiative. It is extremely important that private sector lenders participate widely in HUD's multifamily programs. Certain lender costs, including the expense of retaining expert staff or REAC inspections, are fixed costs whether the loan is large or small, particularly since there is limited correlation to the amount of time lenders must spend on a loan relative to its size. We also believe that these conditions should be set forth by mortgagee letter, rather than the MIP-related notice.

If HUD decides not to revise the final MIP Notice regarding the lender loan fee limit to apply to loans up to $5 million, MBA requests HUD to provide the underlying information on the need for such a broad limitation and notes that many partners are involved in a multifamily loan transaction with HUD – lender, borrower, manager, attorney, accountant, appraiser, environmental consultant and others.

REAC protocol reference in the MIP Notice

The MIP notice references the REAC protocol. The REAC protocol should not be unilaterally changed to incorporate tests on whether properties are eligible for MIP reductions due to energy efficiency. REAC inspections already are in the $450-$600 range per inspection, which is ongoing for the life of the loan and this cost is paid by the lender/servicer. MBA requests a meeting to discuss the REAC protocol, particularly any potential changes.

MIP Calculations and Timing

We also have a technical question and request for guidance. Will HUD have to publish additional regulations (Section 207) to confirm the appropriate MIP fee to be assessed or will the final MIP Notice supersede other regulations? There has been a sub-group of new construction/substantial rehabilitation (NC/SR) loans from fiscal years 2013-2015 that experienced MIP rate calculation issues due to conflicting rules. MBA appreciates the dialogue with HUD in September 2015 on this concern which led to assistance from the Office of Housing in addressing these cases.

The MIP chart in the Notice references "upfront capitalized MIP" for NC/SR loans. Please provide program guidance to clarify that MIP during the NC/SR period will be the annual percentage based on the mortgage amount with no adjustment for all construction loans, whether or not they qualify for the reduced MIP levels.

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We request HUD incorporate MBA's recommendations on the proposed MIP Notice, finalize the proposed reduced MIPs and issue further program guidance where needed. We would welcome the opportunity to meet with you to discuss these points further. Please contact Eileen Grey at 202-557-2747 or egrey@mba.org with any questions and to schedule a meeting.

Sincerely,

Robert Warren
Chair, MBA FHA Multifamily Committee