

May 9, 2023

Elissa Saunders  
Acting Director, Office of Single Family Asset Management  
Department of Housing and Urban Development  
Office of Housing  
451 Seventh Street SW,  
Washington, DC 20410

RE: Modernization of Engagement With Single Family Mortgagors in Default (FR-6353), RIN 2502-AJ66

Dear Ms. Saunders:

On behalf of our low-income clients, we are writing in response to HUD's planned revision of the face-to-face meeting regulation, 24 C.F.R. § 203.604, as indicated on the agency's regulatory agenda.

By ensuring that servicers make a significant attempt to discuss loss mitigation options with borrowers, 24 C.F.R. § 203.604 facilitates the effective communication between borrowers and servicers that is necessary due to the complex and nuanced nature of FHA's loss mitigation system. Recent changes to FHA's waterfall, which allows borrowers to decide on options based on a phone conversation and not based on documents submitted for later review, further highlight the need to facilitate effective communication. Given the increased importance of conversations in this streamlined process, the face-to-face meeting rule is as critical as ever.

We agree with HUD that the face-to-face meeting regulation and guidance should account for improvements in technology while ensuring that more borrowers actually have the in-depth conversations with servicers that 24 C.F.R. § 203.604 contemplates. In order to accomplish this, we believe that the rule should mandate meetings with borrowers that meet these basic criteria.

- **Meaningful:** HUD's revised face-to-face meeting guidance should continue to require servicers to provide a representative at the meeting that has actual authority to make an offer of a loss mitigation option to the borrower. By having a face-to-face meeting with a representative with authority, borrowers can fully resolve their hardship after having an opportunity to discuss the possibilities and ask questions. Such a meeting is consistent with the current FHA-insured waterfall, which allows borrowers to select options based on the phone conversation.
- **Accessible.** HUD's face-to-face meeting rule should be an important tool for improving communication between servicers and all borrowers, including borrowers with disabilities and limited English proficiency. Currently, FHA's required servicer communications and outreach do not ensure that borrowers with these specific needs are receiving information about loss mitigation options in a manner they can utilize.

HUD should require servicers to communicate in writing about the revised face-to-face meeting in the borrower's preferred language and to explicitly offer simultaneous oral interpretation for any borrower who expresses a language preference other than English. In addition, as noted in [recommendations](#) we have made under separate cover, FHA should add to its current regulations by requiring servicers to ask about language preference and provide loss mitigation information in-language.

To improve accessibility, HUD should also continue to refer borrowers to available HUD-approved housing counselors in all communications. Many borrowers will be more comfortable and better able to understand and access their options when they have the assistance of housing counselors during the meetings, whether they are conducted in person, through video-conferencing, or over the phone. HUD should promote the use of housing counseling and ensure that for homeowners who need in-person interaction, the housing counseling agency can meet with the homeowner in-person and help to coordinate the internet or phone call with the servicer.

- **Consistent.** In order to ensure that all borrowers receive the same meaningful service, any revised face-to-face rule that incorporates improvements in technology should apply to all servicers without exception. By expanding the ways in which servicers can satisfy the face-to-face meeting rule, HUD will have eliminated any need for an exception that allows servicers to not offer a meeting to borrowers who live more than 200 miles from a branch office.
- **Required.** HUD should maintain the face-to-face meeting as one of the mandatory steps servicers must satisfy before proceeding with foreclosure. In order to confirm servicer compliance with the obligations to arrange a meeting, HUD should maintain the requirement for written notice by certified mail of the borrower's right to a meeting. The notice should list up-to-date contact information for the nearest HUD-approved housing counselors. The notice should inform the borrower that the housing counselor may appear with the borrower in person, by video conferencing, or by phone.
- **Secure.** Because of the unreliability of electronic communications, HUD should continue its policy of requiring written notice by certified mail of the borrower's right to a meeting. If HUD will allow the use of electronic communications to satisfy any aspect of the face-to-face meeting obligation, it must ensure that servicers are genuinely reaching borrowers and are not sending communications to fake or unused accounts. For example, we have seen originators and brokers send disclosures to vendor-supplied email addresses in the context of Property Assessed Clean Energy (PACE) loans where homeowners are unlikely to actually receive the information. HUD should ensure that authentic communications occur and that rules allowing electronic communications are followed.

We look forward to working with you on this rule. If you have any questions or would like to meet about this letter, please contact Steve Sharpe at [ssharp@nclc.org](mailto:ssharpe@nclc.org).

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)