

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

6 CFR Part 46

DEPARTMENT OF AGRICULTURE

7 CFR Part 1c

DEPARTMENT OF ENERGY

10 CFR Part 745

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1230

DEPARTMENT OF COMMERCE

15 CFR Part 27

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 431

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 225

DEPARTMENT OF JUSTICE

28 CFR Part 46

DEPARTMENT OF LABOR

29 CFR Part 21

DEPARTMENT OF DEFENSE

32 CFR Part 219

DEPARTMENT OF EDUCATION

34 CFR Part 97

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 16

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 26

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 46

RIN 0937-AA02

NATIONAL SCIENCE FOUNDATION

45 CFR Part 690

DEPARTMENT OF TRANSPORTATION

49 CFR Part 11

Federal Policy for the Protection of Human Subjects

AGENCIES: Department of Homeland Security; Department of Agriculture; Department of Energy; National Aeronautics and Space Administration; Department of Commerce; Social Security Administration; Agency for International Development; Department of Justice; Department of Labor;

Department of Defense; Department of Education; Department of Veterans Affairs; Environmental Protection Agency; Department of Health and Human Services; National Science Foundation; and Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services and the other Federal Departments and Agencies listed in this document are extending the comment period on the Federal Policy for the Protection of Human Subjects notice of proposed rulemaking. The NPRM requests comment on proposed revisions to modernize, strengthen, and make more effective the Federal Policy for the Protection of Human Subjects that was promulgated as a Common Rule in 1991. The NPRM was published in the **Federal Register** on September 8, 2015.

DATES: The comment period for the NPRM published on September 8, 2015 (80 FR 53933), is extended by 30 days and thus will end on January 6, 2016.

ADDRESSES: You may submit comments, identified by docket ID number HHS-OPHS-2015-0008, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Enter the above docket ID number in the "Enter Keyword or ID" field and click on "Search." On the next Web page, click on "Submit a Comment" action and follow the instructions.

- *Mail/Hand delivery/Courier [For paper, disk, or CD-ROM submissions] to:* Jerry Menikoff, M.D., J.D., OHRP, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852.

Comments received, including any personal information, will be posted without change to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Jerry Menikoff, M.D., J.D., Office for Human Research Protections (OHRP), Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852; telephone: 240 453-6900 or 1-866-447-4777; EMAIL: Jerry.Menikoff@hhs.gov.

SUPPLEMENTARY INFORMATION: Since the NPRM was published on September 8, 2015 (80 FR 53933), participating departments and agencies have received requests to extend the comment period to allow sufficient time for a full review of the NPRM. The departments and agencies listed in this document are committed to affording the public a meaningful opportunity to comment on the NPRM and welcome comments.

Dated: November 20, 2015.

Sylvia Burwell,

Secretary of the Department of Health and Human Services.

[FR Doc. 2015-30122 Filed 11-24-15; 8:45 am]

BILLING CODE 4150-36-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064-AE38

Treatment of Financial Assets Transferred in Connection With a Securitization or Participation

AGENCY: Federal Deposit Insurance Corporation (“FDIC”).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing a rule that would revise a provision of its Securitization Safe Harbor Rule, which relates to the treatment of financial assets transferred in connection with a securitization or participation, in order to clarify a requirement as to loss mitigation by servicers of residential mortgage loans.

DATES: Comments on the Proposed Rule must be received by January 25, 2016.

You may submit comments, identified by RIN number, by any of the following methods:

- *Agency Web site:* <http://www.FDIC.gov/regulations/laws/federal/>. Follow instructions for submitting comments on the agency Web site.

- *Email:* Comments@FDIC.gov. Include RIN 3064-AE38 in the subject line of the message.

- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All comments will be posted without change to <http://www.FDIC.gov/regulations/laws/federal/>.

www.fdic.gov/regulations/laws/federal/, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

George H. Williamson, Manager, Division of Resolutions and Receiverships, (571) 858-8199. Phillip E. Sloan, Counsel, Legal Division, (703) 562-6137.

SUPPLEMENTARY INFORMATION

I. Background

The Federal Deposit Insurance Corporation (FDIC), in regulations codified at 12 CFR 360.6 (the Securitization Safe Harbor Rule), set forth criteria under which in its capacity as receiver or conservator of an insured depository institution the FDIC will not, in the exercise of its authority to repudiate contracts, recover or reclaim financial assets transferred in connection with securitization transactions. Asset transfers that, under the Securitization Safe Harbor Rule, are not subject to recovery or reclamation through the exercise of the FDIC’s repudiation authority include those that pertain to certain grandfathered transactions, such as, for example, asset transfers made prior to December 31, 2010 that satisfied the conditions (except for the legal isolation condition addressed by the Securitization Safe Harbor Rule) for sale accounting treatment under generally accepted accounting principles (GAAP) in effect for reporting periods prior to November 15, 2009 and that pertain to a securitization transaction that satisfied certain other requirements. In addition, the Securitization Safe Harbor Rule provides that asset transfers that are not grandfathered, but that satisfy the conditions (except for the legal isolation condition addressed by the Securitization Safe Harbor Rule) for sale accounting treatment under GAAP in effect for reporting periods after November 15, 2009 and that pertain to a securitization transaction that satisfies all other conditions of the Securitization Safe Harbor Rule (such as asset transfers, together with grandfathered asset transfers, are referred to collectively as Safe Harbor Transfers) will not be subject to FDIC recovery or reclamation actions through the exercise of the FDIC’s repudiation authority. For any securitization transaction in respect of which transfers of financial assets do not qualify as Safe Harbor Transfers but which transaction satisfies all of its other requirements, the Securitization Safe Harbor Rule provides that, in the event the FDIC as receiver or conservator remains in monetary default for a specified period under a

securitization due to its failure to pay or apply collections or repudiates the securitization asset transfer agreement and does not pay damages within a specified period, certain remedies can be exercised on an expedited basis.

Paragraph (b)(3)(ii) of the Securitization Safe Harbor Rule sets forth conditions relating to the servicing of residential mortgage loans. This paragraph includes a condition that the securitization documents must require that the servicer commence action to mitigate losses no later than ninety days after an asset first becomes delinquent unless all delinquencies on such asset have been cured.

In January, 2013, the Consumer Financial Protection Bureau (CFPB) adopted mortgage loan servicing requirements that became effective on January 10, 2014. One of the requirements, set forth in Subpart C to Regulation X, at 12 CFR 1024.41, in general prohibits a servicer from commencing a foreclosure unless the borrower’s mortgage loan obligation is more than 120 days delinquent. This section of Regulation X also provides additional rules that, among other things, require a lender to further delay foreclosure if the borrower submits a loss mitigation application before the lender has commenced the foreclosure process and requires a lender to delay a foreclosure for which it has commenced the foreclosure process if a borrower has submitted a complete loss mitigation application more than 37 days before a foreclosure sale.¹

II. Discussion

While the Securitization Safe Harbor Rule does not define what constitutes action to mitigate losses, the preamble to the notice of proposed rulemaking that preceded issuance of the Securitization Safe Harbor Rule² stated, “In this connection, it is important to note that action to mitigate losses may include contact with the borrower or other steps designed to return the asset to regular payments, but does not require initiation of foreclosure or other formal enforcement proceedings.”³ Accordingly, it should be unlikely that the 90-day loss mitigation requirement of the Securitization Safe Harbor Rule would conflict with the foreclosure commencement delays mandated by the CFPB under Regulation X. However, as there may be circumstances where commencement of foreclosure is the only available and reasonable loss mitigation action, the FDIC is proposing

¹ See 12 CFR 1024.41(f) and (g).

² 77 FR 27471 (May 17, 2010).

³ 77 FR 27479.