July 5, 2019

Mr. Brian Montgomery
Acting Deputy Secretary
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410-8000

Re: Docket No. FR-6051-A-01, Federal Housing Administration (FHA): Single-Family Loan Sale Program; Advance Notice of Proposed Rulemaking and Request for Public Comment

Dear Mr. Montgomery:

Thank you so much for the opportunity to provide input on the design and operation of the FHA Single Family Loan Sale Program (SFLS).

The National Community Stabilization Trust (NCST) is a non-profit, non-partisan organization that works to restore vacant and abandoned properties to productive use and to protect neighborhoods from blight. Established in 2008, NCST has worked with hundreds of local partners across the nation to address the needs of more than 26,000 properties. NCST operates a national REO "first look" program and technology platform that serves as a bridge between financial institutions with foreclosed homes and community development organizations hoping to acquire and rehabilitate those homes. We also manage a portfolio of highly distressed mortgage loans, which originally included approximately 1,300 loans.

We are joined in this comment letter by several organizations with which we work closely. These include the Center for Community Progress, the Center for New York City Neighborhoods, MHANY Management, and Preserving City Neighborhoods HDFC (PCN).[1] Several of these organizations have been involved with the

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[1] The Center for Community Progress aims to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. A national leader in land policy and land banking, Community Progress works with communities across the country to assess and reform the underlying policies and practices that govern the use and reuse of land.

The Center for NYC Neighborhoods works to promote and protect affordable homeownership in New York so that middle – and working-class families are able to build strong, thriving communities. Its programs include housing counseling, disaster response, and property rehabilitation.

Community Restoration Fund (CRF), which purchased a pool of notes from FHA in a direct sale and which has bid on several other note pools.

Our work in distressed residential markets, both with REO properties and nonperforming loans, informs our comments on the FHA SFLS program. Residential vacancies and foreclosures decrease the value of surrounding homes, increase blight, reduce the tax base, and attract crime as well as threats to neighborhood health and safety. Consequently, we are generally supportive of programs that reduce foreclosures and vacancies, but the question still remains whether the SFLS program as a whole has had the intended results.

As you know, while the SFLS program had existed at a very small scale for years, the number of sales and the size of the pools increased exponentially in 2012, when FHA renamed the program as the Distressed Asset Stabilization Program (DASP). While FHA made an effort to promote favorable results for homeowners and communities through its development of "Neighborhood Stabilization Outcomes" (NSO) pools with outcome requirements, these NSO pools were only a small subset of the loans being sold. Consequently, the vast majority of the almost 100,000 loans sold through DASP in its early years had essentially no requirements for buyers.[2]

In 2015, in response to increased public scrutiny of the program[3] and interest from the nonprofit community, FHA issued a comprehensive set of DASP guidelines in mid-2015. After releasing some public data and engaging in a dialogue with numerous stakeholders, FHA issued significantly enhanced guidelines in mid-2016. These new guidelines should have resulted in better outcomes both for homeowners and for communities.

MHANY Management, Inc., is a HUD certified community housing and development organization preparing first time homebuyers for home ownership and providing counseling to current homeowners in default or at risk of foreclosure. MHANY also has a rental portfolio of 1,800 small, scattered-site affordable apartments.

Preserving City Neighborhoods HDFC (PCN) is a not-for-profit organization that acts as a vehicle for the New York City Department of Housing Preservation and Development (HPD) to acquire overleveraged mortgage notes for the purpose of repositioning and preserving distressed or at-risk of distressed housing in the city. Through the Community Restoration Fund (CRF), PCN, with its program partners HPD, the Center for New York City Neighborhoods, MHANY Management, Inc., and the National Community Stabilization Trust, successfully won a FHA DASP pool in 2015 and a Fannie Mae Community Impact Pool in 2017 with the goal of achieving optimal outcomes for the properties and homeowners while implementing cohesive neighborhood strategies.

[2] Despite the very large scale reached in this program soon after 2012, FHA continued to refer to it as a demonstration program and did not engage in a formal rulemaking process until now.

[3] Sarah Edelman, Julia Gordon, and Aashna Desai, "Is the FHA Distressed Asset Stabilization Program Meeting Its Goals?" (Center for American Progress, Sept. 2014), available at https://cdn.americanprogress.org/wp-content/uploads/2014/09/Edelman-DASP-report.pdf.

Unfortunately, only one additional sale took place after 2016 improvements, and because the last public reporting of results took place in March 2017 - far too early to learn anything meaningful about the September 2016 sales - it is impossible to analyze whether the changes resulted in better outcomes. This is especially true with respect to the nonprofit-only pools, as well as the "last look" opportunity for nonprofits to purchase a small percentage of loans out of the larger pool.

As DASP sales ground to a halt, FHA launched a new type of sale: the vacant (HECM) pool. These loan pools comprised vacant homes secured by reverse mortgages whose owners had passed away. Taking the position that there was no need to use the DASP guidelines because the type of loan in the pool was so different, despite hearing from NCST and other organizations that guidelines were still critical for the sake of the communities in which these loans were located, FHA moved forward with these sales with the same lack of transparency or guidelines that characterized the early DASP sales. While more than 4,000 loans with a total outstanding UPB of more than $800 million have been sold through this program so far, no public data has ever been released.

FHA sales of non-performing assets should provide the maximum benefit to the public and taxpayer by requiring that all note buyers of all pools achieve specific outcomes that support homeowners and neighborhoods. While our experience is that mission-driven nonprofit organizations will work harder to achieve results that benefit the community, we recommend a focus on "outcomes over ownership" to level the playing field and discourage gaming of the system, such as the incorporation of an entity as a nonprofit simply to access program set-asides.

Most important, the sale of a loan out of the FHA program should not result in worse outcomes for either the borrower or the neighborhood than if the loan had remained in the program. A buyer or sub-buyer of these notes should be required to offer at least as favorable loss mitigation options as FHA provides, and they should not be permitted to dispose of REO in ways inconsistent with the agency's own policies.

Finally, while the focus of this ANPR is on the auction program, we strongly encourage HUD to make more frequent use of direct sales to municipalities and nonprofits using appropriate price modeling that supports desired outcomes. The pressure to "bid down" the costs of handling notes can prevent the achievement of desirable results when those results prove to be expensive to achieve.

Responses to Selected ANPR Questions

Below, NCST provides responses to selected questions asked in the ANPR for which we believe we can offer relevant comments based on our own experience.

3.0.2 FHA Single Family Loan Sale Bidders & Purchasers

(2) What type of loan pooling is most desirable for the loans offered through the Program?

For cities, community development organizations, and others working on a local level to achieve neighborhood-positive results, small pools and geographically concentrated pooling is most useful. FHA currently aims for these characteristics mainly in its NSO and nonprofit pools, which are not the bulk of the notes being sold. Especially as REO inventories fall, we recommend that FHA reorient its priorities away from large, national pools toward smaller and geographically concentrated pools. As we discuss below, we also recommend that HUD develop outcome requirements for all pools, not just NSO pools.

FHA could also work with nonprofit organizations to develop larger pools designed for their needs. Two years ago, NCST, New Jersey Community Capital, and Hogar Hispano, Inc., formed a special purpose vehicle to bid on a Fannie Mae pool. We worked with Fannie Mae in advance to create a customized pools of assets in multiple jurisdictions where we had community-based partners interested in acquiring loans and/or helping to resolve those loans. HUD should consider a similar approach.

(5) What amount of time is needed by bidders to evaluate due diligence materials to enable participation in the Program?

The time needed to evaluate due diligence materials is vastly different for large investors versus smaller, mission-focused organizations. HUD has already recognized this through its longer due diligence timeline for non-profit only pools. We think that a time frame of at least 30 days and possibly 45 or 60 days depending on the geography of the pool would be appropriate for all pools if FHA would like to increase nonprofit or other mission-focused participation.

(6) What are the greatest obstacles for someone interested in purchasing notes?

There are four significant obstacles to purchasing notes: (1) capital availability; (2) due diligence capacity; (3) experienced personnel; and (4) availability of appropriate servicing and property preservation for the notes post-purchase.

The nonprofits most likely to participate are ones that already have expertise in managing notes, some because they themselves function as a lender and already have a relationship with servicers, and some because they hold large portfolios of properties and have been able to convert that expertise to notes.

a. **What sorts of entities have the actual capacity to purchase and service notes and has that population changed over the Program's existence?**

The important question is not what sorts of entities have the capacity to purchase notes as the program and pools are currently configured, which of course is large investment funds (such as private equity firms and hedge funds) or specialty mortgage servicers that are subs or affiliates of investment funds. The more relevant question is what sorts of entities or partnerships could best advance the long-term interests of FHA and the MMIF and how the program should be structured to enable those entities to purchase the notes.

NCST's own experience suggests that FHA can, if it wants to, sell notes in a way that both supports the health of the MMIF and also promotes sustainable, affordable homeownership and a healthy housing market. This goal can be achieved if the program prioritizes helping existing homeowners avoid unnecessary foreclosure and, when foreclosures are necessary, making the foreclosed homes easily available as affordable, sustainable starter homes for qualified homebuyers.

Currently, the program is not well designed for participation by buyers whose mission is well aligned with FHA's mission. Rather, it favors large investment firms as well as buyers who are purchasing notes not because they want to be in the mortgage business, but because they are seeking financial returns for their investors or seeking a way to access additional inventory for their single-family rental portfolios before they are in competition with other buyers. The economics of single-family rental means investors planning on that execution can bid more for notes than note buyers focused either on loan modifications or returning the homes to homeownership can bid.

Under the program's current configuration, only a few nonprofits have developed the ability to participate, and it is not clear that all of them will participate in a way that will lead to any more favorable outcomes than the purchases by for-profits. The goal should be to develop a program that can harness the experience and mission of the many nonprofits and municipalities with deep expertise in single-family real estate development. FHA should reconfigure the program to enable these organizations to access the notes. NCST is happy to work with FHA to develop ideas for how that can be done.

b. **Has purchaser eligibility, based on requirements imposed by FHA, been an issue?**

Purchaser eligibility has been an issue only because many nonprofits lack the capacity that FHA is looking for. However, this capacity is critical for successfully managing a note portfolio. If FHA takes the other steps recommended in this letter to help nonprofits develop capacity and to make it easier for smaller and more resource-constrained entities to participate, eligibility should become less of an issue.

c. **What are the benefits and drawbacks of partnership participation in the Program (e.g., for-profit purchasers partnering with nonprofits)? Should the Program do more to facilitate such partnerships?**

As several of the organizations submitting this letter have themselves participated in a partnership – the Community Restoration Fund - between a municipality (New York City) and several nonprofits that purchased a pool of FHA notes, we are highly supportive of partnerships in this context. In addition, in its REO work, NCST has facilitated many productive partnerships in the single-family acquisition and rehab space, including partnerships between nonprofits and for-profits as well as between nonprofits and nonprofits or nonprofits and municipalities.

The key benefit of partnerships is that each party brings potentially complementary strengths to the table: capital, services, skills, relationships, etc. For this reason, partnerships can enable high quality and effective work that would not be possible for one entity alone. This is true not only for nonprofits, which often have excellent skills and relationships but less access to capital or personnel, but also to municipalities and to for-profits, which may bring capital and capacity but do not have local relationships or experience managing distressed assets.

As for drawbacks, partnerships fail when partners do not carry their weight, when they disagree about who controls what, and/or when timely decision-making is impaired. Thus, it's crucial to define in detail both the responsibility and the decision-making authority of each partner. The type of partnership is also important. For example, if a for-profit would like to retain overall control of the portfolio but needs a focused type of service or expertise from a nonprofit, the style of partnership that might make the most sense is for a for-profit to contract with a nonprofit for specific services using a Statement of Work or Memorandum of Understanding, rather than entering into a formal Joint Venture.

Either way, the participation of a nonprofit is only meaningful for program outcomes if the partnership provides that nonprofit with control over decision-making in the areas where the nonprofit involvement is supposed to have impact. For example, if the nonprofit's key role is to make right party contact with homeowners and engage in loss mitigation discussions, the nonprofit should have decision-making authority to develop and execute that outreach and loss mitigation plan without the need to constantly get a sign-off from the for-profit partner. FHA should not support partnerships in which the nonprofit is little more than a "fig leaf" for the for-profit so that the for-profit can access certain programs or assets.

We encourage FHA to try to support ways for interested for-profits, nonprofits, and municipalities to explore the potential for partnership, and given our experience doing just that, we believe we could be a useful resource for FHA in moving such matchmaking efforts forward. NCST in particular stands ready to partner with any

entity to provide neighborhood-positive asset management as well as a technology solution for tracking note outcomes.

3.1 Community Impacts

(1) What benefits has the Program provided communities?

There are ways in which the existing program could potentially provide benefit to communities, but at present, the public does not have sufficient data to determine the extent of such benefits. FHA's reporting on loan outcomes has been minimal, with aggregate numbers and vague definitions that do not yet tell a coherent story. Also, FHA has not publicly reported on DASP outcomes at all since March 2017, and it has never publicly reported on outcomes of other types of single-family loan sales.

We would consider the note sales to provide a benefit to families if the program is enabling more homeowners to obtain loan modifications with principal reduction. Since FHA's loss mitigation program prohibits its servicers from providing principal reduction, this meaningful tool is only available to these borrowers if the note is sold out of the FHA program. However, we do not have data on what percentage of borrowers have received loan modifications with principal reduction.

HUD has often touted the benefit to a homeowner receiving a "second bite at the apple" for loss mitigation generally, but it makes us uncomfortable that FHA borrowers need to have their loans sold out from under the FHA program in order to receive meaningful assistance. The fact is that FHA rules outline robust loss mitigation requirements and pay their loan servicers more than other origination channels do to cover the costs of these requirements. Indeed, one of the reasons borrowers pay a premium for their loans is to receive the protection afforded by FHA's loss mitigation regime.

Unfortunately, FHA has not found a way either to require existing servicers to provide borrowers with the loss mitigation that they are contractually obligated to provide or to enable servicers to easily transfer loans to the specialty default servicers who now handle nonperforming loans from other origination channels. Thus, for the short term, solving these problems through loan sales may be appropriate as long as borrowers do not lose any of their rights and as long as the interests of neighborhoods are respected and steps are taken to ensure the outcomes don't undercut currently performing FHA loans by reducing the value of those properties. In the longer term, FHA needs to fix its own servicing system to manage defaults.

We would also consider the program a success if it speeded up the process of returning distressed assets to productive use in the communities. The longer that a mortgage is in the foreclosure process, the more likely it is that the property will fall into disrepair and/or become vacant. Poorly maintained and/or vacant properties

result in blight, reduction in the home values of neighboring properties, and negative affects related to crime, fire, health and safety.

However, we do not have any way of knowing if the SFLS program provides any benefits in this respect, because there is no control group comparison. If sale of the loans does result in quicker resolution of the notes, either with a re-performing homeowner or with a foreclosure followed by rehab (if needed) and sale to an owner occupant or responsible landlord, the program theoretically could provide a benefit to communities. As with our comment on loss mitigation, we recommend that FHA put as much effort into enforcing its own foreclosure timelines and improving its own conveyance process and REO alternatives as it does into running the SFLS program.

(2) What, if any, adverse effects has the Program had on communities?

At present, the adverse effects of the program are more readily apparent than the benefits.

One frequently noted adverse affect has been on homeowners seeking loss mitigation. Homeowners whose loans have been included in SFLS pools no longer can take advantage of the loss mitigation options required under the FHA insurance program, but because the program does not provide borrowers with prior notice that their loan could be sold, they do not have an opportunity to dispute the servicer's representation that loss mitigation was fully exhausted. There are multiple examples (some of which are now being litigated) in which loans have been placed in pools while borrowers were in the middle of active loss mitigation discussions. Additionally, there are allegations that the program has a disparate impact on communities of color. For significantly more detail on these adverse affects, we refer you to the comment letter submitted on July 5, 2019, by the National Consumer Law Center, et al., which we believe provides an excellent overview. That letter also notes a concern about the role of land installment contracts, which we have seen cause severe damage in the neighborhoods where we work.

Since that subject matter was covered well, we will focus on the role that bulk note sales play in the massive transition of single-family homes from owner-occupancy to rental, which we believe has a significant adverse effect on communities and family prosperity.

By way of background, while estimates vary, it appears that somewhere between 6 and 10 million families lost their homes to foreclosure over the course of the financial crisis. Consequently, the total homeownership rate in America moved from close to 70 percent to approximately 64 percent. Even more concerning, the rate of

homeownership for black families has dropped from 50 percent to 43 percent.[4] According to the Urban Institute, black homeownership is now at rates last seen before the passage of the Fair Housing Act outlawing racial discrimination in housing.[5]

Many of these formerly owner-occupied homes are now owned and rented out by investors. Zillow estimates that 5.4 million single- family homes have transitioned from owner-occupied to rental between 2006 and 2017.[6] Unlike in previous downturns, investors who purchased at the bottom of the market did not resell once prices had recovered. Instead, investors in the market have stayed, creating a new asset class of large, scattered-site, single-family rental portfolios. With rents in most parts of the country at all-time highs and new financial structures to support rental, such as securitization of single-family rental cash flows, the economics of single-family rental are now more favorable to most investors than flipping homes.

By competing with potential homeowners and reducing available supply of affordable homes, this ramped-up investor activity in the single-family market has helped lock in the crisis-driven reduction in homeownership even as family incomes and employment have recovered. While single-family rental has always been very large part of the rental market, today *more than half* of all renters now live in single-family properties, and almost one fifth of all single-family properties are occupied by tenants rather than homeowners.

As part of this shift, there has been a dramatic increase in the size of the single-family rental portfolios owned by private equity funds, real estate investment trusts (REITs), and another large investors. These institutional investors are especially likely to own portfolios of homes that were previously owner-occupied before the foreclosure crisis and that constitute the type of modest, affordable stock typically favored by first-time homebuyers. The private REITs and smaller investors, on the other hand, often focus on more distressed homes in lower-priced markets, where the continued shortage of rental housing enables them to charge rents almost as

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[4] Statistics from "The State of the Nation's Housing 2018" (Joint Center for Housing Studies of Harvard University, 2019), available at https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf.

[5] Laurie Goodman and Alanna McCargo, "A Closer Look at the Fifteen year Drop in Black Homeownership (Urban Institute, Feb. 13, 2019), available at https://www.urban.org/urban-wire/closer-look-fifteen-year-drop-black-homeownership.

[6] Aaron Terrazas, "Rising Single-Family Home Rentals Dampening Home Sales" (Zillow, Dec. 12, 2017), available at https://www.zillow.com/research/single-family-rentals-bottom-17595/

high as those in the stronger markets although they rarely invest in fixing up the property. Both of these models cause problems (albeit different ones) for neighborhoods.

Although the majority of single-family rentals are still owned by individual investors with only small portfolios (between 1-10), these are not the mom-and-pop investors of days past. The profile of these investors has changed in large part due to technological advances, which enable individuals to access properties thousands of miles from where they themselves live (many single-family landlords live outside of the United States), and tech apps that let people become landlords with a very small investment in a portion of a rental home. These "absentee landlords" are much less likely to have a personal relationship with their tenants, and most rely exclusively on property managers – including national operations such as Renter's Warehouse – to manage their holdings. Additionally, many of these small investors are funded by the larger investors; for example, Blackstone, which famously owns hundreds of thousands of single-family rentals, also provides a great deal of financing to smaller investors.

The growth of this asset class is a boon for a lot of people in the industry raises serious concerns for homebuyers, tenants, and neighborhoods. First and foremost, investors crowd out aspiring owner-occupants. This is especially true when they pay in cash and find homes through outlets that the typical homebuyer has no ability to access, such as purchasing notes through FHA's SFLS program and similar programs. Typical families cannot compete with these sophisticated and wealthy purchasers. Additionally, as more homes become rentals, this further reduces the supply of homes available for purchase, which drives up prices and makes homeownership ever more out of reach for many families.

Evidence is also mounting that many of the new breed of investors treat tenants worse than the old-style "mom and pop" landlords. Securitization and other innovative financing mechanisms require them to push rents as high as possible. Along with a failure to rehab, owners of distressed properties sometimes pass off their responsibility to maintain rental units onto the tenants under the guise of predatory products such as "rent to own" schemes. Even investors who focus on nicer properties in middle-class neighborhoods still engage in sharp practices such as "charge-backs," where tenants ultimately are required to cover the cost of certain repairs to the house. In one of the few studies of this issue, the Federal Reserve Bank of Atlanta found that large institutional investors were more likely to evict their tenants than smaller landlords.

The growth of single-family rental is affecting neighborhoods as well as individual families. While many renters are extremely responsible stewards of their homes, the transition of a neighborhood from homeownership to rental often parallels a larger pattern of disinvestment in that neighborhood. Unlike the traditional mom-and-pop investors who often lived at least in the same city if not the same neighborhood as

their properties, Wall Street landlords do not contribute to the local economy or engage in civic participation.

Finally, we have yet to understand the full impact of investor ownership on home values over the long term. The SEC has reportedly opened an investigation into whether appraisals for single-family securitizations were inflated to increase the value of the bonds – which is ironic if that is in fact happening, because institutional investors often petition local governments to reduce their tax assessments on the properties at issue.[7] It is hard to track a particular type of investor's effect on neighborhood values when figuring out the identity of who owns properties is so difficult. And, if a downturn comes, there is the possibility that investors exit the market en masse, either releasing liens on their low value properties (leaving the vacancies and blight for the local municipalities to deal with) or selling in bulk to other third parties, thereby putting significant downward pressure on home values in those neighborhoods.

We strongly urge FHA to ensure that the SFLS program is not a glide path to turning owner-occupied homes into rentals. As we have noted in the other answers, it is critical to require outcomes that avoid unnecessary foreclosures and that prioritize getting foreclosed properties rehabbed and back into the hands of owner occupants whenever possible. FHA and its note buyers should use NCST's technology platform to help note buyers offer a "first look" to homebuyers or community organizations doing single-family acquisition and rehab.

(3) What changes, if any, in the sale structure, loan eligibility criteria, or post sale requirements on purchasers would improve community impacts? What are the policy trade-offs (e.g., potential adverse impact on bid pricing) of such changes?

Over the years, NCST has recommended several changes to the program that we believe would improve community impacts. These changes can be broken into three buckets: bid process, outcome requirements, and data collection/reporting.

***Bid Process**:*

NCST has several recommendations for improving the bid process to enable participation by mission-focused organizations. First, as discussed above, smaller and more geographically concentrated pools, customized pools, and a longer due diligence period could make a significant difference.

[7] Epstein, Lisa, "Single-Family Rental Industry: Companies Keep Tenant Security Deposits, Pad Move-Out Statements, Turn Former Tenants' Accounts Over to Debt Collectors," The Capitol Forum newsletter, Feb 2, 2018.

Second, FHA should continue to improve its system for offering a "last look" to nonprofits. Currently, FHA enables nonprofits to select a small percentage of loans from a larger pool after an auction has been completed, and to receive those loans at the bid price. Originally developed for the last DASP pool sold in 2016, the last look system has evolved in the HECM sales to be an increasingly useful way for nonprofits to obtain loans in geographies where they are working. We recommend that FHA permit nonprofits to match (or exceed by a basis point) a winning bid by a for-profit for entire pools as well as for subsets of pools.

Third, FHA should improve its direct sales process to dispose of more loans in this manner. As noted previously, while auctions might appear to advantage the MMIF in the short term because they push the price up, the fact is that if buyers overpay for these loans, the on-the-ground outcomes will be worse because they will not have the resources needed to manage these notes in the most neighborhood-positive way – and because FHA loans tend to be concentrated in certain neighborhoods, the suboptimal disposition of notes can have a deleterious effect on the MMIF in other ways, by pushing up default rates or loss severities. To improve direct sales, FHA should work with OMB to develop a more accurate valuation method that takes into account the desired outcomes.

Outcome Requirements:

Through working on our own note portfolios, we understand how to achieve the best possible outcomes with nonperforming loans.

The highest priority, of course, is to keep homeowners in their homes when possible. Where the homeowner expresses a willingness to stay and the property does not present a health and safety hazard to the neighborhood, we make every effort to keep the homeowner in the property. We reduce principal ideally below current BPO value or at least as low as possible, reduce the monthly payment to an affordable level, and not reset during the life of the modified loan. Similarly, cash settlements with the borrower to release the mortgage can occur at BPO value or below.

For homeowners who do not wish to or cannot stay in the home, we work with them to offer foreclosure alternatives, such as a short sale with all deficiencies waived or a deed-in-lieu-of-foreclosure. Offering a financial incentive/relocation payment can be a helpful tool. Additionally, if a legitimate tenant occupies the property, either honor the lease or find another option for the tenant, including enabling them to purchase the home themselves.

For vacant properties or properties with no legitimate tenants, we aim to foreclose or donate the property as quickly as possible. It is critical to work with local authorities to expedite local control of property. In some instances, the best path may be tax foreclosure, but only if an agreement is reached with the local taxing body – and memorialized in writing - to ensure the property does not continue to sit

vacant after tax sale. In other cases, it makes the most sense to donate the property to qualified local organizations, land banks, municipal bodies or local taxing entities when the property value is less than the cost of foreclosure.

Once a property has become an REO, we pursue the asset resolution that most advantages the community. If the house cannot be rehabbed, we expedite demolition to reduce blight. If the house is saleable, we sell it to a homeowner or, if it needs rehab, we use NCST's "first-look" platform to sell to a community stabilization developer. The home should only be listed on the open market for all buyers, including investors, if all efforts to promote owner occupancy have failed. We only release liens in extreme circumstances where there is literally no other buyer or opportunity for occupancy or where complex title or legal issues are deemed insurmountable (neither situation should be the case if loans have been properly screened prior to being put into a sale pool).

We urge FHA to apply REO outcomes to all pools, not just to NSO pools. To make this more acceptable to the market, we suggest one important change to the outcomes themselves: any sale to an owner-occupant should count as an NSO outcome. If this outcome is added, the standard should be raised above 50 percent, perhaps to 75 percent, although this number should be determined by analysis of the data that is not currently publicly available. Any buyer that cannot meet that standard should not be in the business of managing FHA's nonperforming loans.

Additionally, to reduce the chance that low-value properties will be left to blight neighborhoods, FHA should require buyers to include in their bid packages a "disposition reserve" for lower value properties, so if they ultimately need to demolish the property or rehab it before it can be sold – or want to donate it to a land bank or nonprofit to do the same – they have the cash to cover the costs.

***Data Collection/Reporting**:*

FHA should significantly improve its data collection and publicly disclosure this data in a detailed and timely way. With respect to content, in addition to the information currently reported on pre-foreclosure results, we suggest that note buyers also report on post-foreclosure disposition. For all loans where a foreclosure is completed, the buyer should report whether that REO property was sold to an owner occupant, a community stabilization developer, or to a private investor. (If FHA required that all note buyers put REO properties through a "first look" type system, that system should be able to collect this information without the need for the note buyer itself to do so.)

Note buyers should report quarterly, and in addition to loan level information, that report should include a description of the company's loss mitigation waterfall, including its loan modification protocol and calculation tools currently in use.

FHA should release a summary report to the public no more than 90 days after the close of the quarterly reporting period. It should reflect information about the pools for the most recent quarterly period as well as cumulative data since each pool was sold. Disaggregated data should be made available to the public through a system similar to the HMDA data system but adhering to the same 90 day post-reporting period timeline.

Finally, to most accurately assess the impact of the note sale program, the Secretary shall develop reliable "benchmark" pools of similar FHA-insured loans not sold through a note sale. The loans in these benchmark pools shall be subject to comparable default dates, debt-to-income ratios, property valuations, geographic location, borrower financial resources, and loan-to-value ratios as comparable pools of loans sold through a note sale. In the quarterly reports the Secretary shall compare the loss mitigation performance of the note sale loans with relevant benchmark loans not sold through note sales. FHFA currently uses this benchmark pool system for its note sales reports.

Impact on Pricing:

A complete analysis of this issue is difficult for an external commenter given that there was only one DASP sale after the most recent set of guideline changes and given that public data has not been reported in over two years.

However, based on conversations with investors and a review of bid pricing from 2012-2016, it appears that the majority of the guidelines have very little impact on price. In fact, even the imposition of NSO outcomes does not appear to significantly affect price (which is why NCST recommends outcome requirements for all pools). Rather, pricing more closely tracks the nature and geography of the pool, changes in the housing market/economic environment, and financial innovations such as the securitization of non-performing or re-performing loans.

The one requirement that investors report has the most significant impact on price is the requirement not to foreclose on the home for a year. Ironically, this is the only requirement that consumer and housing advocates never asked for. From NCST's perspective, unnecessarily elongating the foreclosure process for a property where the owner cannot be contacted raises the risk of vacancy and blight. We therefore recommend that even as FHA strengthens its other requirements, it should consider rolling back the foreclosure prohibition to the original six months.

3.2 Other Comments

In addition to the subject areas described above, FHA welcomes any other input that interested parties believe would contribute to the successful design and permanent implementation of the Program.

While this ANPR focuses on sales of notes obtained through the forward mortgage program, any proposed rule should cover all loan pool sales, whether the assets are forward mortgages, reverse mortgages, or other types of mortgages. Otherwise, FHA will have an incentive to continue to design new types of pools that are not subject to the rule.

Thank you again for the opportunity to submit comments concerning FHA's SFLS program. If you have any questions about our responses, please contact Julia Gordon, President, National Community Stabilization Trust, at 202-706-7501.

Submitted by:

Center for Community Progress
Center for New York City Neighborhoods
MHANY Management
National Community Stabilization Trust
Preserving City Neighborhoods HDFC