

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

5 CFR Chapter LXV

24 CFR Part 0

[Docket No. FR-3331-F-01]

RIN 2501-AB55, 3209-AA15

**Supplemental Standards of Ethical
Conduct for Employees of the
Department of Housing and Urban
Development**

AGENCY: Office of the Secretary,
Department of Housing and Urban
Development (HUD or Department).

ACTION: Final rule.

SUMMARY: The Department of Housing and Urban Development, with the concurrence of the Office of Government Ethics (OGE), is issuing a final rule establishing uniform standards of ethical conduct for employees of the Department to supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. The final rule is a necessary supplement to the executive branch-wide Standards because it addresses ethical issues unique to the Department. The final rule will become effective 30 days after the date of publication, and will establish regulations prohibiting certain financial interests and restricting certain outside employment.

EFFECTIVE DATE: This rule is effective on August 8, 1996.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel, Ethics Law Division, 202-708-3815; or Sam E. Hutchinson, Associate General Counsel, Office of Human Resources Law, 202-708-0888. Hearing or speech-impaired individuals may call HUD's TDD number 202-708-3259. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On June 30, 1995, the Department, with OGE's concurrence, published for comment a proposed rule to establish supplemental standards of ethical conduct for HUD employees (60 FR 34420-34426). The proposed rule was intended to supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) published by OGE on August 7, 1992, and effective February 3, 1993 (57 FR 35006-35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, with additional grace period extensions for certain existing agency standards of

conduct at 59 FR 4779-4780, 60 FR 6390-6391, and 60 FR 66857-66858). The executive branch-wide Standards, codified at 5 CFR part 2635, establish uniform standards of ethical conduct for executive branch employees. The proposed rule was issued pursuant to 5 CFR 2635.105, which authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. The Department, with OGE's concurrence, determined that the supplemental regulations contained in the proposed rule were necessary to implement the Department's ethics program successfully, in light of the Department's unique programs and operations.

The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. The Department received one public comment, and after careful consideration of it, has made appropriate modifications to the rule. In addition, the Department has made appropriate modifications to the rule based on various intra-departmental comments. The Department, with OGE's concurrence, is now publishing as a final rule the Supplemental Standards of Ethical Conduct for Employees of the Department of Housing and Urban Development, to be codified in a new chapter LXV of 5 CFR, consisting of part 7501.

II. Summary of the Comments

The Department received one public comment; it was from the Federal Home Loan Mortgage Corporation ("Freddie Mac"). The Department also received six intra-departmental comments. Freddie Mac's comments focused primarily on three distinct areas under the proposed rule: scope of coverage, ownership interests, and outside employment. The intra-departmental comments contained both requests for substantive changes and for additional clarification regarding the application of the rule in general or specific sections.

III. Analysis of the Comments

Section 7501.102 Definitions

One commenter within the Department recommended that one portion of the definition of "security" be modified to read that the term "includes" any right to acquire or dispose of any long or short term position in securities. The Department agrees that the suggested language is more reflective of the Department's intent than the originally proposed language and has, therefore,

implemented this revision to the definition of "security" in § 7501.102 of the final rule.

Freddie Mac suggested that the Department include definitions for "employee" and "special Government employee." The Department has not adopted this recommendation because the definitions of those terms in the executive branch-wide Standards, at 5 CFR 2635.102 (h) and (l), apply to supplemental regulations unless otherwise specified.

Section 7501.104 Prohibited Financial Interests

One commenter within the Department recommended that special Government employees assigned to work in one of the program offices listed in § 7501.106(b)(1) not be excluded from the coverage of the financial interest prohibitions in § 7501.104 of the rule, since such employees would have access to the same types of confidential information as would other employees in those offices. The Department has adopted this recommendation to protect against the appearance that any HUD employee is using confidential information for private gain. The proposed exclusion of special Government employees from the coverage of this section has been eliminated.

Another commenter within the Department recommended that the first sentence of the description of prohibited financial interests in real estate, at § 7501.104(a)(4), be amended to read: "Stock or another financial interest in a multifamily project or single family dwelling, cooperative unit or condominium unit, which is owned or subsidized by the Department, or which is subject to a note and mortgage or other security instrument insured by the Secretary, except to the extent that the stock or other interest represents the employee's principal residence." The Department has decided to adopt this language as a better characterization of the Department's interest in various real estate interests covered by the final rule.

Section 7501.105 Outside Employment

One commenter within the Department recommended that the Department include a provision regarding an employee's service on the board of a non-Federal organization in an official capacity, similar to prior 24 CFR 0.735-210 of HUD's old departmental standards of conduct. In response, a Note has been added to this section to clarify that while service in an official capacity on the Board of a non-Federal organization is not outside employment or other activity subject to

this section, employees need to be aware that such service is subject to other applicable laws.

While generally supportive of the outside employment provisions in this section, Freddie Mac wanted the requirements in the section to extend to any type of writing by employees. The Department has included within the coverage of this section those types of outside employment which the Department believes pose the greatest potential for employees to engage in conduct which might violate applicable laws or regulations, and is not convinced that the suggested extension of coverage is warranted.

In addition, Freddie Mac suggested that the public impact of an outside activity in relation to the employee's official position be taken into consideration when deciding whether to grant a waiver, under § 7501.103 of the rule, from the prohibitions in this section. The specific inclusion of the suggested factors in the final rule is uncalled for, because the factors are largely covered by the terms of the waiver standard at § 7501.103, i.e., that application of the prohibition is not necessary to ensure public confidence in the impartiality and objectivity with which the Department's programs are administered.

Section 7501.106 Additional Rules for Certain Department Employees Involved in the Regulation or Oversight of Government Sponsored Enterprises

Freddie Mac noted that the supplemental regulation is not specifically applicable to individuals who serve pursuant to a consulting agreement with the Department. The Department has decided not to make the regulation specifically applicable to consultants, since the generic term "consultants" may include individuals who are independent contractors as well as those who are deemed employees of the Department. Whether a consultant will be deemed an employee of the Department for these purposes depends on various factors, including the type of functions or activities being performed by the consultant for the Department, and the extent of the consultant's supervision by an officer or employee of the Department. A consultant deemed an employee of the Department would be subject to the executive branch-wide Standards and these rules.

Freddie Mac also recommended that the description of prohibited financial interests in § 7501.106(c)(ii) be amended to parallel the description of prohibited financial interests in § 7501.104(a), by adding the terms "issued" and "collateralized" in the description of

prohibited securities in a mortgage institution, a certain percentage of whose originated mortgages involve the Federal National Mortgage Association or Freddie Mac in various specified capacities. This recommendation was adopted to attain uniformity.

A commenter within the Department suggested that employees of the Office of Inspector General and all employees of the Office of Federal Housing Enterprise Oversight be included in the list at § 7501.106(b)(1) of employees covered by the prohibition in this section. The Department has adopted this recommendation to make the prohibitions contained in § 7501.106 uniformly applicable to all employees whose official duties require that they have access to information regarding a Government sponsored enterprise (GSE). Similarly, another commenter within the Department recommended that the Department's Office of Lead-Based Paint and Poisoning Prevention be excluded from coverage under § 7501.106(b)(1), since it is not involved in the regulation or oversight of GSEs. This recommendation was adopted for the reason asserted by the commenter.

This same commenter also recommended that the definition of mortgage institution be amended to include entities that insure mortgages. The Department has adopted this recommendation as a more specific reflection of its intent. In addition, the Department has adopted this commenter's recommendation that an institution's most recent annual financial statement be used to determine whether it exceeds the thresholds contained in § 7501.106(c)(1).

This same commenter also expressed concern that the definition of covered employee in § 7501.106(b)(1), which encompasses only employees who are required to file financial disclosure reports, excludes many employees whose primary job responsibilities significantly include the regulation or oversight of GSEs. To address this concern, the Department has modified proposed § 7501.106(b)(1)(viii) to include the DAEO in the list of those individuals who may designate an employee as a "covered employee" to ensure compliance with the principles set forth in 5 CFR 2635.403. To ensure that the prohibition in this section is not unnecessarily burdensome, the Department has also added a new § 7501.106(b)(2) (the prior proposed paragraph (b)(2) has been redesignated paragraph (b)(3)), which permits the DAEO, upon recommendation of the appropriate individual of Assistant Secretary rank, to exclude in writing an employee otherwise designated as a

"covered employee" if the employee's official duties do not substantially involve the regulation or oversight of GSEs and ownership of the interests prohibited by § 7501.106(c) would not cause a reasonable person to question the impartiality and objectivity with which the Department's programs are administered.

In response to another comment from within the Department, the Department has specifically included the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under § 7501.106(e) to make clear that special Government employees who are covered employees under § 7501.106(b)(1) cannot be employed by any of these organizations or their affiliates. This modification is required to ensure compliance with 5 CFR 2635.403 and because special Government employees are not otherwise subject to the outside employment and other activities provisions of § 7501.105.

IV. Other Changes

An exception is being added to the prohibition in § 7501.104(a)(5) against an employee receiving any Department subsidy provided pursuant to Section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f). Under new § 7501.104(a)(5)(iii), an employee may receive such a subsidy if the tenant of the subsidized unit is the parent, child, grandchild, or sibling of the employee, but only if there is no increase in that tenant's rent upon the commencement of subsidy payments other than normal annual adjustments. This change from the proposed rule reflects current Departmental practice.

In addition, the Department has decided to exclude special Government employees (SGEs) from the prior approval requirement at § 7501.105(c) of the final rule. Proposed § 7501.105(c)(1) would have required all employees of the Department to obtain approval before engaging in certain types of outside employment or activities. Special Government Employees have been subject to this requirement because they are included within the meaning of "employee," as used in the supplemental regulation. However, SGEs were not required to obtain prior approval for outside employment under the Department's old Standards of Conduct. Moreover, SGEs are excluded from the outside employment prohibitions at § 7501.105(a) of the final rule. Accordingly, the Department has concluded that it would be unreasonable to apply the prior approval requirement to SGEs, and is providing in § 7501.103(c)(1) of the final

rule that the prior approval requirement therein applies to employees of the Department, "except special Government employees."

Finally, the Department has decided not to exclude employees who file public or confidential financial disclosure reports in the Office of Housing's Office of Deputy Assistant Secretary for Operations from the list of "covered employees" in § 7501.106(b)(1). Section 7501.106 sets forth additional rules for certain employees involved in the regulation or oversight of the Government sponsored enterprises. The reason for this change is that the Office of Housing has been reorganized since the publication of the proposed rule to give the Deputy Assistant Secretary for Operations programmatic responsibility over matters that affect the Government sponsored enterprises. Accordingly, the exclusionary clause "with the exception of the Office of Deputy Assistant Secretary for Operations" has been deleted from paragraph (b)(1)(ii) containing the definition of "covered employee" for purposes of § 7501.106.

V. Removal of Old Department Standards of Conduct Regulations and Revision of the Residual Cross-Reference Provision

On April 5, 1996, the Department published a final rule that provided for removal of all of the then existing provisions in the Department's old Standards of Conduct regulation at 24 CFR part 0, and their replacement with a single section that provides a cross-reference to 5 CFR parts 2634 and 2635, effective May 6, 1996 (61 FR 15350). To prevent an untimely lapse in enforcement authority for the two sections of 24 CFR part 0 that had temporarily remained in effect pursuant to the extended grace periods in the Standards—§ 0.735-203 regarding outside employment and other activities, and § 0.735-204 regarding financial interests—the Department published a correction to the final rule on May 1, 1996, effective May 6, 1996, preserving those two sections at 24 CFR 0.2 and 0.3. (61 FR 19187-19188). Upon the effective date of the Department's supplemental standards of ethical conduct as a final rule, the Department is amending 24 CFR part 0 to remove the temporarily preserved sections regarding outside employment and financial interests, and to include in the residual cross-reference provision a notation of the Department's newly issued supplemental standards of ethical conduct at 5 CFR part 7501.

VI. Matters of Regulatory Procedure

Regulatory Flexibility Act

It is hereby certified that this rule will not have significant economic impact on a substantial number of small entities. This rule affects only Federal employees and their immediate families.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(k) of the HUD regulations, the policies and procedures contained in this rule relate only to internal administrative procedures whose content does not constitute a development decision nor affect the physical condition of project areas or building sites, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, this rule is only directed toward Federal employees and would not alter the established roles of HUD and the States and local governments. As a result, the rule is not subject to review under the order.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs would result from promulgation of this rule, as those policies and programs relate to family concerns.

List of Subjects

5 CFR Part 7501

Conflict of interests, Government employees.

24 CFR Part 0

Administrative practice and procedure, Conflict of interests.

Dated: July 2, 1996.

Henry G. Cisneros,
Secretary of the Department of Housing and Urban Development.

Approved: July 2, 1996.

Stephen D. Potts,
Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Department of Housing and Urban Development, with the concurrence of the Office of Government Ethics, is amending title 5 and title 24, subtitle A, of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

1. A new chapter LXV, consisting of part 7501, is added to 5 CFR to read as follows:

CHAPTER LXV—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 7501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sec.

- 7501.101 Purpose.
 - 7501.102 Definitions.
 - 7501.103 Waivers.
 - 7501.104 Prohibited financial interests.
 - 7501.105 Outside employment.
 - 7501.106 Additional rules for certain Department employees involved in the regulation or oversight of Government sponsored enterprises.
- Authority: 5 U.S.C. 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803, 2635.807.

§ 7501.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Housing and Urban Development (HUD or Department) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. Employees are required to comply with 5 CFR part 2635, this part, and any additional rules of conduct that the Department is authorized to issue.

§ 7501.102 Definitions.

For purposes of this part, and otherwise as indicated, the following definitions shall apply:

Affiliate means any entity that controls, is controlled by, or is under common control with another entity.

Agency designee, as used also in 5 CFR part 2635, means the Associate General Counsel for Human Resources Law, the Assistant General Counsel,

Ethics Law Division, and the HUD Field Office Assistant General Counsels; the Inspector General, for employees assigned to the Office of the Inspector General; and the General Counsel, Office of Federal Housing Enterprise Oversight, for employees assigned to the Office of Federal Housing Enterprise Oversight.

Agency ethics official, as used also in 5 CFR part 2635, means the agency designees as specified above.

Assistance means any contract, grant, loan, subsidy, guarantee, cooperative agreement or other financial assistance under a program administered by the HUD Secretary, and includes "assistance" awarded by the Department that is competitively redistributed to a second tier of applicants or awardees. The term does not include single family mortgage insurance provided under a program administered by the Secretary.

Designated Agency Ethics Official (DAEO) means the General Counsel of HUD or the Deputy General Counsel (Operations) in the absence of the General Counsel.

Employment means any compensated or uncompensated form of non-Federal employment or business relationship, including self employment, involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product.

Security means all interests in debt or equity instruments. The term includes, without limitation, secured and unsecured bonds, debentures, notes, securitized assets and commercial paper including loans securitized by mortgages or deeds of trust and securities backed by such instruments, as well as all types of preferred and common stock. The term encompasses current and contingent ownership interests including any beneficial or legal interest derived from a trust. Such interest includes any right to acquire or dispose of any long or short position in such securities and also includes, without limit, interests convertible into such securities, as well as options, rights, warrants, puts, calls and straddles with respect thereto. The term shall not, however, be construed to include deposit accounts.

§ 7501.103 Waivers.

The Designated Agency Ethics Official may waive any provision of this part

upon finding that the waiver will not result in conduct inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that application of the provision is not necessary to ensure public confidence in the impartiality and objectivity with which the Department's programs are administered. Each waiver shall be in writing and supported by a statement of the facts and findings upon which it is based and may impose appropriate conditions, such as requiring the employee's execution of a written disqualification statement.

§ 7501.104 Prohibited financial interests.

(a) *General requirement.* This section applies to all HUD employees except special Government employees who are not "covered employees" as defined in § 7501.106(b)(1) of this part. Except as provided in paragraph (b) of this section, an employee, or an employee's spouse or minor child, shall not directly or indirectly receive, acquire or own:

(1) Securities issued by the Federal National Mortgage Association (FNMA) or securities collateralized by FNMA securities;

(2) Securities issued by the Federal Home Loan Mortgage Corporation (FHLMC) or securities collateralized by FHLMC securities;

(3) Federal Housing Administration debentures or certificates of claim;

(4) Stock or another financial interest in a multifamily project or single family dwelling, cooperative unit, or condominium unit, which is owned or subsidized by the Department, or which is subject to a note or mortgage or other security interest insured by the Department, except to the extent that the stock or other interest represents the employee's principal residence. Employees who wish to purchase a Department-held property as a principal residence must adhere to the procedures established by the Assistant Secretary for Housing for the administration of the property disposition program set forth in HUD Handbook 4310.5;

(5) Any Department subsidy provided pursuant to Section 8 of the United States Housing Act of 1937, as amended, (42 U.S.C. 1437f) to or on behalf of a tenant of property owned by the employee. However, an employee may receive such a subsidy when:

(i) The employee acquires without specific intent, as through gift or inheritance, a property which at the time of acquisition has a tenant receiving such a subsidy, but only as long as that tenant continues to reside in the property;

(ii) An incumbent tenant who has not previously received such a subsidy

becomes the beneficiary thereof, but only if there is no increase in that tenant's rent upon the commencement of subsidy payments other than normal annual adjustments; or

(iii) The tenant is the parent, child, grandchild, or sibling of the employee, but only if there is no increase in that tenant's rent upon the commencement of subsidy payments other than normal annual adjustments; or

(6) Any direct creditor interest in a mortgage insured by the Department.

(b) *Exception to prohibition for certain interests.* Nothing in this section prohibits an employee, or the spouse or minor child of an employee, from acquiring, owning, or controlling:

(1) An interest in a publicly traded or publicly available investment fund which, in its prospectus, does not indicate the objective or practice of concentrating its investments in residential mortgages or securities backed by residential mortgages, except those of the Government National Mortgage Association (GNMA), and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund;

(2) A limited partnership interest in a partnership which has at least 5,000 partnership interests, and no more than 25% of the gross value of the partnership interest constitutes projects subject to HUD held or insured mortgages or projects currently receiving the benefit of HUD subsidies; or

(3) Mortgage insurance provided pursuant to section 203 of the National Housing Act (12 U.S.C. 1709) on the employee's principal residence and any one other single family residence.

(c) *Reporting and divestiture.* An employee must report, in writing, to the appropriate agency ethics official, any interest prohibited under paragraph (a) of this section acquired prior to the commencement of employment with the Department or without specific intent, as through gift, inheritance, or marriage, within 30 days from the start of employment or acquisition of such interest. Such interest must be divested within 90 days from the date reported unless waived by the Designated Agency Ethics Official in accordance with § 7501.103.

§ 7501.105 Outside employment.

(a) *Prohibited outside employment.* Subject to the exceptions set forth in paragraph (b) of this section, HUD employees, except special Government employees, shall not engage in:

(1) Employment involving active participation in a business dealing with or related to real estate or manufactured

housing including but not limited to real estate brokerage, management and sales, architecture, engineering, mortgage lending, property insurance, appraisal services, construction, construction financing, land planning, or real estate development;

(2) Employment with a person, other than a State or local government, who engages in lobbying activities concerning Department programs or who is required to report expenditures for lobbying activities or register as a lobbyist under 42 U.S.C. 3537b or similar statutes which require the registration of persons who attempt to influence the decisions of officers or employees of the Department;

(3) Employment as an officer or director of a person who is a Department-approved mortgagee, a lending institution or an organization which services securities for the Department; or

(4) Employment with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System or any affiliate thereof.

(b) *Exceptions to employment prohibitions.* The prohibitions set forth in paragraph (a) of this section do not apply to serving as an officer or a member of the Board of Directors of:

(1) A Federal Credit Union;

(2) A cooperative or condominium association for a housing project which is not subject to regulation by the Department or, if so regulated, in which the employee personally resides; or

(3) An entity designated in writing by the Designated Agency Ethics Official.

(c) *Prior approval requirement.* (1) Employees, except special Government employees, shall obtain the prior written approval of an Agency Ethics Official before accepting compensated or uncompensated employment:

(i) As an officer, director, trustee, or general partner of, or in any other position of authority with, either a for-profit or non profit organization which directly or indirectly receives assistance from the Department.

(ii) With a State or local government; or

(iii) In the same professional field as that of the employee's official position.

(2) Approval shall be granted unless the conduct is inconsistent with 5 CFR part 2635 or this part.

(d) *Voluntary services.* Subject to the restrictions and requirements contained in the conflict of interest laws, 5 CFR part 2635, and this part, employees are encouraged to volunteer their personal time to nonprofit organizations.

Note to § 75.105: An employee assigned to serve in an official capacity as the

Department's liaison representative to an outside organization is not engaged in an outside activity to which this section applies. Notwithstanding, an employee may be assigned to serve as the Department's liaison representative only as authorized by law, and as approved by the Department under applicable procedures.

§ 7501.106 Additional rules for certain Department employees involved in the regulation or oversight of Government sponsored enterprises.

(a) The following rules apply to certain Department employees whose duties involve the regulation or oversight of Government Sponsored Enterprises, specifically the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). This section is in addition to §§ 7501.101 to 7501.105.

(b) *Definitions.* For purposes of this section, the following definitions are applicable:

(1) Except as provided in paragraph (b)(2) of this section, "covered employee" means all employees in the Office of Federal Housing Enterprise Oversight and employees required to file a public or confidential financial disclosure report under 5 CFR part 2634 in:

(i) The Office of the HUD Secretary, with the exception of the Office of Lead-Based Paint Abatement and Poisoning Prevention;

(ii) The Office of the Assistant Secretary for Housing—Federal Housing Commissioner;

(iii) The Office of Financial Institutions Regulation in the Office of the Assistant Secretary for Policy Development and Research;

(iv) The Offices of Investigation, Program Standards and Evaluation, and Regulatory Initiatives and Federal Coordination within the Office of the Assistant Secretary for Fair Housing and Equal Opportunity;

(v) The Office of General Counsel's Offices of Insured Housing, Government Sponsored Enterprises/Real Estate Settlement and Procedures Act Division in Finance and Regulatory Enforcement, Legislation and Regulations, and the Fair Housing Enforcement Division;

(vi) The Office of Inspector General;

(vii) The official superiors of the employees listed in paragraphs (b)(1)(iii), (b)(1)(iv) and (b)(1)(v) of this section;

(viii) Any other employee who is designated in writing by the Secretary, the Designated Agency Ethics Official, or the appropriate individual of Assistant Secretary rank, or his or her designee, to ensure compliance with the principles set forth in 5 CFR 2635.403 and who receives notice of such designation.

(2) The DAEO, upon recommendation of the appropriate individual of Assistant Secretary rank, may exclude in writing an employee otherwise designated as a "covered employee" under § 7501.106(b)(1)(i)-(vii) of this part if the employee's official duties do not substantially involve the regulation or oversight of Government sponsored enterprises and ownership of interests prohibited by § 7501.106(c) would not cause a reasonable person to question the impartiality and objectivity with which the Department's programs are administered.

(3) *Mortgage institution* means mortgage bankers, mortgage brokers, banks, savings and loans, and other institutions or entities that originate, insure, or service mortgages that are owned or guaranteed by the Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC).

(c) *Prohibited financial interests.* (1) Except as provided in paragraph (c)(2) of this section, a covered employee, or a spouse or minor child of a covered employee, shall not receive, acquire, or own securities of:

(i) A mortgage institution if more than 20 percent of the institution's assets consist of mortgages;

(ii) A mortgage institution in which 20 percent or less of the institution's assets consist of mortgages and more than 40 percent of the mortgages originated by the institution are issued, collateralized, sold or guaranteed by FNMA and/or FHLMC; or

(iii) A mortgage institution which services or insures mortgages if more than 20 percent of the gross income of such institution is derived from either or both of these activities.

(2) The prohibitions in paragraph (c)(1) of this section do not apply to ownership of securities held in a publicly traded or publicly available investment fund, or profit-sharing, retirement, or similar plan which in its prospectus or governing documents does not indicate the objective or practice of concentrating its investments in the financial services sector, and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund.

(3) The mortgage institution's most recent annual financial statement shall be used in determining the applicability of the prohibitions in paragraph (c)(1) of this section.

(d) *Restrictions arising from third party relationships.* If any of the entities listed below has securities that a covered employee would be prohibited from owning by paragraph (c) of this section, the employee shall report such

interest to the appropriate Agency Ethics Official. The Agency Ethics Official may require the employee to terminate the third party relationship, undertake an appropriate disqualification, or take other appropriate action determined to be necessary consistent with 5 CFR part 2635 and this part. This paragraph applies to a:

(1) Partnership in which the covered employee, or a spouse or minor child of the employee is a general partner;

(2) Partnership in which the covered employee, or spouse or minor child of the employee, individually or jointly holds more than a 10 percent limited partnership interest;

(3) Closely held corporation in which the covered employee, or spouse or minor child of the employee, individually or jointly holds more than a 10 percent equity interest;

(4) Trust in which the covered employee, or spouse or minor child of the employee, has a legal or beneficial interest;

(5) Investment club or similar informal investment arrangement between the covered employee, or spouse or minor child of the employee, and others; or

(6) Other entity in which the covered employee, or spouse or minor child of the employee, individually or jointly

holds more than a 10 percent equity interest.

(e) *Prohibited outside employment.* Covered employees shall not engage in employment with or on behalf of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a mortgage institution, or any of their affiliates.

(f) *Prohibited recommendations.* Covered employees shall not make any recommendation or suggestion, directly or indirectly, concerning the acquisition, sale, or divestiture of securities of FHLMC or FNMA.

(g) *Prohibited purchase of assets.* Covered employees, their spouses or minor children shall not purchase, directly or indirectly, any real or personal property from FHLMC or FNMA, unless it is sold at public auction or by other means which would assure that the selling price is the asset's fair market value.

(h) *Pre-existing interests.* Covered employees must report, in writing, to the appropriate Agency Ethics Official, any interest prohibited under paragraph (c) of this section acquired prior to either the commencement of employment as a covered employee or the effective date of this part, or acquired without specific intent, as through gift, inheritance, or marriage, within 30 days from the start of covered

employment or acquisition of such interest. Such interest must be divested within 90 days from the date it is reported unless waived by the Designated Agency Ethics Official in accordance with § 7501.103.

TITLE 24—[AMENDED]

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 0—STANDARDS OF CONDUCT

2. In Part 0 of 24 CFR subtitle A, § 0.1 is revised to read as follows:

§ 0.1 Cross-reference to employees ethical conduct standards and financial disclosure regulations.

Employees of the Department of Housing and Urban Development (Department) are subject to the executive branch-wide standards of ethical conduct at 5 CFR part 2635, the Department's regulation at 5 CFR part 7501 which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulation at 5 CFR part 2634.

Authority: 5 U.S.C. 301, 7301; 42 U.S.C. 3535(d).

[FR Doc. 96-17450 Filed 7-8-96; 8:45 am]

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