

file under the requirements of § 203.365(c).

(b) *Assessment of mortgagee's loss mitigation performance.* (1) HUD will measure and advise mortgagees of their loss mitigation performance through the Tier Ranking System (TRS). Under the TRS, HUD will analyze each mortgagee's loss mitigation efforts portfolio-wide on a quarterly basis, based on 12 months of performance, by computing ratios involving loss mitigation attempts, defaults, and claims. Based on the ratios, HUD will group mortgagees in four tiers (Tiers 1, 2, 3, and 4), with Tier 1 representing the highest or best ranking mortgagees and Tier 4 representing the lowest or least satisfactory ranking mortgagees. The precise methodology for calculating the TRS ratios and for determining the tier stratification (or cutoff points) will be provided through FEDERAL REGISTER notice. Notice of future TRS methodology or stratification changes will be published in the FEDERAL REGISTER and will provide a 30-day public comment period.

(2) Before HUD issues each quarterly TRS notice, HUD will review the number of claims paid to the mortgagee. If HUD determines that the lender's low TRS score is the result of a small number of defaults or a small number of foreclosure claims, or both, as defined by notice, HUD may determine not to designate the mortgagee as Tier 3 or Tier 4, and the mortgagee will remain unranked.

(3) Within 30 calendar days after the date of the TRS notice, a mortgagee that scored in Tier 4 may appeal its ranking to the Deputy Assistant Secretary for Single Family or the Deputy Assistant Secretary's designee and request an informal HUD conference. The only basis for appeal by the Tier 4 mortgagee is disagreement with the data used by HUD to calculate the mortgagee's ranking. If HUD determines that the mortgagee's Tier 4 ranking was based on incorrect or incomplete data, the mortgagee's performance will be recalculated and the mortgagee will receive a corrected tier ranking score.

(c) *Assessment of civil money penalty.* A mortgagee that is found to have failed to engage in loss mitigation as re-

quired under paragraph (a) of this section shall be liable for a civil money penalty as provided in § 30.35(c) of this title.

[70 FR 21578, Apr. 26, 2005]

§ 203.606 Pre-foreclosure review.

(a) Before initiating foreclosure, the mortgagee must ensure that all servicing requirements of this subpart have been met. The mortgagee may not commence foreclosure for a monetary default unless at least three full monthly installments due under the mortgage are unpaid after application of any partial payments that may have been accepted but not yet applied to the mortgage account. In addition, prior to initiating any action required by law to foreclose the mortgage, the mortgagee shall notify the mortgagor in a format prescribed by the Secretary that the mortgagor is in default and the mortgagee intends to foreclose unless the mortgagor cures the default.

(b) If the mortgagee determines that any of the following conditions has been met, the mortgagee may initiate foreclosure without the delay in foreclosure required by paragraph (a) of this section:

(1) The mortgaged property has been abandoned, or has been vacant for more than 60 days.

(2) The mortgagor, after being clearly advised of the options available for relief, has clearly stated in writing that he or she has no intention of fulfilling his or her obligation under the mortgage.

(3) The mortgaged property is not the mortgagor's principal residence and it is occupied by tenants who are paying rent, but the rental income is not being applied to the mortgage debt.

(4) The property is owned by a corporation or partnership.

[52 FR 6915, Mar. 5, 1987, as amended at 61 FR 35020, July 3, 1996]

§ 203.608 Reinstatement.

The mortgagee shall permit reinstatement of a mortgage, even after the institution of foreclosure proceedings, if the mortgagor tenders in a lump sum all amounts required to bring the account current, including