

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 § 7501.105: 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 Fed-

eral 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.