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B-317290

October 20, 2008

The Honorable Christopher J. Dodd  
Chairman  
The Honorable Richard C. Shelby  
Ranking Minority Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Barney Frank  
Chairman  
The Honorable Spencer Bachus  
Ranking Minority Member  
Committee on Financial Services  
House of Representatives

Subject: *Board of Directors of the HOPE for Homeowners Program: HOPE for Homeowners Program: Program Regulations*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Board of Directors of the HOPE for Homeowners Program (Board), entitled “HOPE for Homeowners Program: Program Regulations” (RIN: 2580-AA00). We received the rule on October 6, 2008. It was published in the *Federal Register* as a final rule on October 6, 2008. 73 Fed. Reg. 58,418.

The final rule sets forth the core requirements for the HOPE for Homeowners Program (Program) that have been established by the Board of the Program. The Program is a temporary FHA program that allows the Department of Housing and Urban Development (HUD), through the Federal Housing Administration (FHA), to insure refinanced loans for homeowners who are at risk of losing their homes to foreclosure. The program is strictly voluntary, and it is available to homeowners who are unable to afford their existing mortgage payments for their primary residence, so long as they have no present ownership interest in another residence. The Program refinances the borrowers’ existing mortgage at a significant write-down, and the borrowers share their new equity and future appreciation with FHA.

The final rule sets forth standards for the following Program areas: underwriting standards, representations of the mortgagee whose mortgage will participate in the Program, mortgage representations, certain prohibitions imposed on FHA, FHA

equity sharing with the borrower, FHA appreciation sharing with the borrower, the prohibition on subordinate liens in the first 5 years of the mortgagor's Program mortgage, and applicable hearing procedures. The final rule also contains a mechanism for determining the future appreciation payment a subordinate lien holder is eligible to receive.

Enclosed is our assessment of the Board's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the Board complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Margaret Burns  
Executive Director of Board of Directors  
of HOPE for Homeowners Program

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
BOARD OF DIRECTORS OF THE HOPE  
FOR HOMEOWNERS PROGRAM  
ENTITLED  
"HOPE FOR HOMEOWNERS PROGRAM:  
PROGRAM REGULATIONS"  
(RIN: 2580-AA00)

(i) Cost-benefit analysis

The Board prepared an economic analysis in conjunction with this final rule. The Board anticipates that the net economic benefits will exceed the costs. The Program has the potential to have significant economic benefits, but it is difficult to quantify the benefits because the rate of participation is unknown. The Board estimates that the net benefit to the lender will be \$10,000, but it may be higher; communities will also experience an economic benefit by preventing foreclosures.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Board did not prepare a regulatory flexibility analysis in conjunction with this rule.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Board states that the final rule will not impose any federal mandates on any state, local, or tribal governments or the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule is exempt from notice and comment rulemaking under 5 U.S.C. § 553(a) because it relates to public contracts and was issued without a public comment period. The final rule was effective upon publication. The Administrative Procedure Act, at 5 U.S.C. § 553(d), requires substantive rules not be made effective until at least 30 days after publication, unless an agency finds good cause to waive this requirement. The Board found good cause to waive the 30-day delay, because the program is voluntary and temporary, and because the authorizing statute provides for the program to begin on October 1, 2008.

Statutory authorization for the rule

The final rule is authorized by the HOPE for Homeowners Act of 2008, located in Title IV of division A of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289)(codified at 12 U.S.C. § 1701z-22).

Executive Order No. 12,866

The final rule was determined to be an economically significant regulatory action and was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

The Board stated that this final rule does not have federalism implications and does not impose substantial direct compliance costs on state or local governments.