

1 **Billing Code 4210-67**  
2 **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

3  
4 **[Docket No. FR-5876-N-02]**

5  
6 **Changes in Certain Multifamily Mortgage Insurance Premiums**  
7

8 **AGENCY:** Office of the Assistant Secretary for Housing–Federal Housing Commissioner,  
9 HUD.

10 **ACTION:** Notice.

11 **SUMMARY:** On January 28, 2016, HUD published a notice announcing proposed changes to  
12 the Fiscal Year (FY) 2016 Mortgage Insurance Premiums (MIPs) for certain FHA Multifamily  
13 Housing Insurance programs for commitments issued or reissued beginning April 1, 2016, and  
14 solicited public comments on the announced increases. In the January 28, 2016, notice, HUDs’  
15 proposed MIP changes reflect the health of the FHA Multifamily portfolio, simplify the rate  
16 structure, and demonstrate HUD’s commitment to promote its mission initiatives. The MIP rates  
17 for mortgage insurance programs under FHA’s Office of Healthcare Programs, including health  
18 care facilities and hospital insurance programs, are not changed. This notice announces that the  
19 proposed FY 2016 MIP increases for commitments issued or reissued beginning April 1, 2016 is  
20 being implemented. This notice also addresses the public comments received in response to the  
21 proposed MIP increases.

22 **DATES:** Effective Date: The revised MIP will be effective for any firm commitments issued or  
23 reissued on or after April 1, 2016. MIP rates will not be modified for any loans that close or  
24 reach initial endorsement prior to March 31, 2016. MIP rates will not be modified on FHA-  
25 insured loans initially or finally endorsed, in conjunction with Interest Rate Reductions, or in  
26 conjunction with Loan Modifications.

1 **FOR FURTHER INFORMATION CONTACT:** Theodore Toon, Director, Office of  
2 Multifamily Production, Office of Housing, Department of Housing and Urban Development,  
3 451 7th Street, SW, Washington, DC 20410-8000; telephone: 202-402-8386 (this is not a toll-  
4 free number). Hearing- or speech-impaired individuals may access these numbers through TTY  
5 by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

6 **SUPPLEMENTARY INFORMATION:**

7 **I. Background**

8 Section 203(c)(1) of the National Housing Act authorizes the Secretary to set the  
9 premium charge for insurance of mortgages under the various programs in Title II of the  
10 National Housing Act. The range within which the Secretary may set such charges must be  
11 between one-fourth of one percent per annum and one percent per annum of the amount of the  
12 principal obligation of the mortgage outstanding at any time. (See 12 U.S.C. 1709(c)(1)).  
13 HUD's Multifamily Housing Mortgage Insurance regulation at 24 CFR 207.254 provides that  
14 HUD must publish a notice of future premium changes in the Federal Register, and provide a  
15 30-day public comment period for the purpose of accepting comments on whether the proposed  
16 changes are appropriate.

17 On October 2, 2015, HUD published a notice in the Federal Register (80 FR 59809)  
18 announcing the MIPs for FHA Multifamily, Health Care Facilities, and Hospital mortgage  
19 insurance programs that have commitments to be issued or reissued in FY 2016 would be the  
20 same as those published for FY 2015. HUD then published a notice on January 28, 2016, at 81  
21 FR 4926, announcing proposed MIP changes for FY 2016 in certain programs authorized under  
22 the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)), and certain other multifamily

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1 programs. The January 28, 2016 notice was proposed to promote two of HUD's mission  
2 priorities: affordable housing, and energy efficiency. HUD also sought public comment on the  
3 proposed changes, as required by 24 CFR 207.254.

### 4 **III. Public Comments**

5 The public comment period on the January 28, 2016, notice closed on February 17, 2016,  
6 and HUD received 19 public comments by the close of the public comment period. Comments  
7 were submitted by mortgage lenders, organizations representative of the health care industry and  
8 of the home building industry, private citizens, and other interested parties. All public comments  
9 can be found on [www.regulations.gov](http://www.regulations.gov) under the docket number FR-5876-N-01. The following  
10 presents the key issues raised by commenters and HUD's response to these issues.

#### 11 **Authority**

12 *Comment:* One commenter stated that HUD had not demonstrated its authority to  
13 implement these MIP changes, and another commenter asked if HUD would be issuing  
14 additional regulations to confirm the appropriate MIP.

15 *HUD Response:* We disagree; Section 203(c)(1) of the Act authorizes the Secretary to set  
16 the premium charge for insurance of mortgages under the various programs in the Act, and 24  
17 CFR 207.254 provides that HUD will implement future multifamily premium changes by  
18 publishing a notice in the Federal Register and soliciting public comment for 30-days. HUD has  
19 complied with those requirements and no additional regulations must be issued to implement  
20 these changes.

21 *Comment:* One commenter observed that MIPs "must be determined based on the prudent  
22 management of risk to the government of the potential and severity of mortgage losses." In other

1 words, the MIPs should be set at levels that are actuarially sufficient to cover expected credit  
2 losses and other costs.

3 *HUD Response:* HUD agrees; portfolio and actuarial analysis of the new rate structure  
4 demonstrated that premium revenues will exceed losses for the foreseeable future.

### 5 **Applicability of New Rates**

6 *Comment:* Commenters urged HUD to extend MIP changes to programs under FHA's  
7 Office of Healthcare Programs, including health care facilities and the hospital insurance  
8 programs, in order to further promote these programs. These commenters suggested that by  
9 excluding properties financed under Section 232 and Section 242 programs, HUD misses the  
10 opportunity to further the Administration's healthcare objectives.

11 *HUD Response:* HUD will continue to evaluate MIP rates, but is not at this time  
12 extending MIP changes to programs under FHA's Office of Healthcare Programs, including  
13 health care facilities and the hospital insurance programs under sections 232 and 242,  
14 respectively.

15 *Comment:* Commenters asked that the new MIP rates be made available to existing  
16 FHA-insured loans on properties that meet or will meet the required standards, to loans  
17 undergoing Interest Rate Reductions through HUD's Multifamily Office of Asset Management  
18 and Portfolio Oversight (OAMPO), to loan Modifications through OAMPO, to loans initially  
19 endorsed (closed) but not finally endorsed, and to loans on recently built housing (within the past  
20 five years) that have or could obtain EnergyStar building certification.

1           *HUD Response:* New MIP rates cannot be applied retroactively; each of these scenarios  
2 represents already-closed loans. Therefore, the MIP new rates will become effective only for  
3 FHA firm commitments issued or reissued, and closed, on or after April 1, 2016.

4 **Affordability**

5           *Comment:* Commenters asked for a change to the requirements to qualify for the MIP rate  
6 for Broadly Affordable Housing: properties must have “achievable and underwritten tax credit  
7 rents at least 10 percent below comparable market rents.” Commenters recommended that  
8 “achievable and” be deleted because of the confusion it could cause.

9           *HUD Response:* HUD disagrees. The phrase (“achievable and underwritten tax credit  
10 rents at least 10 percent below comparable market rents”) is necessary in order to differentiate  
11 from the maximum or ceiling Tax Credit rents, and is widely understood in the industry.

12           *Comment:* Commenters recommended that properties with greater than 90 percent  
13 affordable units, but without a 10 percent underwritten market rent advantage necessary to  
14 qualify as Broadly Affordable, should qualify for the Affordable mixed-income MIP rate of 35  
15 basis points.

16           *HUD Response:* HUD agrees, and has made the change in the final notice.

17           *Comment:* Commenters asked if a property will qualify for the MIP reduction if it has a  
18 project-based Section 8 that runs less than 15 years or is not renewed but the owner honors the  
19 full 15 year use restriction.

20           *HUD Response:* HUD will be providing the MIP reduction onto to properties that have a  
21 Section 8 contract and use restriction that run a minimum of 15 years after final endorsement.

1           *Comment:* Commenters recommended that the new MIP rates be available in situations  
2 where the property owner accepts Section 8 voucher holders for just the affordable units, rather  
3 than an unlimited requirement for the entire property, due to potential property owner concerns  
4 about potentially converting an entire property to Section 8 over time in what is intended as a  
5 mixed income property. Another commenter stated that in the definition of Affordable, there is a  
6 requirement that the property owner agree to accept Section 8 voucher holders for the life of the  
7 loan, and requested that this should be limited to the 15 year affordability period rather than life  
8 of loan.

9           *HUD Response:* HUD disagrees, and continues to require that for a property owner to  
10 access the MIP rate under the Affordable rate category the property owner must agree to accept  
11 voucher holders as residents for all vacancies and for the life of the regulatory agreement.

12 **Lender Fee Restrictions for Certain MIP Rate Categories (Broadly Affordable, and**  
13 **Green/Energy Efficient)**

14           *Comment:* Commenters requested that the 5 percent cap on total loan fees be removed,  
15 or the threshold significantly increased. They stated that small loans are challenging to originate,  
16 underwrite, and service, due to certain fixed lender costs and time requirements, and asked HUD  
17 to assess the impact for loans that fall into the \$ 2-5 million range. They comment that the  
18 market is familiar with the \$5 million small loan limit set by the Federal Housing Finance  
19 Agency for the Fannie Mae and Freddie Mac small loan programs. One commenter asked that  
20 HUD provide underlying information on the need for such a broad limitation.

21           *HUD Response:* The intent is to ensure that the benefits of these MIP rates directly  
22 benefit the properties and residents. In FHA's experience, Multifamily Accelerated Processing

1 (MAP) lenders today are generally not charging fees in excess of 5 percent on loans under \$5  
2 million, even though they may do so. According to aggregated lender disclosures, just 6 percent  
3 of FHA-insured loans under \$5 million, originated between FY 2013 and FY 2016 year-to-date,  
4 charged fees in excess of 5 percent, and most of these were concentrated in loans under \$2  
5 million. Accordingly, HUD does not believe that this limitation will present a burden to MAP  
6 lenders.

7 *Comment:* One commenter said that it may be counterproductive to have a loan fee limit  
8 on loans over \$2 million at precisely the time HUD is encouraging MAP lenders to participate in  
9 its Small Building Risk Share Initiative (SBRS).

10 *HUD Response:* Loans originated under Risk Share programs, including SBRS, are  
11 exempt from the fee limitations.

12 *Comment:* One commenter asked that loans with firm commitments issued prior to the  
13 January 28, 2016, publication of the proposed MIP rates be excluded from the fee limitations.

14 *HUD Response:* The loan fee limitations only apply to loans with FHA firm  
15 commitments issued or reissued on or after April 1, 2016. Firm commitments issued prior to  
16 that date are exempt from the loan fee limitation (though still subject to disclosure), unless  
17 requesting reissuance or modification to utilize the new rates. Any loan accessing the lower rates  
18 will also be subject to the loan fee limitation.

## 19 **Inclusionary Zoning**

20 *Comment:* Commenters wrote that properties subject to inclusionary zoning agreements  
21 are only eligible for the reduced MIP rate if the term of the affordability agreement is 30 years or  
22 longer, compared to LIHTC or PBRA properties in this same rate category, which have

1 minimum compliance periods of 15 years. They asked that the inclusionary zoning compliance  
2 period be reduced from 30 years, to 15 years.

3 *HUD Response:* The affordability requirements under LIHTC or PBRA/Section 8 are  
4 much deeper than those generally required under inclusionary zoning laws. HUD believes,  
5 therefore, that the longer affordability requirement (30 years) is reasonable.

6 *Comment:* One industry association opposed using the FHA multifamily insurance  
7 programs “to incentivize complicated and controversial inclusionary zoning laws at the local  
8 level.” One commenter stated that some studies have shown inclusionary zoning may not be the  
9 most cost effective way to address affordability, and can actually lead to fewer units being  
10 delivered.

11 *HUD Response:* HUD is not incentivizing inclusionary zoning, density bonus, or other  
12 set-aside laws through these rates. Rather, the new structure recognizes affordability in its many  
13 forms. HUD will study the effects of these rates for future rate considerations.

#### 14 **Green/Energy Efficient**

15 *Comment:* A number of commenters pointed out that the requirement for a property  
16 owner to report building performance 12 months after new construction/substantial rehabilitation  
17 is unreasonable, as the property must be occupied, operate for a full 12 months, before collecting  
18 and reporting the data. Further, the requirement may preclude properties from one or more of the  
19 performance-based green building certifications required for the green/energy efficient MIP rate.

20 *HUD Response:* HUD agrees, and has amended the notice to require reporting of  
21 complying building performance “...no more than 15 months after completion of new

1 construction, substantial rehabilitation or renovations, or 15 months after break-even  
2 occupancy.”

3 *Comment:* Commenters stated that small properties make up the majority of all  
4 apartment buildings and often provide housing affordability. Yet properties of under 20 units are  
5 excluded from getting a 1-100 EnergyStar score from Portfolio Manager, effectively blocking  
6 them from taking advantage of the reduced MIP rate. Commenters asked that HUD consider, for  
7 the purpose of accessing the green/energy efficient MIP rate, exempting smaller properties from  
8 the requirement of a 75+ score on Portfolio Manager, as long as they are or will be certified by  
9 one of the recognized, independent green building standards.

10 *HUD Response:* HUD agrees, and has modified the notice; Small properties (under 20  
11 units) must meet one of the recognized independent green building/energy efficiency standards  
12 in order to access the Green/Energy Efficient MIP rate, but are exempt from the 75+ Portfolio  
13 Manager score requirement.

14 *Comment:* One commenter recommended that HUD consider tiered or graduating MIP  
15 rates for varying levels of energy efficiency to encourage all property owners to undertake  
16 efficiency retrofits to the extent feasible.

17 *HUD Response:* While HUD agrees with the intent, such a rate structure would be overly  
18 complex and challenging to administer. HUD will continue to review rates, and opportunities to  
19 promote our mission objectives.

20 *Comment:* Multiple commenters presented alternative green building certification  
21 standards for consideration, and/or asked what the process will be for approval of green building  
22 certification standards beyond those listed in the notice.

1           *HUD Response:* In addition to the recognized standards listed in the notice, HUD will  
2 accept “other industry-recognized green building standards in the sole discretion of HUD’s  
3 Office of Multifamily Production.” Lenders should submit such requests to the Director of  
4 Multifamily Production in HUD headquarters. A committee will review such requests for  
5 consideration. In response to the specific requests submitted with public comments, HUD has  
6 revised the notice to recognize Passive House certifications, LEED for Existing Buildings:  
7 Operations & Maintenance, and Living Building Challenge Certification.

8           *Comment:* Commenters asked about notice references to Real Estate Assessment Center  
9 (REAC) protocols for properties not achieving their proposed green building standard or the 75+  
10 Portfolio Manager score. One commenter stated that the REAC protocol should not be  
11 unilaterally changed to incorporate tests on whether properties are eligible for MIP reductions.  
12 Others asked what actions HUD would pursue for a property’s failure to achieve green building  
13 certification and score of 75+ in Portfolio Manager (for example, might actions include 2530  
14 flags, MIP changes, etc.).

15           *HUD Response:* HUD is not changing REAC protocols. The intent is not to be punitive,  
16 but to ensure compliance with the specified green building certification and efficiency  
17 performance standards; properties that fail to achieve their designated green building standard or  
18 the 75+ Portfolio Manager score will be required to submit to HUD a compliance plan and  
19 timeline for achieving the required certification and performance, acceptable to HUD. An owner  
20 working in good faith and demonstrating progress toward compliance in HUD’s discretion, will  
21 not be flagged in HUD’s 2530 previous participation system.

1           *Comment:* Commenters asked that the notice clarify that the person certifying the green  
2 building standard be appropriately credentialed, and stated that a CNA provider may or may not  
3 be able to provide an energy design certification, unless they are licensed/accredited per the  
4 Energy Auditor requirements.

5           *HUD Response:* HUD agrees, and has struck CNA provider as a qualified certifier of a  
6 green building standard or energy design certification. The CNA provider may certify if  
7 appropriately credentialed, in their capacity as architect, engineer, energy auditor, and/or  
8 approved certifier under the specified green building standard.

9           *Comment:* Commenters recommended that HUD delete the phrase "and maintain" in  
10 reference to recognized green building certifications because the notice requires a property to not  
11 only achieve, but to maintain one of the recognized, independent green building certification  
12 standards, yet the named green building rating systems are all design and construction standards,  
13 and do not include provisions for maintaining the certification.

14           *HUD Response:* HUD agrees, and has modified the notice to strike "and maintain" from  
15 the green building certification requirement.

16           *Comment:* A commenter asked for clarification on the requirement for a property  
17 accessing the Green/Energy Efficient MIP rate to achieve and maintain the 75+ Portfolio  
18 Manager score.

19           *HUD Response:* A property accessing the Green/Energy Efficient MIP rate will be  
20 required to maintain its efficiency performance. The property owner will submit its Portfolio  
21 Manager report to HUD annually.

1            *Comment:* Commenters stated the notice’s required score of 75+ on EPA’s Portfolio  
2 Manager will be a “moving target” as the underlying database of properties recalibrates the  
3 scores, and asked how an owner can certify to this target.

4            *HUD Response:* The Portfolio Manager data set and underlying algorithm, and therefore  
5 the resulting scores, will not be changed for the foreseeable future, according to EPA. The  
6 objective is to ensure sustained property performance. If, in the future, the 1-100 ENERGY  
7 STAR score is recalibrated, properties may demonstrate ongoing compliance by providing a  
8 copy of the Portfolio Manager report showing building consumption/performance has been  
9 maintained, even if the resulting score under a recalibrated scale is less than 75. Properties  
10 newly applying for the MIP rate at that time will have to comply with the new standard score  
11 requirement.

12           *Comment:* One commenter asked why a property that can meet both the Broadly  
13 Affordable and the Green/Energy Efficient requirements is not rewarded through a further  
14 reduction in rates.

15           *HUD Response:* The rates offered under those two rate categories are the lowest allowed  
16 by statute, so not further reductions can be offered at this time.

17           *Comment:* One commenter asked whether the reduction in MIP for Green/Energy  
18 Efficient buildings have to be from private investment, or if the energy upgrades can be paid be  
19 from a government program such as DOE Weatherization or a similar state program.

20           *HUD Response:* While it is anticipated that many property owners may utilize the  
21 additional mortgage proceeds made possible by the lower MIP to retrofit properties to meet the  
22 stringent efficiency standards required, an owner is not required to do so. Energy efficiency

1 retrofits can be paid from any public or private source of funds, subject to limitations on other  
2 debt established by the FHA MAP program.

### 3 **General**

4 *Comment:* One commenter asked that HUD's posted data identify current loans in its  
5 portfolio into the new MIP rate categories, to allow a viewer to determine which loans in the  
6 portfolio would qualify for which rates.

7 *HUD Response:* HUD does not have the level of detail in its dataset to allow this  
8 identification. All loans originated under the new rate structure will be identified by rate  
9 category.

10 *Comment:* One commenter suggested that the new MIP rate structure would  
11 disadvantage market rate properties, disproportionately harming rental properties in secondary  
12 and tertiary markets.

13 *HUD Response:* The largest reduction from current rates to those effective April 1, 2016,  
14 is for market rate properties that are or choose to retrofit to a recognized green building/energy  
15 efficiency standard. This rate category was added specifically to recognize and promote green  
16 and energy efficient properties, whether affordable or market rate.

17 *Comment:* A commenter observed that the negative subsidy rates for MIP since FY 2013  
18 show that the multifamily programs are generating more than enough revenue to cover losses,  
19 and requested that HUD review the MIPs for all of its loan programs, and set the levels at the  
20 rate necessary to cover losses and costs to the program.

21 *HUD Response:* HUD has and will continue to review its MIP rates.

1           *Comment:* Commenters requested clarification with regard to the to the notices reference  
2 to the upfront capitalized MIP for construction loans and the absence of a reference to a "look  
3 back" after final closing that recalculates MIP at 1 percent of the actual outstanding amount.

4           *HUD Response:* For New Construction and Substantial Rehabilitation transactions, the  
5 upfront capitalized MIP is the applicable annual MIP rate, times the loan amount, times the  
6 number of years of construction, rounded up to the nearest full year for partial years.

7           *Comment:* One commenter stated that there may be an advantage for risk share lenders  
8 compared to MAP lenders, on tax credit projects in markets where tax credit rents are close to  
9 market rents (less than 10percent advantage), and the rate for MAP lender originated loans will  
10 be 35 basis points (bps), while risk share loans qualify as Broadly Affordable at 25 bps.

11           *HUD Response:* The risk share program is an affordable lending program by statute, and  
12 is therefore categorically qualified for the lowest MIP rate. In the limited cases where the  
13 described scenario may apply, we do not believe the 10 bps differential will be enough to skew  
14 the market away from MAP lending.

15           *Comment:* One commenter raised concerns about the impact of Executive Order 13690  
16 and the new Federal Flood Risk Management Standard (FFRMS) on housing affordability, when  
17 implemented and applied to new FHA-insured loans for new construction and substantial  
18 rehabilitation, Community Development Block Grants (CDBG), and HOME funds.

19           *HUD Comment:* Executive Order 13690 and the new Federal Flood Risk Management  
20 Standard (FFRMS) are outside the scope of this MIP Notice. Any actions implementing the  
21 executive order will be the subject of a separate publication.

### 22 **III. Final Notice**

1 This notice adopts the proposed changes in the January 28, 2016 notice. Specifically,  
2 HUD is adopting changes to FY 2016 MIPs for FHA-insured loans on properties under specific  
3 Multifamily Mortgage Insurance programs effective on April 1, 2016. The new annual  
4 multifamily mortgage insurance rates will be structured as four categories, as follows, and as  
5 illustrated on the table below. Under this rate structure, portfolio and actuarial analysis  
6 demonstrates that premium revenues will exceed losses for the foreseeable future. HUD has  
7 made minor changes in response to comments received, as discussed below.

#### 8 **A. Market Rate Housing**

9 Upfront and annual MIP rates will remain unchanged for all FHA-insured multifamily  
10 loan types on market rate properties, except properties that meet the criteria for green and energy  
11 efficient housing, below.

#### 12 **B. Broadly Affordable Housing**

13 Annual MIP will change from the current rates generally between 45 and 50 basis points,<sup>1</sup>  
14 to 25 basis points for all multifamily FHA-insured loan types that meet the criteria in this  
15 section.

16 All loans originated by Housing Finance Agencies under FHA's Section 542(c) Risk  
17 Share program, and by Qualified Participating Entities including Fannie Mae and Freddie Mac  
18 under FHA's Section 542(b) Risk Share program, will be eligible for this 25 basis points rate,  
19 multiplied by the percentage risk assumed by FHA (see table below). For all others to qualify,

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1 <sup>1</sup> Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of  
2 100.

1 the property must have Section 8 assistance or another recorded affordability restriction, and/or  
2 Low Income Housing Tax Credits (LIHTC).

3 These projects must either:

- 4 • Have at least 90 percent of units covered by a Section 8 Project Based Rental Assistance  
5 (PBRA) contract or other federal rental assistance program contract serving very low  
6 income residents, with a remaining term of at least 15 years; or
- 7 • Have at least 90 percent of its units covered by an affordability use restriction under the  
8 Low Income Housing Tax Credit program or similar state or locally sponsored program,  
9 with achievable and underwritten tax credit rents at least 10 percent below comparable  
10 market rents, and with a recorded regulatory agreement in effect for at least 15 years after  
11 final endorsement and monitored by a public entity.

12 To ensure that the benefits of these MIP rates directly benefit the affordable housing  
13 properties and residents, lenders submitting applications for loans using this MIP rate are limited  
14 in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5  
15 percent of the insured loan amount. Loan fees include (a) origination and placement fees as  
16 permitted by the Multifamily Accelerated Processing (MAP) Guide<sup>2</sup>, plus (b) trade profit, trade  
17 premium or marketing gain earned on the sale of the Government National Mortgage  
18 Association (GNMA) security at a value above par, even if the security sale is delayed until after  
19 endorsement, minus (c) loan fees applied by the Mortgagee to its legal expenses incurred in  
20 connection with loan closing.

### 21 **C. Affordable Housing**

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1 <sup>2</sup> [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/guidebooks/hsg-GB4430](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430)

1 Annual MIP will change from current rates generally between 45 and 70 basis points,<sup>3</sup> to  
 2 35 basis points for all multifamily FHA-insured loan types. To qualify, the property must provide  
 3 a set-aside of affordable units as defined below, and agree to accept voucher holders:

- 4 • Inclusionary Zoning, Density Bonus Set-asides, and Other Local Affordability

5 Restrictions: Property owners shall submit with the FHA mortgage insurance application  
 6 evidence of a deed covenant or housing ordinance on “inclusionary zoning” at the subject  
 7 property to evidence the requirement for affordable unit set-asides. A minimum of 10  
 8 percent of the units must be affordable to, at most, a family at 80 percent AMI, with rents  
 9 sized to be affordable at 30 percent of the income at that level. The affordability set-  
 10 aside must be on site, in effect for at least 30 years after final endorsement of the FHA-  
 11 insured mortgage, be monitored by public authority, and be recorded in a regulatory  
 12 agreement;

- 13 • Project has between 10 percent and 90 percent of units covered by a Section 8 PBRA  
 14 contract or other state or federal rental assistance program contract serving very low  
 15 income residents, with a remaining term of at least 15 years;

- 16 • Project has between 10 percent and 90 percent of its units covered by an affordability use  
 17 restriction under the Low Income Housing Tax Credit program or similar state or locally  
 18 sponsored program, with rents sized at no greater than 30 percent of the income eligible  
 19 for occupancy under the Low Income Housing Tax Credit program, with a recorded

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1 <sup>3</sup> Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of  
 2 100.  
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1 regulatory agreement in effect for at least 15 years after final endorsement and monitored  
2 by a public entity; or

- 3 • Project has at least 90 percent of its units covered by an affordability use restriction under  
4 the Low Income Housing Tax Credit program or similar state or locally sponsored  
5 program, but without the rent advantage required to qualify as Broadly Affordable  
6 (achievable and underwritten tax credit rents at least 10 percent below comparable market  
7 rents), and with a recorded regulatory agreement in effect for at least 15 years after final  
8 endorsement and monitored by a public entity.

9 To qualify for this MIP rate the project owner must also agree to accept voucher holders under  
10 the Section 8 Housing Choice Voucher program or other federal program voucher holders as  
11 residents for vacancies in units not covered by project based Section 8, and execute a Rider to the  
12 FHA regulatory agreement acceptable to HUD evidencing the owner's agreement to accept  
13 Section 8 vouchers for the life of the regulatory agreement.

14 *Change:* In response to public comments, HUD added the forth bullet providing an extra  
15 class of properties to those that are eligible for this affordable housing MIP rate.

#### 16 **D. Green and Energy Efficient Housing**

17 Annual MIP will change from current rates generally between 45 and 70 basis points,<sup>4</sup> to  
18 25 basis points for all multifamily FHA-insured loan types. Projects will access this rate to  
19 encourage owners to adopt higher standards for construction, rehabilitation, repairs,  
20 maintenance, and property operations that are more energy efficient and sustainable than

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1 <sup>4</sup> Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of  
2 100.  
3

1 traditional approaches to such activities. The lower rate will incentivize owners to implement  
2 measures that result in projects with greater energy and water efficiency, reduced operating  
3 costs, improved indoor air quality and resident comfort, and reduced overall impact on the  
4 environment. It is anticipated that mortgage proceeds will be used to retrofit properties to meet  
5 the stringent efficiency standards required to access this lower MIP premium. For properties that  
6 have already achieved a green building standard and that are refinancing with this lower MIP  
7 premium, proceeds may be used to complete further efficiency upgrades, and/or to retrofit to the  
8 next-level green certification standards.

9 To qualify, upon application for FHA mortgage insurance, the owner must evidence that  
10 the project has achieved, or the owner must certify that it will pursue and achieve, an industry-  
11 recognized standard for green building. Acceptable, independently verified standards include the  
12 Enterprise Green Communities Criteria, U.S. Green Building Council's LEED-H, LEED-H  
13 Midrise, LEED-NC, or LEED for Existing Buildings: Operations & Maintenance, ENERGY  
14 STAR Certification, EarthCraft House, EarthCraft Multifamily, Earth Advantage New Homes,  
15 Greenpoint Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole  
16 Building label), the National Green Building Standard (NGBS), Passive Building Certification or  
17 EnerPHit Retrofits certification from the Passive House Institute US (PHIUS), International  
18 Passive House Association, or the Passive House Institute, and Living Building Challenge  
19 Certification from the International Living Future Institute, or other industry-recognized green  
20 building standards in the sole discretion of HUD's Office of Multifamily Production.

21 Further, the owner must certify that it has achieved, or will pursue, achieve, and maintain  
22 a score of 75 or better on the 1-100 ENERGY STAR score, using EPA's Portfolio Manager. The

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1 reasonableness of achieving and maintaining the specified, independent green building standard,  
2 and the score of 75 or better in Portfolio Manager, must be verified by the independent  
3 conclusion of the qualified assessor preparing the physical condition assessment, and supported  
4 by the physical condition assessment report and recommendations, ASHRAE level II energy  
5 audit (required for existing structures only), and plans for new construction, or rehabilitation,  
6 repairs, and operations and maintenance. The physical condition assessment report submitted  
7 with the mortgage insurance application must include a certification from the architect, engineer,  
8 or energy auditor that the planned scope of work is reasonably sufficient to achieve and maintain  
9 the specified certification.

10           Additionally, the owner must submit to HUD evidence that the specified, independent  
11 green building standard has been achieved, and provide a copy of the Portfolio Manager report  
12 showing building performance at or above 75, when those standards have been achieved, and no  
13 more than 15 months after completion of new construction, substantial rehabilitation or  
14 renovations, or 15 months after break-even occupancy. If not achieved, HUD may impose  
15 protocols to ensure the owner brings the property into compliance, similar to protocols used by  
16 REAC for unacceptable property standards. The owner must submit the Portfolio Manager report  
17 annually to HUD showing that the property has maintained its efficiency performance. Note that  
18 properties of less than 20 units may qualify for this MIP rate by achieving an industry-  
19 recognized standard for green building, as described above, but are exempt from the requirement  
20 to achieve a score of 75 or better on the 1-100 ENERGY STAR score.

21           To ensure that the benefits of these MIP rates directly benefit the properties and residents,  
22 lenders submitting applications for loans using this MIP rate are limited in the total loan fees

1 they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured  
2 loan amount. Loan fees include (a) origination and placement fees as permitted by the MAP  
3 Guide, plus (b) trade profit, trade premium or marketing gain earned on the sale of the GNMA  
4 security at a value above par, even if the security sale is delayed until after endorsement, minus  
5 (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan  
6 closing.

7 *Change:* In response to public comments, HUD makes the following changes:

- 8 • Deletes the phrase "and maintain" in reference to the owner providing evidence  
9 that the project has achieved an industry- recognized standard for green building.
- 10 • Adds to the list of certifications Passive House certifications, LEED for Existing  
11 Buildings: Operations & Maintenance, and Living Building Challenge  
12 Certification; and clarifies that other industry-recognized green building standards  
13 will be approved at the discretion of HUD's Office of Multifamily Production.
- 14 • Clarifies that a CNA provider may only certify a physical condition assessment  
15 report if appropriately credentialed, in their capacity as architect, engineer, energy  
16 auditor, and/or approved certifier under the specified green building standard.
- 17 • Amends the time frame for providing the report showing compliance with  
18 building performance after completion of new construction, substantial  
19 rehabilitation, or renovations from no more than 12 months to no more than 15  
20 months. HUD also provides that such report may be provided 15 months after  
21 break-even occupancy.

- 1           • Requires that owners submit the Portfolio Manager report annually to HUD  
2           showing that the property has maintained its efficiency performance.
- 3           • Provides that while small properties (under 20 units) must meet one of the  
4           recognized independent green building/energy efficiency standards in order to  
5           access the Green/Energy Efficient MIP rate, small properties are exempt from the  
6           requirement to achieve a score of 75 or better on the 1-100 ENERGY STAR  
7           score.

#### 8 **IV. MIPs for Certain FHA’s Multifamily Mortgage Insurance Programs for April 1, 2016**

9           HUD is changing MIPs for FHA-insured loans on properties under specific Multifamily  
10          Mortgage Insurance programs. The chart below details the MIP rates for each rate category, and  
11          each type of FHA multifamily mortgage insurance covered under this Notice. These programs  
12          are administered by FHA’s Office of Multifamily Housing Programs. This Notice does not  
13          change MIP rates for programs under FHA’s Office of Healthcare Programs, including health  
14          care facilities and the hospital insurance programs.

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**FHA Multifamily Mortgage Insurance Premiums By Rate Category**

<b>FHA Multifamily Mortgage Insurance Program</b>	<b>Current Upfront Capitalized MIP* Basis Points</b>	<b>Apr 1, 2016 Upfront Capitalized MIP* Basis Points</b>	<b>Current Annual MIP Basis Points</b>	<b>Apr 1, 2016 Annual MIP Basis Points</b>
<b><u>MARKET RATE HOUSING</u></b>		<b>Unchanged</b>		<b>Unchanged</b>
207 Multifamily New Constr/Sub Rehab w/o LIHTC	70	70	70	70
207 Manufactured Home Parks without LIHTC	70	70	70	70
221(d)(4) NC/SR without LIHTC	65	65	65	65
220 Urban Renewal Housing without LIHTC	70	70	70	70
213 Cooperative	70	70	70	70
207/223(f) Refinance or Purchase for Apts w/o LIHTC	100	100	60	60
223(a)(7) Refinance of Apartments without LIHTC	50	50	50	50
231 Elderly Housing without LIHTC	70	70	70	70
241(a) Supplemental Loans for Apts/coop w/o LIHTC	95	95	95	95
<b><u>BROADLY AFFORDABLE HOUSING</u></b>		<b>25</b>		<b>25</b>
207 New Constr/Sub Rehab w 90percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
207 Manufactured Home Parks with 90percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
221(d)(4) NC/SR with 90percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
220 Urban Renewal Housing with 90percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
207/223(f) Refi or Purchase with 90percent+ LIHTC, or 90 percent+ Section 8	100	25	45	25
223(a)(7) Refi with 90percent+ LIHTC, or 90 percent+ Section 8	50	25	45	25
231 Elderly Housing with 90percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
241(a) for Apartments/coop with 90percent+ LIHTC, or 90 percent+ Section 8	45	25	45	25
Section 542(b) Risk Share**	50	25	50	25
Section 542(c) Risk Share**	50	25	50	25
<b><u>AFFORDABLE: INCLUSIONARY / VOUCHERS</u></b>		<b>35</b>		<b>35</b>

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1 <b>FHA Multifamily Mortgage Insurance Premiums By Rate Category</b>				
<b>FHA Multifamily Mortgage Insurance Program</b>	<b>Current Upfront Capitalized MIP* Basis Points</b>	<b>Apr 1, 2016 Upfront Capitalized MIP* Basis Points</b>	<b>Current Annual MIP Basis Points</b>	<b>Apr 1, 2016 Annual MIP Basis Points</b>
207 New Constr/Sub Rehab with Inclusionary Zoning, or 10 percent-90 percent LIHTC, or 10percent-90percent Section 8	45-70	35	45-70	35
207 Manufactured Home Parks w Inclusionary Zoning, or 10percent-90percent LIHTC, or 10 percent-90 percent Section 8	45-70	35	45-70	35
221(d)(4) NC/SR with Inclusionary Zoning, or 10 percent-90 percent LIHTC, or 10 percent-90 percent Section 8	45-65	35	45-65	35
220 Urban Renewal Housing with Inclusionary Zoning, or 10 percent-90 percent LIHTC, or 10 percent-90 percent Section 8	45-70	35	45-70	35
207/223(f) Refinance or Purchase with Inclusionary Zoning, or 10 percent-90 percent LIHTC, or 10 percent-90 percent Section 8	100	35	45-60	35
223(a)(7) Refinance of Apts with Inclusionary Zoning, or 10 percent-90 percent LIHTC, or 10 percent-90 percent Section 8	50	35	45-50	35
231 Elderly Housing with Inclusionary Zoning, or 10 percent-90 percent LIHTC, or 10percent-90percent Section 8	45-70	35	45-70	35
241(a) Supplementals for Apts/coop with Inclusion Zoning, or 10 percent-90 percent LIHTC, or 10percent-90percent Section 8	45-95	35	45-95	35
<b><u>GREEN / ENERGY EFFICIENT HOUSING</u></b>		<b>25</b>		<b>25</b>
207 Multifamily New Construction/Sub Rehab with Green	45-70	25	45-70	25
207 Manufactured Home Parks with Green	45-70	25	45-70	25
221(d)(4) NC/SR with Green	45-65	25	45-65	25
220 Urban Renewal Housing with Green	45-70	25	45-70	25
207/223(f) Refinance or Purchase for Apts with Green	100	25	45-60	25
223(a)(7) Refinance of Apartments with Green	50	25	45-50	25

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<b>FHA Multifamily Mortgage Insurance Premiums By Rate Category</b>				
<b>FHA Multifamily Mortgage Insurance Program</b>	<b>Current Upfront Capitalized MIP* Basis Points</b>	<b>Apr 1, 2016 Upfront Capitalized MIP* Basis Points</b>	<b>Current Annual MIP Basis Points</b>	<b>Apr 1, 2016 Annual MIP Basis Points</b>
231 Elderly Housing with Green	45-70	25	45-70	25
241(a) Supplemental Loans for Apts/coop with Green	45-95	25	45-95	25

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3 \* Upfront premiums for Multifamily refinancing programs are capitalized and based on the first  
4 year's annual MIP for the applicable rate category (except market rate 223(f), where the upfront  
5 rate remains at 100 bps). Upfront premiums for Multifamily new construction and substantial  
6 rehabilitation programs insuring advances are capitalized and based on the annual MIP for the  
7 applicable rate category for the entire construction period, rounded up to the nearest whole year.

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9 \*\* Under the Sections 542(b) and 542(c) Risk Share programs, the MIP collected by HUD is  
10 currently, and will continue to be, proportionate to the percentage of risk assumed by FHA, as  
11 follows:

Program	FHA percent of Risk Share	April 1, 2016 Upfront Capitalized MIP Basis Points	April 1, 2016 Annual MIP Basis Points
542(b)	50 percent	12.5 (25 bps x 50 percent)	12.5 (25 bps x 50 percent)
542(c)	50 percent	12.5 (25 bps x 50 percent)	12.5 (25 bps x 50 percent)
	75 percent	18.75 (25 bps x 75 percent)	18.75 (25 bps x 75 percent)
	90 percent	22.5 (25 bps x 90 percent)	22.5 (25 bps x 90 percent)

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14 Date: \_\_\_\_\_

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Edward L. Golding  
Principal Deputy Assistant Secretary for Housing

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