



SUSPENDED COUNTERPARTY PROGRAM GUIDELINES

This document describes FHFA's practices when implementing the requirements of the Suspended Counterparty Program regulation (SCP Regulation) 12 CFR 1277. Such practices are considered as part of FHFA's determination of whether a regulated entity should be suspended from doing business with counterparties referred to the Suspended Counterparty Program (SCP). Final determinations of suspension are based on the facts of individual referrals and may deviate from the guidelines as determined and described on a case-by-case basis.

I. COVERED MISCONDUCT

Covered misconduct is defined by regulation as "any conviction or administrative sanctions within the past three (3) years if the basis of such action involved fraud, embezzlement, theft, conversion, forgery, bribery, perjury, making false statements or claims, tax evasion, obstruction of justice, or any similar offence, in each case in connection with a mortgage, mortgage business, mortgage securities or other lending product." 12 CFR 1227.

Notice of covered misconduct may take time to reach the SCP. Therefore, individuals and entities referred to the SCP for misconduct occurring within the three year period of the date of a conviction or administrative sanction are eligible to be considered for suspension based on the facts of the referral. FHFA may consider actions beyond this time period regarding such individuals or entities based on other statutory authorities outside the SCP.

II. SUSPENSION TIMELINES

The following guidelines may be considered, in addition to factors listed in 12 CFR 1227.6(c), to determine the appropriate length of a suspension when FHFA has determined that suspension of a counterparty is necessary to protect the safe and sound operations of the regulated entities.

Five (5) Year Suspension

Persons or entities that are sentenced or sanctioned as a result of "covered misconduct," as defined in the Regulation, for less than five (5) years, including supervised release, will be considered for suspension from doing business with Fannie Mae, Freddie Mac and the Federal Home Loan Banks for five (5) years, absent specified mitigating conditions.

Ten (10) Year Suspension

Persons or entities that are sentenced or sanctioned as a result of "covered misconduct," as defined in the Regulation for more than 5 years and less than 10 years, including supervised

release, will be considered for suspension from doing business with Fannie Mae, Freddie Mac and the Federal Home Loan Banks for ten (10) years, absent specified mitigating conditions.

Indefinite Suspension

Persons or entities that are sentenced or sanctioned as a result of “covered misconduct,” as defined in the Regulation for ten (10) years or more, including supervised release, will be considered for suspension from doing business with the regulated entities indefinitely, absent specified mitigating conditions.

Mitigating conditions that may increase or decrease a suspension period include, but are not limited to, the following factors as set forth in 12 CFR 1227.6(c). FHFA exercises discretion in determining the nature, weighting and application of mitigating factors.

1. Actual or potential harm or impact that results or may result from the covered misconduct;
2. Frequency of incidents or duration of the covered misconduct;
3. Whether there is a pattern of prior covered misconduct;
4. Whether the respondent has accepted responsibility for the covered misconduct and recognized its seriousness;
5. Whether the respondent has paid or agreed to pay all penalties or liabilities for the covered misconduct, including any investigative or administrative costs incurred by the government, and has made or agreed to make full restitution;
6. Whether the covered misconduct was pervasive within the respondent’s organization;
7. The kind of positions held by the individual involved in the covered misconduct;
8. Whether the respondent’s organization took appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence of the covered misconduct;
9. Whether the respondent brought the covered misconduct to the attention of the appropriate government agency in a timely manner;
10. Whether the respondent has fully investigated circumstances surrounding the covered misconduct and made the result of the investigation available to the suspending official;
11. Whether the respondent had effective standards of conduct and internal control systems in place at the time the covered misconduct occurred;
12. Whether the respondent has taken appropriate disciplinary action against the individuals responsible for the covered misconduct; or
13. Whether the respondent has had adequate time to eliminate the circumstances within the organization that led to the covered misconduct.

FHFA will cite, based on its review, one or more of these mitigating factors, including by reference to the applicable provision in the regulation, when it determines to apply a different suspension period than provided in these suspension timelines.