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Report to Congressional Committees

July 2001

MULTIFAMILY HOUSING

Issues Related to Mark-to-Market Program Reauthorization

GAO-01-800

Contents

Abbreviations

FHA	Federal Housing Administration
HUD	Department of Housing and Urban Development
OMHAR	Office of Multifamily Housing Assistance Restructuring

United States General Accounting Office
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Congressional Committees

The Office of Multifamily Housing Assistance Restructuring (OMHAR) was established within the Department of Housing and Urban Development (HUD) by the Multifamily Assisted Housing Reform and Affordability Act of 1997.[1] The Office was created to administer the "mark-to-market" program, also authorized by the act. The mark-to-market program is aimed at preserving the affordability of low-income rental housing, while reducing the cost of rental assistance subsidies provided to low-income households. More specifically, the program provides the framework for HUD to restructure insured Section 8 multifamily housing projects by lowering their rents to market levels when their current Section 8 contracts expire and reducing mortgage debt if such action is necessary for the properties to continue to have a positive cash flow.[2] Without restructuring, rents for many of the 8,500 properties in HUD's insured Section 8 multifamily housing portfolio substantially exceed market levels, resulting in higher federal subsidies under the Section 8 program. HUD received $4.2 billion in budget authority for Section 8 project-based subsidies in fiscal year 1999 and $4.1 billion in fiscal year 2000.[3]

Legislative authorization for both the mark-to-market program and OMHAR is scheduled to terminate on September 30, 2001. At that time, HUD would still be required to renew Section 8 contract rents at market levels, but the tools established by the act for restructuring mortgages would no longer be available. OMHAR's authority would also terminate

[1]Referred to in this report as the act. The act was enacted as title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (P.L. 105-65, Oct. 27, 1997).

[2]Insured multifamily housing projects are those with mortgages insured by the Federal Housing Administration (FHA), an office within HUD. FHA mortgage insurance protects lenders from financial losses stemming from borrowers' defaults on mortgage loans. In addition to mortgage insurance, many of these properties receive some form of subsidy from HUD. For instance, HUD's Section 8 program provides rental subsidies for low-income families. These subsidies are linked to either the apartment (project-based) or the resident (tenant-based). The mark-to-market program applies to multifamily housing properties with FHA mortgage insurance and project-based Section 8 assistance.

[3]Budget authority is the authority provided by law to enter into financial obligations that will result in immediate or future outlays involving federal funds.

and any outstanding mark-to-market responsibilities would be transferred to HUD's Secretary.

The act requires us to review OMHAR's implementation of the mark-to-market program within 18 months of the effective date of final regulations, which were issued on March 22, 2000. As agreed with the responsible subcommittees of the Senate Committee on Banking, Housing, and Urban Affairs, the House Committee on Financial Services, and the House and Senate Appropriations Committees, this report focuses on (1) the status of properties in the mark-to-market program; (2) factors that have affected the pace of program implementation and the actions OMHAR has taken to address these factors; (3) the advantages and disadvantages to the federal government of extending the program past its statutory termination date of September 30, 2001, and of transferring program responsibilities to HUD or keeping them with OMHAR; and (4) possible actions for strengthening program implementation.

To meet these objectives, among other things, we analyzed data relating to OMHAR's implementation of the program and interviewed representatives from a variety of program stakeholders, including 15 entities that OMHAR has contracted with to carry out property restructurings (referred to as participating administrative entities). We also convened an expert panel composed of a cross section of program stakeholders representing OMHAR, HUD, participating administrative entities, lending institutions, tenant associations, Section 8 property owners, and nonprofit organizations to discuss the issues that we agreed to address. The 10 panel members met for 1 day to discuss questions that we provided to them in advance of the meeting. We conducted our review from July 2000 to May 2001 in accordance with generally accepted government auditing standards. See appendix IV for a more detailed discussion of our scope and methodology.

Results in Brief

As of June 15, 2001, 1,558 properties had entered OMHAR's mark-to-market program. About 62 percent of these properties are to have their mortgages restructured before their rents are reduced to market levels, and the other 38 percent will have their rents reduced to market without the property receiving a mortgage restructuring. OMHAR has completed actions for 14 percent of the properties that require a mortgage restructuring and 85 percent of the properties that only require rent reductions. OMHAR estimated that the federal government would realize about $563 million in savings over a 20-year period from the restructurings that it has completed thus far. However, for some properties that have not successfully completed the restructuring process, the requirement to reduce rents to market has decreased the properties' cash flows, thus, increasing the likelihood that the properties will develop physical and financial problems.

Various factors have affected the pace at which the program has been implemented. It took almost 2 years to establish the program's infrastructure and for OMHAR to begin assigning a large volume of properties to the entities that would carry out restructuring actions. In addition, some program stakeholders believed that other factors have slowed the restructuring process. These factors include OMHAR's process for reviewing and approving restructuring transactions, the detailed requirements contained in the program's operating procedures guide, and the unwillingness of many Section 8 property owners to participate in the program. OMHAR has taken action to address these factors by eliminating some elements of its review, streamlining the requirements in the operating procedures guide, and developing incentives to encourage owner participation in the program. Most members of our expert panel believed that these actions have been positive and that the pace of the program has improved. In addition, most members of our expert panel believed that OMHAR's progress in implementing the program has been reasonable given the program's complexity and the number of tasks that needed to be accomplished.

Extending the mark-to-market program past its scheduled termination date would, in our view, be more advantageous to the federal government than ending the program. OMHAR estimated that over 1,300 properties with rents above market have Section 8 contracts that would not expire until after the program is scheduled to sunset. If rents for these properties must be marked down to market levels without provisions for mortgage restructuring, it is likely that many of the properties would default on their mortgages, resulting in large claims against the Federal Housing Administration insurance fund. For this and other reasons, expert panelists were unanimous in their opinion that the program should be extended beyond September 30, 2001.

Most members of our expert panel were concerned that transferring responsibility for administering the program from OMHAR to other parts of HUD without dedicated mark-to-market staff could disrupt program momentum and leave HUD without the capacity and expertise it needs to administer the program effectively. Accordingly, 9 of the 10 expert panelists favored extending OMHAR's authority for administering the program. The other panelist favored moving program administration to

HUD's Office of Housing because he believed such action could streamline program decisionmaking. We share the concerns expressed by most panel members and agree with them that administration of the mark-to-market program should continue to reside in an office dedicated to the program's implementation. Likewise, we believe that the office should have the resources and expertise needed to administer the program and to oversee restructuring transactions. However, we believe that it would be workable to place the office under HUD's Office of Housing so long as such action does not disrupt program momentum, diminish HUD's capacity for administering the program, or weaken program oversight.

While some program stakeholders, including members of our expert panel, were concerned that wholesale changes to the mark-to-market program could disrupt the momentum that has been recently achieved, the stakeholders identified a number of actions that they believed could improve program implementation. These actions included having HUD provide rehabilitation grants that could reduce the number of restructuring transactions that must be discontinued because there is insufficient funding available to address property rehabilitation needs; taking actions to improve owner and tenant participation in the program; and ensuring that all properties with above-market rents are sent to OMHAR for restructuring. While these actions could facilitate OMHAR's ability to complete restructurings, some of them could also increase program costs.

This report includes matters for congressional consideration on the extension of Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act beyond September 30, 2001, to permit continued mortgage restructuring of Section 8 properties with above-market rents, and on the extension of legislative requirements placing the mark-to-market program under an office within HUD that has sole responsibility and dedicated staff to administer the program. The report also makes a recommendation to the Secretary of HUD designed to ensure that appropriate actions are taken to address problems that may occur at properties that have not successfully completed the restructuring process.

Background

Over 800,000 units in approximately 8,500 multifamily projects have been financed with mortgages insured by the Federal Housing Administration (FHA) and supported by project-based Section 8 housing assistance payments contracts. The residents of housing units that receive project-based assistance are required to pay a portion of their income for rent (generally 30 percent), while HUD pays the balance.

Many of these properties' rents are higher than the market rents of comparable unassisted properties. OMHAR has estimated that 48 percent of the projects with Section 8 contracts expiring between October 1998 and September 2001 had above-market rents, while 66 percent of the projects expiring after that time will have above-market rents. A main cause of the higher rents is the fact that the government originally supported the development of these properties by establishing rents above market levels and raising the rents regularly through the application of set formulas that, according to HUD, tended to be generous to encourage the production of new affordable housing. Because HUD makes up the difference between residents' contributions and the project rents, these higher rent levels increase the costs of the Section 8 program to the federal government. HUD estimated that, if no action was taken, by 2007 the annual cost of renewing project-based Section 8 contracts would rise to approximately $7 billion, or about one-third of HUD's total budget. On the other hand, if the Section 8 assistance were simply reduced or eliminated, many of the FHA-insured properties could lack sufficient revenues to cover operating expenses and payments on their existing mortgages. As a result, the owners of many properties would likely default on their mortgage payments, resulting in substantial claims to FHA and possibly leaving tenants without adequate affordable housing.[4]

In October 1997, to address the increasing costs to the federal government of insured Section 8 housing, the Congress created the mark-to-market program for properties with above-market rents and project-based Section 8 contracts expiring on or after October 1998.[5] The program's goals include preserving the affordability and the availability of low-income rental housing while reducing the long-term costs of Section 8 project-based assistance, resolving the problems affecting financially and physically troubled projects, and correcting management and ownership deficiencies. The restructuring tools provided in the act include (1) reducing property debt levels by approving partial or full payments of FHA insurance claims without an owner default, (2) approving exception rents in excess of local market rents in order to preserve affordable housing in specific markets, (3) exempting FHA mortgage insurance credit subsidy limitations and limitations on risk sharing commitments, and (4) using public and

[4]When a default occurs on an insured loan, a lender may "assign" the mortgage to HUD and receive payment from FHA for an insurance claim.

[5]Subtitle A of the act contains the FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring Program.

nonpublic participating administrative entities to complete restructuring actions. The October 1997 act also established OMHAR within HUD to administer the program. In addition, OMHAR was delegated certain authorities of HUD's Office of Housing related to administering the program. However, Housing retained Section 8 contract administration responsibilities, so OMHAR and Housing must coordinate their actions. As required by the act, OMHAR is under the management of a director who reports directly to the Secretary of HUD. OMHAR's Director was nominated by the President on September 29, 1998, and confirmed by the Senate on October 21, 1998.[6]

The mark-to-market process begins when a property's current Section 8 contract is about to expire. Approximately 4 months prior to contract expiration, if the property owner wishes to continue in the Section 8 program, the owner is required to submit to the Office of Housing's local field offices a request for contract renewal and a rent comparability study.[7] Rent comparability studies are prepared by state-certified appraisers to compare the unit rents for the subject property to the fair market rents charged for comparable units that are not receiving Section 8 subsidies. The rent comparability study is sent to the local HUD offices for review to determine if the property's current rents are at, above, or below market rates. If rents are at or below market rates, HUD field office staff will make adjustments where necessary and execute a new Section 8 contract. If rents are above market, HUD staff are to renew the current contract (at above-market rents) for up to 1 year and forward the owner's submission to OMHAR for a mark-to-market restructuring.[8] Upon receipt from HUD field offices, OMHAR assigns properties to participating administrative

[6]We have issued two previous reports discussing OMHAR's efforts to implement the mark-to-market program: *Multifamily Housing: Progress Made in Establishing HUD's Office of Multifamily Housing Assistance Restructuring* (GAO/RCED-99-5, Oct. 27, 1998); *Multifamily Housing: HUD's Restructuring Office's Actions to Implement the Mark-to-Market Program* (GAO/RCED-00-21, Jan. 20, 2000)

[7]For cases in which the owner knows that the contract rents exceed comparable market rents, the owner can choose to have the contract referred to OMHAR for a mortgage restructuring and/or a reduction of the rents to market without completing a rent comparability study.

[8]According to 24 CFR 401.600, owners may receive a Section 8 contract extension at current rents for the shortest reasonable period needed for the participating administrative entities to complete a restructuring plan for the project. Any extension of a contract beyond 1 year pending closing on the restructuring plan would be at comparable market rents or exception rents. Extension of the contract rents at the current above market level may only be done with a waiver.

entities to carry out restructurings under the mark-to-market program on behalf of the federal government. As of June 15, 2001, OMHAR had contracts with 33 participating administrative entities, including 24 public agencies (state and local housing finance agencies) and 9 nonpublic entities.[9] Among other things, the responsibilities of the participating administrative entities include determining appropriate rent levels, restructuring mortgage loans, underwriting new or modified loans, and managing the closing process. OMHAR developed an Internet-based tracking system to monitor the actions taken by the participating administrative entities in carrying out mark-to-market activities.

There are two types of restructurings. Full mortgage restructurings generally involve resetting rents to market levels and reducing mortgage debt to permit a positive cash flow. For this type of restructuring, the participating administrative entities develop restructuring plans that address both rents and debt and submit the plans to OMHAR for review and approval. The restructuring plans require the owner to maintain restrictions aimed at preserving the property as affordable housing for at least 30 years, and Section 8 contracts are typically being renewed for 20 years. For the second type of restructurings, which OMHAR refers to as rent restructurings, the participating administrative entities also develop restructuring plans that must be approved by OMHAR; but, the plans only reduce the rents, not the mortgage debt, since the property should be physically and financially sound enough to continue with reduced rental income. There are no affordability and use restrictions on properties that receive a rent restructuring, and the Section 8 contracts are usually renewed for 5 years.[10] Appendix I describes the mark-to-market process in more detail.

The participating administrative entities are required to use their best efforts to seek the cooperation of Section 8 property owners in the development of the restructuring plan. Owners must agree with the final plan and, among other requirements, contribute 20 percent of the total cost of the property's rehabilitation. Participating administrative entities are also required to ensure that tenants affected by the restructuring of a

[9]OMHAR originally had contracts with 42 public participating administrative entities. Of those, 7 entities withdrew from the program, and 11 entities' contracts were not renewed.

[10]If a property is potentially troubled, HUD will renew the Section 8 contract for only 1 year.

project are kept informed and given the opportunity to provide comments at crucial stages of the process.

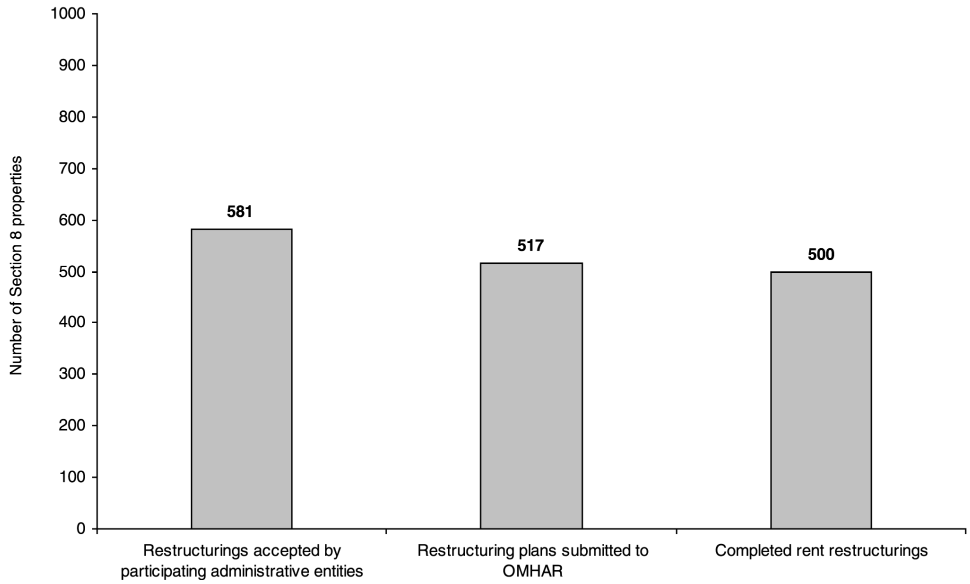
Completed Restructurings Have Resulted in Savings

As of June 15, 2001, approximately 3 ½ years after the mark-to-market legislation was enacted, OMHAR had completed restructurings for about 41 percent of the 1,558 properties that had entered the mark-to-market program. While OMHAR had completed restructurings for only 138 of the properties requiring full mortgage restructuring, it had completed restructurings for 500 of the properties requiring only a reduction in rents. OMHAR estimated that the federal government would realize about $563 million in savings over a 20-year period from these completed restructurings. However, the legislative requirement that rents be reduced to market has increased the risk that some properties will experience physical and financial problems.

Restructuring Actions Have Been Completed for 41 Percent of OMHAR's Portfolio

As of June 15, 2001, 1,558 properties had entered the mark-to-market program. OMHAR had assigned 1,491 of these properties to the participating administrative entities for restructuring. OMHAR estimated that 62 percent of the portfolio would ultimately receive full mortgage restructurings and the remaining 38 percent would receive rent restructurings only. While OMHAR and its participating administrative entities have made substantial progress in completing rent restructurings, they have completed fewer full mortgage restructurings. As shown in figure 1, OMHAR has completed rent restructurings for 500 properties, or 86 percent of all assigned and working properties in this category.

Figure 1: Status of Rent Restructurings in the Mark-to-Market Pipeline as of June 15, 2001



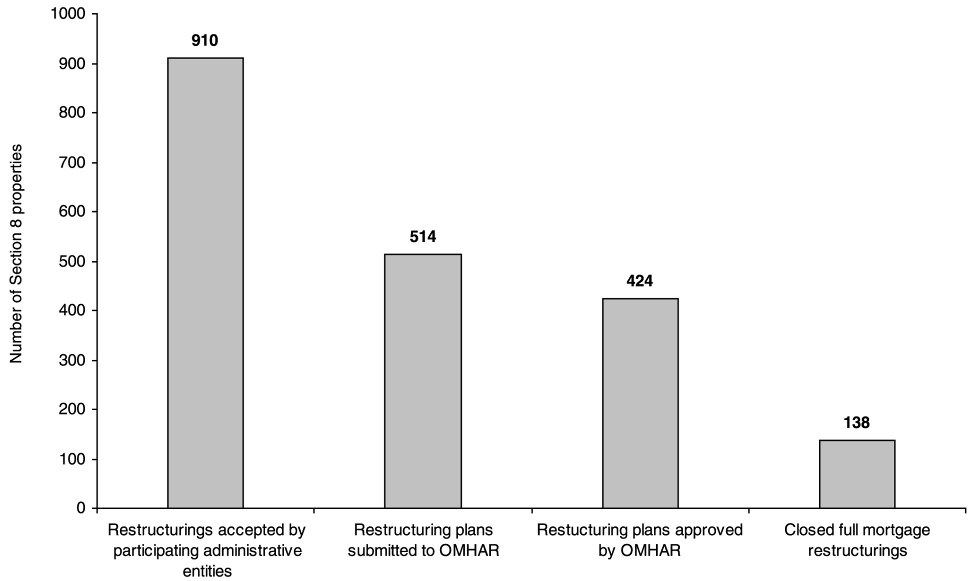
Source: GAO analysis of OMHAR's database.

The 500 completed rent restructurings include 75 transactions that OMHAR has closed but that did not result in Section 8 savings. Most of these cases involve properties for which OMHAR determined that property rents were already below market. In addition, as discussed in the next section, the 500 rent restructurings include transactions for 75 properties that did not meet OMHAR's underwriting criteria to be processed as rent restructurings.

As shown in figure 2, OMHAR has been less successful in completing full mortgage restructurings. As of June 15, 2001, OMHAR had completed restructurings for 138 properties, or 15 percent of all assigned and working properties of this type.[11] However, as of June 15, 2001, OMHAR had approved restructuring plans for 562 properties (including the 138 completed restructurings), or about 62 percent of the properties accepted by participating administrative entities for restructuring.

[11] OMHAR considers the participating administrative entity's "plan approval date" as the completion of the rent restructuring process while the "closing" date marks the completion for full mortgage restructurings.

Figure 2: Status of Full Mortgage Restructurings in the Mark-to-Market Pipeline as of June 15, 2001

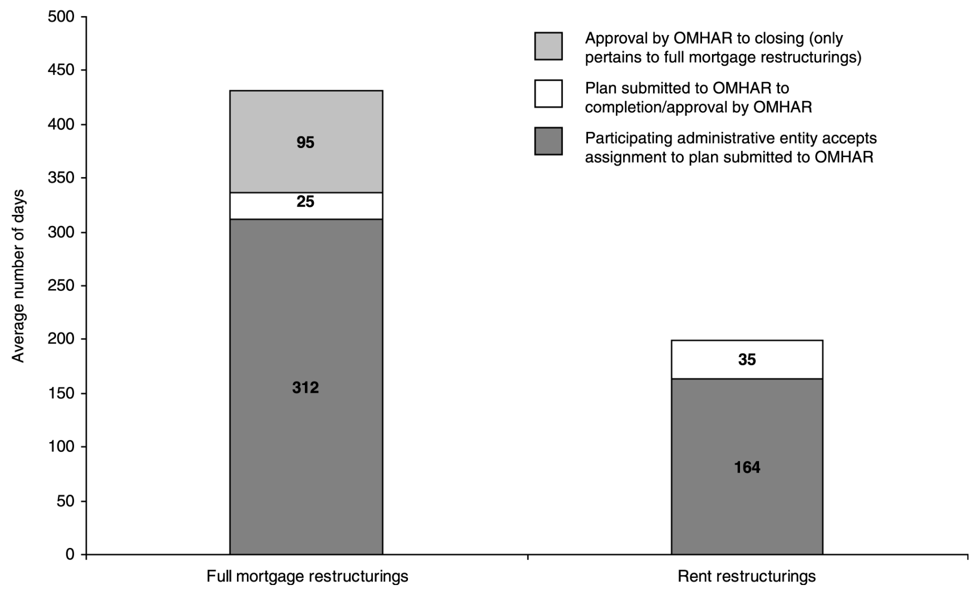


Source: GAO analysis of OMHAR's database.

The number of closed full mortgage restructurings does not include 78 restructurings for which OMHAR reduced property rents without restructuring the properties' mortgages. These cases include properties whose owners have refused to execute a restructuring commitment, have been uncooperative, or have been barred from participating in the mark-to-market program. They also include properties for which OMHAR has determined that a restructuring plan is financially not viable because of the property's poor physical condition.

OMHAR has made less progress in completing full mortgage restructurings for various reasons. Typically, mortgage restructurings are more complex and involve more steps to complete than rent restructurings. Also, as discussed later in the report, many property owners have been reluctant to agree to full mortgage restructurings. Average processing times have been substantially longer for mortgage restructurings than rent restructurings, as shown in figure 3. For example, the figure shows that participating administrative entities required an average of 199 days to complete a rent restructuring while they required an average of 432 days to complete a full mortgage restructuring. The figure also shows that it has not only taken longer, on average, for participating administrative entities to submit mortgage restructuring plans to OMHAR (312 days versus 164 days), it has taken OMHAR substantially longer to complete the mortgage restructurings after the plans have been submitted (120 days versus 35 days).

Figure 3: Average Number of Days to Process Full Mortgage Restructurings and Rent Restructurings



Source: GAO analysis of OMHAR's database.

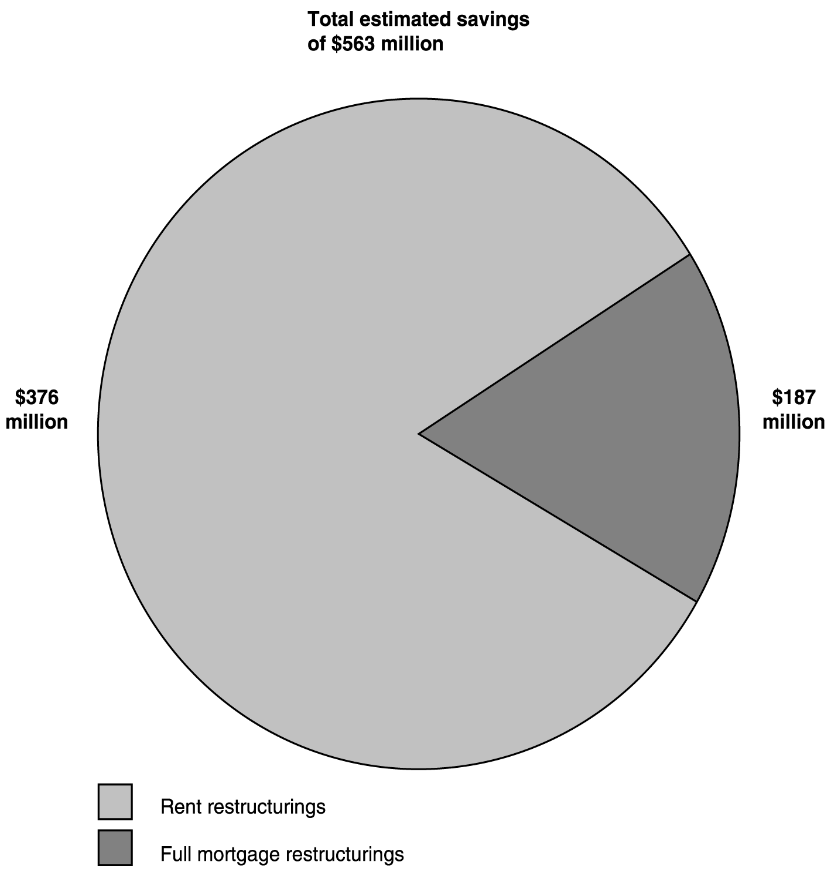
The Federal Government Has Realized Cost Savings as a Result of the Program, but Risk of Physical and Financial Problems Has Increased for Some Properties

OMHAR estimated that restructurings completed as of June 15, 2001, would generate approximately $563 million in savings (net present value) over the next 20 years. These savings will result primarily from reductions in the government's Section 8 rental assistance payments after property rents have been lowered to market levels. The savings estimate takes into account costs that the government has incurred as a result of mortgage write-downs, but it does not include OMHAR's or participating administrative entities' administrative costs, which have totaled $53.9 million as of May 2001.[12] Furthermore, the savings estimate assumes that properties receiving rent restructurings will remain in the Section 8 program for 20 years, although those properties only receive up to 5-year Section 8 contracts. The estimate includes 641 completed closings covering over 53,000 assisted units. As shown in figure 4, 425 rent restructurings account for $376 million in savings (an average of about $885,000 per property) and 216 full mortgage restructurings account for the remaining $187 million (about $865,000 per property).[13]

[12]OMHAR determined the restructuring savings estimate by taking the difference between pre and post mark-to-market rent levels on a property-level basis and then calculating annual savings for Section 8 units within the property. OMHAR then projected gross savings over a 20-year period for all restructured properties. For mortgage restructurings, OMHAR subtracted the cost of claims against FHA's insurance fund but added in expected repayments by owners of the mortgage write-downs. Next, the Office computed the net present value of the aggregate total savings amount using a 6.11 percent discount rate. OMHAR's savings calculation does not consider the associated administrative costs of restructuring.

[13]The savings calculations for rent restructurings exclude 75 properties (out of the 500 completed rent restructurings) that did not result in Section 8 savings. The savings calculations for mortgage restructurings include savings resulting from the 138 restructurings that OMHAR has closed and 78 restructurings for which OMHAR reduced property rents but did not complete a mortgage restructuring.

Figure 4: Estimated Mark-to-Market Program Savings by Type of Completed Restructuring Over 20 years (Net Present Value)



Source: GAO analysis of OMHAR's database.

While the mark-to-market program has resulted in Section 8 savings, the legislative requirement that rents be reduced to market has increased the risk of physical and financial problems for some properties. As discussed earlier, 75 of the properties for which OMHAR has completed a rent restructuring did not meet OMHAR's underwriting criteria for such transactions. More specifically, OMHAR's analysis showed that the properties' income may not be sufficient to cover mortgage payments, operating expenses, and ongoing repair needs after the properties' rents have been reduced to market. According to OMHAR officials, while many of these properties should have been processed as full mortgage restructurings, OMHAR lacked the legal authority to compel property owners to accept such restructurings.[14] Recognizing that, for such cases, there is an increased risk of problems affecting the property's physical and financial condition and its residents, in a memorandum dated August 15, 2000, HUD's Office of Housing established additional requirements for HUD field offices to follow in monitoring these properties. In general, the requirements call for the field offices to place the properties on a "watch list." HUD field offices classify such properties into one of three risk categories (normal, potentially troubled, or troubled) depending on various factors, including their physical and financial condition. The higher risk properties are subject to increased monitoring. As of June 15, 2001, field offices had classified 15 of the 75 properties on the watch list as troubled and 28 more as potentially troubled.

In addition, as noted earlier, for 78 properties that OMHAR has processed as mortgage restructurings, OMHAR reduced the properties' rents to market without completing the restructuring of the properties' mortgages. OMHAR officials acknowledged that these properties also have an increased risk of problems related to their physical and financial condition that may affect the properties' residents, and that they also should be included on the Office of Housing's watch list. However, the Office of Housing's August 15, 2000, memorandum does not specifically cover such properties. OMHAR's Director told us in May 2001 that after we brought this issue to his attention, he met with Office of Housing officials to discuss the matter. They agreed that the August 15 memorandum should be revised to cover properties for which OMHAR has reduced rents to market without a mortgage restructuring being completed. He told us that he had also emphasized the need for such properties to be carefully monitored in light of their increased risk for problems.

[14]While OMHAR cannot compel an owner to accept full mortgage restructuring, the Office is not obligated to renew a property's Section 8 contract. According to section 524 of the act, HUD is not required to renew a property's contract if the property does not have an approved restructuring plan that the Secretary has determined is necessary.

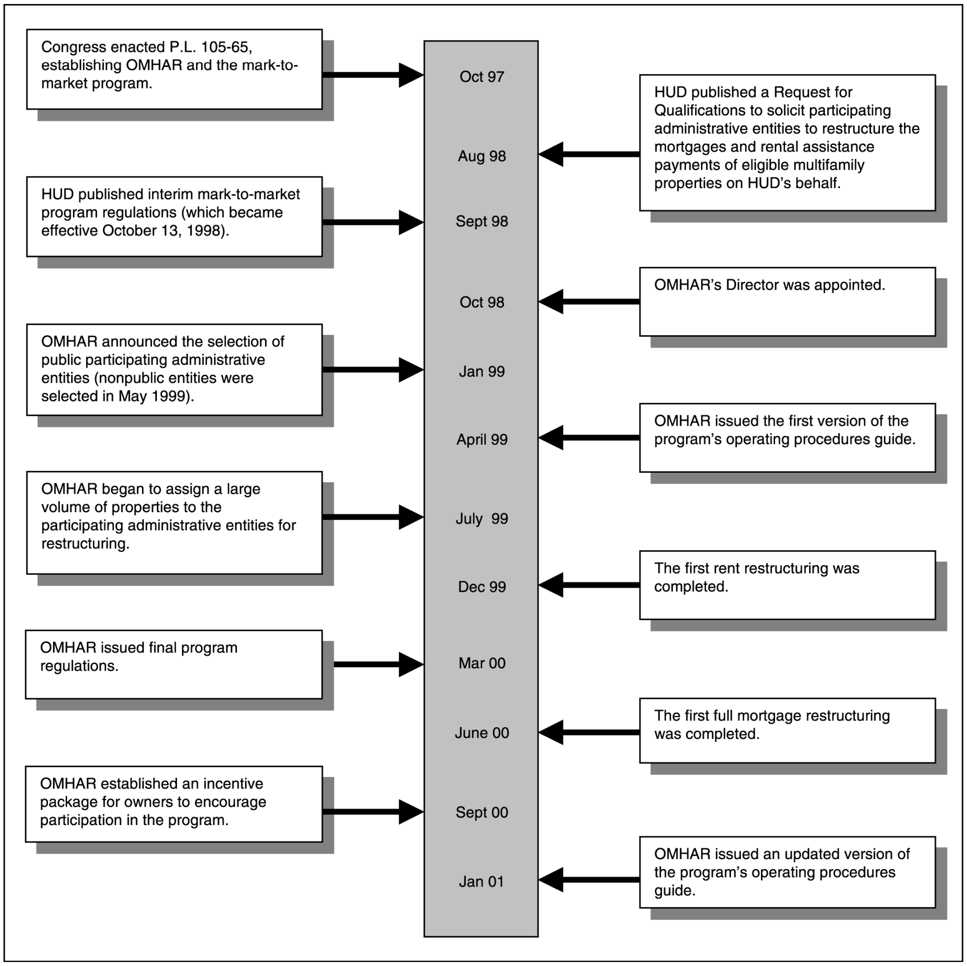
Factors Cited as Slowing Mark-to-Market Implementation and Actions OMHAR Has Taken to Address Them

In the almost 2 years from the time the mark-to-market program was created in 1997 until OMHAR was in a position to begin assigning a large volume of properties for restructuring in July 1999, the Office completed tasks necessary to implement the program. In addition to the time OMHAR spent establishing program requirements, various factors, such as OMHAR's detailed review of the restructuring plans and uncooperative property owners, may have slowed the implementation of the program. Recognizing that some factors were slowing the completion of restructuring transactions, OMHAR took action to address those factors. Many program stakeholders we contacted believed the program has gained momentum and that the pace at which restructurings were being completed had improved over time. Furthermore, while implementation of the mark-to-market program has taken longer than OMHAR originally anticipated, most experts participating in our panel believed that the program has proceeded at least as quickly as could be reasonably expected.

Implementing the Mark-to-Market Program Has Been a Lengthy Process, With Various Factors Cited as Slowing Implementation

While the act required the mark-to-market program to be implemented for properties with Section 8 contracts expiring after October 1, 1998, the Office did not assign a large volume of properties to the participating administrative entities for restructuring until July 1999. Prior to assigning properties to be restructured, OMHAR established the program's infrastructure by completing tasks such as soliciting and selecting the participating administrative entities, entering into contractual agreements with those entities, developing the program's operating procedures guide, and issuing regulations. While these tasks were completed behind OMHAR's original schedule, Office officials believed the delays were due, in part, to the normal challenges associated with starting a new organization. See figure 5 for a timeline of when key implementation tasks were completed. For example, the timeline shows that OMHAR's Director was not appointed until a year after the Congress established OMHAR, and the operating procedures guide was not issued until 18 months after the act's passage.

Figure 5: Timeline of Mark-to-Market Implementation



Source: GAO analysis of HUD data.

Program stakeholders identified various factors that may have slowed the implementation of the program once program requirements had been established. For example, one factor cited by some of the participating administrative entities we contacted was the extensive requirements contained in the program's operating procedures guide. Of the 15 participating administrative entities we contacted, 7 said the program's guide has been a hindrance to completing the restructurings in a timely manner. One member of our expert panel noted that the value the participating administrative entities should be adding to the program is their experience, judgment, and ability, and that they should not be forced to complete the restructurings in the manner OMHAR prescribed in the guide. However, the remaining eight participating administrative entities we contacted said the operating procedures guide has not slowed the restructuring process and was necessary to ensure consistency in the program. Furthermore, 7 of our 10 expert panelists believed the operating procedures guide has somewhat or greatly accelerated the processing of restructuring transactions. Another factor cited by a number of the participating administrative entities as slowing implementation was OMHAR's detailed review of the restructuring plans the entities submitted. According to the entities, the level of review and oversight provided by the OMHAR staff was excessive and often did not result in improvements to the restructuring plans.

A third factor cited by the participating administrative entities and members of our expert panel as slowing the program's implementation was the unwillingness of many Section 8 property owners to cooperate in the restructuring process. Ten out of 15 participating administrative entities we talked to said uncooperative owners slowed the process. For example, one participating administrative entity told us that when owners canceled meetings or did not return required documents to the entity in a timely manner, the restructuring process was delayed. In addition, this entity said that many property owners have been reluctant to agree to full mortgage restructurings because of the cash they must contribute to address the property's rehabilitation needs and the long-term use agreement that accompanies a full mortgage restructuring. Nine of our 10 expert panelists also believed uncooperative owners have had a moderate or great effect on slowing the processing of restructuring transactions. One panelist said there was a fundamental lack of incentive for owners to participate in the program, which made the restructurings very difficult to complete.

A factor cited by OMHAR as slowing implementation was the lack of timely and quality submittals of restructuring plans by some participating administrative entities to OMHAR for approval. According to OMHAR officials, the skills, expertise and seniority at both a staffing and organizational level were considerably lower than anticipated for a number of the participating administrative entities, and the capacity of some entities proved to be significantly less than indicated in their original proposals. OMHAR also noted that some participating administrative entities did not have enough staff dedicated to the restructuring process and that the staff assigned to work on mark-to-market had a number of competing priorities. In addition to skill and capacity issues, OMHAR officials said processing delays resulted from the fact that OMHAR initially assigned a large volume of properties to the entities for restructuring.

More specifically, OMHAR said that during the time-consuming process of OMHAR's contract negotiations with some public participating administrative entities, a significant number of properties entered into the mark-to-market program. Consequently, the Office had a large volume of properties to assign to the entities at one time, which resulted in processing delays and the need for Section 8 contract extensions at above-market rents for a large number of the properties. As of March 31, 2001, OMHAR had extended the contracts for 716 properties at above-market rents that had been delayed in various stages of the mark-to-market process. OMHAR estimated the cost of these contract extensions at approximately $40 million.

OMHAR Has Taken Action to Address the Factors Adversely Affecting Implementation

In an effort to increase the program's production, OMHAR took action to address the factors cited as slowing the process. For example, OMHAR streamlined the policies and procedures found in the operating procedures guide, issuing a complete revision in January 2001.[15] According to OMHAR, the new guide simplifies the process, makes clear OMHAR's reliance on good judgment and quality restructuring by the participating administrative entities, and notes OMHAR's willingness to consider alternative approaches that reach the goals of the program. OMHAR said the new guide reduces the documentation requirement placed on participating administrative entities by combining the restructuring plan submission with the credit file requirement. Among other things, the revised guide contains new statements of work for appraisal and physical inspections that conform to HUD's new initiatives in rent comparability assessment. OMHAR believed this change would produce greater consistency when HUD and the participating administrative entities are both obtaining rental determinations in the same area and reduce controversy that can occur when owners believe that different approaches have led to disparate results.

To address concerns that OMHAR staff were providing overly detailed reviews of the restructuring plans submitted by participating administrative entities, the Office conducted a seminar with the OMHAR staff who review the restructuring plans to emphasize OMHAR's commitment to production, discuss review requirements, and solicit input

[15]Although the complete operating procedures guide was not issued until January 2001, OMHAR said much of the revised guide was posted on OMHAR's web page between September and November 2000.

on simplifying the process. The OMHAR staff were instructed to ensure the reasonableness of the participating administrative entities' underwriting and compliance with regulations rather than to spend time reunderwriting the restructuring plan. Seven of our 10 expert panelists believed OMHAR has been somewhat or very successful in eliminating any unnecessary elements of its review during the restructuring process. However, 11 out of 15 participating administrative entities we contacted said OMHAR had not eliminated unnecessary elements of its review. Some of these entities expressed concern that OMHAR staff continued to inconsistently review their restructuring plans, often commenting on the plans based on the staffs' own personal underwriting preferences.

In September 2000, OMHAR also took action to address delays caused by uncooperative Section 8 property owners by introducing several initiatives to make participation in the program more attractive for owners. This incentive package allows owners to receive monthly capital recovery payments designed to provide a reasonable return on the investment the owners must make to cover their portion of required rehabilitation and transaction costs. The incentive package also allows owners to receive a performance fee of up to 3 percent of effective gross income if the owner demonstrates sound management practices, and it allows owners to finance 100 percent of the initial deposit to a property's replacement reserve and 80 percent of certain reasonable acquisition transactions costs. All 10 expert panelists believed the incentives OMHAR developed to encourage owner participation in the program somewhat or greatly increased participation. According to one panelist, the increased number of properties entering the program requesting full mortgage restructuring after the incentives were introduced has demonstrated the effectiveness of the owner initiatives. Furthermore, 11 out of 15 participating administrative entities we contacted said the incentives helped to make the owners more cooperative during the restructuring process.

To address delays associated with the performance of participating administrative entities, the Office organized special teams of OMHAR and contractor staff to assist the entities in the completion of restructuring transactions. For example, if a participating administrative entity was not completing a restructuring in a timely manner, OMHAR dispatched a team of experienced underwriters to assist in the restructuring. Also, OMHAR established a transaction center where OMHAR staff would complete the underwriting for cases not being actively worked on by the participating administrative entity and for cases where the participating administrative entity was struggling with a difficult restructuring. Furthermore, OMHAR officials said they continued to provide specialized training for the participating administrative entities at their request or as deemed necessary by the OMHAR regional offices.

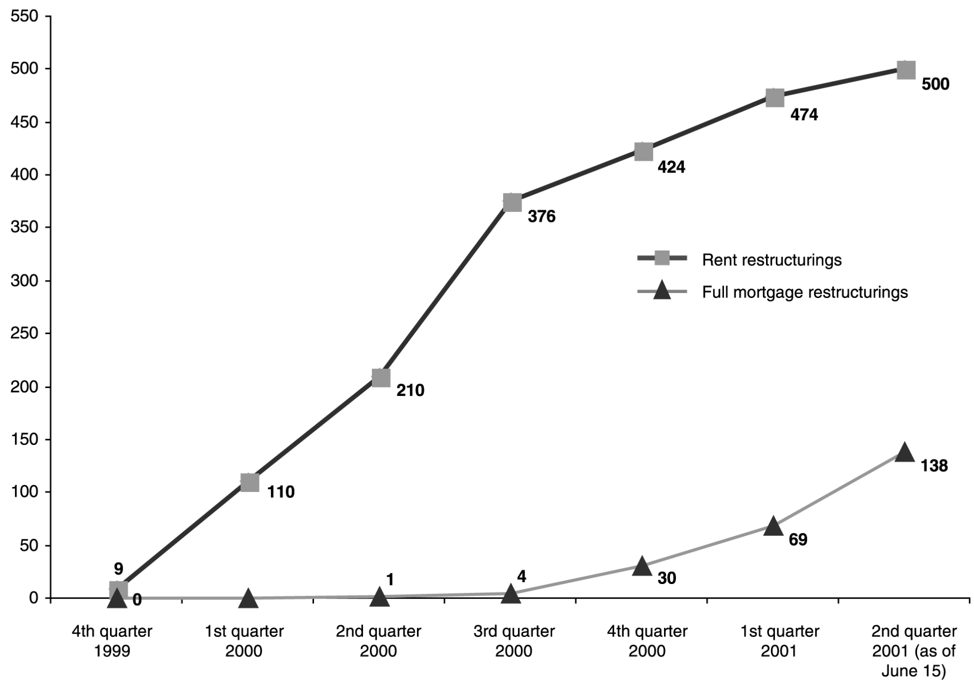
The Pace for Completing Restructuring Transactions Has Improved Over Time, and Most Expert Panelists Believe the Pace Has Been Reasonable

OMHAR and others believed the program has gained momentum and that the pace for completing restructurings has improved. For example, six out of eight expert panelists believed that the time required to complete the restructurings has decreased to some or a great extent.[16] One panelist said that the program's performance has improved significantly in the previous 6 to 8 months and that restructuring transactions were progressing much more quickly. Eight of the 15 participating administrative entities we contacted also believed that the time required to complete the restructurings has decreased. For example, one participating administrative entity said that while full mortgage restructurings previously took them between 10 to 15 months to close, more recently these transactions have been completed in 5 to 7 months. OMHAR officials believed that participating administrative entities were also doing a better job of submitting restructuring plans within the expected time frames. According to OMHAR data, both the number and percentage of restructuring plans that OMHAR considered late decreased between September 2000 and May 2001.[17] Figure 6 shows the cumulative number of completed full mortgage restructurings and rent restructurings by quarter.

[16]When asked if they believed the time required to complete the restructurings has increased, decreased, or stayed the same over time, two panelists did not provide usable responses.

[17]The percentage of full mortgage restructuring plans that OMHAR considered to be late decreased from 24 percent to 18 percent and the percentage of rent restructuring plans decreased from 70 percent to 19 percent. However, during this period, OMHAR increased the amount of time that participating administrative entities have for submitting full mortgage restructuring plans from 8 to 9 months before considering them to be late.

Figure 6: Cumulative Number of Completed Full Mortgage Restructurings and Rent Restructurings by Quarter



Source: GAO analysis of OMHAR's database.

Most experts who participated in our panel believed OMHAR' s overall progress in implementing the mark-to-market program has been reasonable. While implementation of the program has taken considerable time, panelists noted that the program was more complex than originally anticipated, involved a considerable number of stakeholders, and provided few incentives to encourage owner participation. One panelist noted that the length of time to establish the program was not surprising given the program's complexity and that the quality of the outcome is what matters, not the speed at which the outcome is achieved or pursued. When asked specifically how OMHAR has progressed in implementing the mark-to-market program compared to what could reasonably be expected, 7 out of 10 expert panelists said program progress has been as expected or greater than expected.

Expiration of the Program Would Increase the Likelihood of Section 8 Defaults, and Loss of Dedicated Office to Administer the Program Could Cause Additional Delays

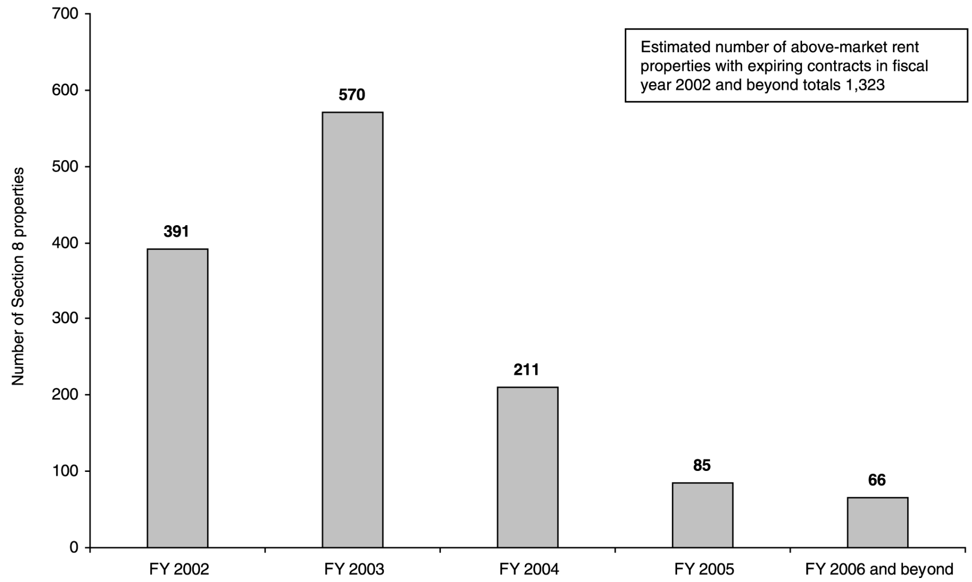
While authority for the mark-to-market program and OMHAR sunsets on September 30, 2001, OMHAR estimated that over 1,300 properties with above-market rents would have Section 8 contracts expiring after fiscal year 2002. According to HUD, owners with above-market rents who have their rents reduced to market levels after the program sunsets will be placing themselves and HUD at risk of financial losses if market rents are insufficient to cover debt service, reserves, and operating costs. All members of our expert panel believed that termination of the program would result in increased property defaults from Section 8 property owners and that the program should be extended beyond September 30, 2001. Furthermore, 9 out of 10 expert panelists indicated that the authority for an office such as OMHAR should be extended, citing such reasons as the disruption in the momentum, lack of HUD capacity, and the loss of expertise that would result if an office dedicated to administering the program was not maintained. Conversely, one expert panelist indicated that program responsibility should be transferred to HUD's Office of Housing, noting that having a single office administer the program would streamline the mark-to-market decisionmaking process and the execution of policies.

Authority to Restructure Section 8 Properties Expires on September 30, 2001

Section 579 of the act repeals Subtitle A of the legislation on September 30, 2001, thereby ending the statutory authority to restructure properties' mortgages. After that time, Section 8 properties with above-market rents that have not entered into a binding commitment with OMHAR will have their rents reduced to comparable market levels without the restructuring tools available in the program when their current Section 8 contract expires.[18] OMHAR estimated that over 1,300 properties with above-market rents would have Section 8 contracts expiring after the scheduled termination of the program. Figure 7 shows the estimated number of above-market rent properties with expiring contracts in fiscal year 2002 and beyond.

[18]Section 524(b) of the act provides that owners of certain classes of properties receiving project-based Section 8 assistance may renew expiring assistance contracts at the lesser of existing rents, rents adjusted by an operating cost adjustment factor, or rents that provide sufficient income to support the properties (budget-based rents). These categories include multifamily housing projects that are not covered by the act or are exempt from mortgage restructuring under the act, such as projects financed by state or local governments.

Figure 7: Estimated Number of Above-Market Rent Properties with Section 8 Contracts Expiring in Fiscal Year 2002 and Beyond



Source: OMHAR.

Expiration of Program Would Increase the Likelihood of Defaults by Section 8 Property Owners

According to HUD, if mark-to-market program authority is not extended, owners will be placing themselves and HUD at risk of financial losses if their property's rents are insufficient to pay for debt service, reserves, and operating costs. HUD also indicated that owners of properties who are unable to operate efficiently at market rents will be forced to decrease expenditures for maintenance and other operating costs in order to remain current with mortgage payments, thereby placing tenants at risk of residing in substandard housing, or they may default on their FHA secured loans. Furthermore, HUD noted that the FHA insurance fund would be adversely affected if property owners that are unable to meet their financial obligations eventually fail because proper restructuring tools are not available.

Program stakeholders who participated in our expert panel were unanimous in their opinion that the program should be extended. The panelists were also in full agreement that allowing the program to expire would increase the likelihood of Section 8 property defaults and large claims against the FHA insurance fund. Panelists did have different views on how long the program should be extended, although there was general consensus that an extension of at least 3 years was warranted. While three panelists indicated that a 3 to 5 year extension of the program would be adequate, three others believed that an indefinite extension would make sense. For example, a panelist noted that if there is a legal requirement to reduce the rents to market, there should always be a corresponding authority to restructure the debt. Several panelists also commented that a decision on extending program authority is needed as soon as possible. One panelist said that the sooner a decision is made to extend the program, owners would realize that they are not benefiting by holding off from entering the program. All 15 participating administrative entities we contacted believed that the program should be extended.

OMHAR's Authority to Administer the Mark-to-Market Program Expires on September 30, 2001

Section 579 of the act repeals Subtitle D of the legislation on September 30, 2001, thereby terminating OMHAR's authority and transferring its authority and responsibilities to HUD's Secretary. In September 2000, the Senate Appropriations Committee directed OMHAR and HUD to begin planning for the transition of program responsibilities by developing a plan to detail how the mark-to-market program functions would be transferred from OMHAR to HUD's Office of Multifamily Housing within HUD's Office of Housing.[19] In October 2000, HUD and OMHAR formed a transition team. The preliminary transition plan provided to the Congress in December 2000 sets out three options for the transfer of OMHAR's responsibilities to HUD:

- HUD could maintain an organization resembling the current structure at OMHAR;
- HUD could create an organization resembling a reduced OMHAR in HUD's Office of Multifamily Housing; and
- HUD could merge restructuring responsibilities into HUD's 18 Multifamily Hubs.

The preliminary plan also recommends extension of the restructuring tools in Subtitle A of the act beyond the scheduled termination date of September 30, 2001.

[19]Senate Appropriations Committee Report 106-410 (Sept. 13, 2000).

Loss of a Dedicated Office to Administer the Program Could Affect Momentum and Contribute to Additional Delays

Nine out of 10 expert panel members and 8 of out 15 participating administrative entities indicated that OMHAR should be allowed to continue administering the program. These parties cited a number of problems that could arise if the program were transferred to HUD's Office of Multifamily Housing and, particularly, if the responsibility were assigned to HUD's Multifamily Hubs.[20]

One of the concerns raised by three panelists and four participating administrative entities was that transferring the responsibilities to another location in HUD without dedicated staff to administer the program could disrupt momentum. For example one panelist noted that the program was now stabilized and has momentum and said, "We're finally at the point where we're ready to effectuate what we all set out to do, so let's not upset the apple cart."

Another concern raised by four panelists and three participating administrative entities was that HUD's Office of Multifamily Housing may lack the capacity to effectively administer the program if OMHAR staff are not retained and responsibility for the program is shifted to HUD Multifamily field offices. For example, a panelist noted that his firm deals with 12 HUD field offices, and none of those offices have adequate staffing. An official from HUD's Office of Housing agreed that field office personnel do not have the capacity or inclination to give the program the attention it deserves.

A survey that we conducted of HUD field office managers in September and October 2000 also strongly indicates that HUD field offices are likely to lack the capacity to administer the mark-to-market program effectively. This survey found that 71 percent of the HUD field office managers believed that their offices do not have sufficient staff to carry out existing programs and activities.[21] The report also noted that insufficient staffing and the need to increase training continue to affect HUD's ability to carry out its mission efficiently and effectively.

This lack of capacity could, in our view, also affect HUD's ability to ensure that the program is being carried out in accordance with legislative

[20]HUD's 18 Multifamily Hubs and their associated 33 program centers comprise HUD's field offices. The field offices report to HUD's Office of Multifamily Housing.

[21]*Major Management Challenges and Program Risks: Department of Housing and Urban Development* (GAO-01-248, Jan., 2001)

requirements and that the federal government's interests are adequately protected. In our October 1998 report on the mark-to-market program, we stressed the importance of HUD's oversight of the program.[22] More specifically, we stated that because many program functions were to be carried out by participating administrative entities rather than by HUD, it was particularly important for HUD to establish procedures to ensure that all parties involved carried out their responsibilities in ways that met the program's objectives and were in compliance with program requirements. The program's complexity and the amount of resources involved make such oversight even more important.

Some expert panelists and participating administrative entities also expressed concern about the loss of expertise that could occur if OMHAR staff are not retained. According to OMHAR, 57 percent of the 89 staff currently employed with OMHAR have limited terms and do not have reemployment rights with HUD. OMHAR said most of the staff with limited terms (about 75 percent) are those with production experience. According to OMHAR's Director, if OMHAR is not extended it would be necessary for HUD to obtain approval from the Office of Personnel Management to extend OMHAR staffs' terms. Furthermore, the act allows OMHAR staff to receive higher pay than comparable HUD employees. Accordingly, OMHAR believed that unless the provisions allowing higher pay are extended, a substantial number of the remaining staff might choose to leave. There was also concern that even if OMHAR staff transferred to HUD's Office of Housing, unless the staff were assigned to a specific office focused on the mark-to-market program, they could be dispersed to work on other HUD multifamily programs.

On the other hand, 1 expert panelist and 7 out of 15 participating administrative entities believed that OMHAR's authority of the program should be allowed to expire. The expert panelist commented that integration of the program into HUD could be beneficial. The panelist noted that consolidating the program within HUD's Office of Housing would improve program efficiency by streamlining the mark-to-market decision-making process and execution of policies since one office would be administering all aspects of Section 8 properties entering the program. The panelist also believed that integrating the program into HUD would improve communication and coordination between the participating

[22] *Multifamily Housing: Progress Made in Establishing HUD's Office of Multifamily Housing Assistance Restructuring* (GAO/RCED-99-5; Oct. 27, 1998)

administrative entities and HUD. A participating administrative entity said that OMHAR should be allowed to expire because its oversight is too prescriptive and heavy-handed. This entity believed that the HUD field offices would be better suited to provide program oversight since the HUD field staff are more knowledgeable about the local rental markets and are more familiar with the Section 8 properties located in their jurisdictions. Another participating administrative entity indicated that if OMHAR were extended, it would make better sense to have the office report to the HUD Assistant Secretary for Housing instead of the HUD Secretary, as it does currently, since the Assistant Secretary would be more aware of events taking place at OMHAR and HUD field offices and could better facilitate coordination between the offices.

Program Stakeholders Identified a Number of Actions That May Improve Program Implementation

Program stakeholders noted a number of actions that they believed would strengthen mark-to-market program implementation and help ensure that the remaining restructurings are carried out as efficiently and economically as possible. However, all of the options have advantages and disadvantages.

The options the stakeholders identified include having HUD provide rehabilitation grants to facilitate restructuring of properties in poor physical condition, taking actions to improve owner and tenant participation in the program, and ensuring that all properties with above-market rents are sent to OMHAR for restructuring. There was a general consensus among panel experts that it is too late in the program's cycle to make changes that would disrupt the momentum that the program has finally established. Accordingly, stakeholders focused on program changes that could be made in tandem with program implementation. A table containing the following options and others is located in appendix II.

Most expert panelists believed that OMHAR needs additional tools to help restructure properties in poor physical condition. In particular, several stakeholders recommended that HUD provide rehabilitation grants to facilitate restructuring of Section 8 properties in poor physical condition for which adequate funding was otherwise not available to cover rehabilitation needs identified in the properties' restructuring plans. As of April 2001, OMHAR had identified 17 properties that required a full mortgage restructuring but for which the responsible participating administrative entities could not complete the restructurings due to the excessively poor physical condition of the property and/or the owner's inability to meet the required cash contribution to address the property's rehabilitation needs.

According to OMHAR, rehabilitation grants could help lower the owner's costs of restructuring and reduce the number of transactions that are discontinued due to a lack of funds needed to address rehabilitation requirements. One stakeholder we spoke with said such grants are particularly important for troubled localities that are trying to preserve their affordable housing. OMHAR also believed providing funding for rehabilitation needs at the beginning of the process could save participating administrative entities' and owners' time spent locating sources of funding and therefore shorten the restructuring process. This in turn could save the government from having to extend above-market rent contracts until restructurings are complete and could in some cases reduce the need for OMHAR to approve above-market exception rents.[23]

However, OMHAR cautioned that any new financial incentive for owners would result in processing delays since some owners would be likely to delay restructuring in order to take advantage of the new incentive. A participating administrative entity that supported the idea advised that the grants would have to be administered in such a way to ensure that they did not benefit owners who had allowed their properties to decline, thus rewarding them for their neglect. Finally, stakeholders noted that providing rehabilitation grants could increase overall costs to the government, but it could promote the preservation of affordable housing.[24]

Another possible improvement cited by program stakeholders is to ensure that tenants have access to information on their property's restructuring. Tenant representatives told us that there are problems with tenant access to information in the mark-to-market process. According to the regulations and as outlined in the operating procedures guide, property residents and interested community groups must be provided the opportunity for meaningful participation in the restructuring process. The participating administrative entities are required to notify and consult with tenants through two tenant meetings, notices of plan progress, and by providing

[23]Exception rents are rents that are greater than comparable market rents. These rents are available only for properties undergoing a full restructuring and only if a property's net operating income is insufficient to support operating costs and other expenses and the participating administrative entity has determined that the loss of the project would seriously and adversely impact the tenants and community.

[24]The act authorized HUD to make grants for the capital costs of rehabilitation to owners of certain HUD-insured Section 8 properties. HUD has not currently implemented this authority. Another proposed measure would authorize HUD to make grants to states to supplement state assistance for the preservation of affordable housing.

relevant documents for review. However, we heard from tenant representatives that for some properties the participating administrative entities have not provided information to tenants in a timely manner, if at all. Problems cited by tenant representatives include inadequate notice of tenant meetings; meetings held at inappropriate times or locations, such as during the day when tenants are at work or in busy building lobbies; and the lack of key restructuring documents provided in a timely manner. These problems may result in fewer tenants participating in the mark-to-market process.

At the time of our expert panel, OMHAR officials agreed to look into this issue and meet with tenant representatives, as well as with a specific participating administrative entity cited by the representatives for violating tenant participation rules. According to OMHAR, these meetings occurred shortly thereafter. Tenant representatives told us that OMHAR officials have been responsive to their concerns with certain participating administrative entities but that some problems with tenant access to information persist. The tenant representatives recommended additional training for participating administrative entities on tenant participation requirements, at which tenant representatives could be present. Alternately, the tenant representatives requested a joint meeting with OMHAR and the participating administrative entities to discuss tenant participation problems. In response to these concerns, on June 5, 2001, OMHAR held a training session that focused on, among other things, developing ways to remove barriers to effective tenant participation in the mark-to-market program.

Another action that may improve program implementation is to ensure that HUD field offices fulfill their responsibility to review rent comparability studies and refer properties to OMHAR. Currently, HUD field offices are to obtain and review rent comparability studies from property owners when a property's Section 8 contract is about to expire to determine whether rents are above market, which would make the property eligible for the mark-to-market program. However, there have been concerns that some properties with rents above market are not being submitted to OMHAR. For example, OMHAR estimated that 1,708 properties with Section 8 contracts expiring in fiscal year 2000 had rents above market and were therefore eligible for the mark-to-market program. However, only 546 properties (32 percent) were referred to OMHAR by HUD field offices during that time. An official at the Office of Multifamily Housing told us that the reasons the number of projects received by OMHAR from the field offices do not total the number expected may include changes in the economy and housing market, or problems in training the field office staff on the proper procedures for conducting or reviewing rent comparability studies.

The Office of Multifamily Housing and OMHAR have taken two actions to address such problems and ensure that properties with above-market rents are sent to OMHAR for restructuring. In June 2000 the Office of Multifamily Housing issued a notice to change and clarify the procedures for preparing, submitting, and reviewing rent comparability studies, which one stakeholder noted had clarified many questions and misunderstandings. OMHAR created a model that highlights properties with above-market rents that are eligible for the mark-to-market program. While this model was intended to correct problems with property referrals to OMHAR, OMHAR believes that problems persist. OMHAR has suggested that responsibility for preparing and reviewing rent comparisons be given to an independent third party under contract to HUD rather than an appraiser hired by the owner. OMHAR believes this action would improve the accuracy of the studies and help ensure that eligible properties are sent to OMHAR for restructuring. An owner representative we contacted cautioned that property owners would be distrustful of HUD studies and said that if HUD pursued such an option, owners should continue to be allowed to do their own rent comparability studies as well. The two studies could then be compared, with a process established to resolve any differences between them.

Conclusions

If the legislative authority for the mark-to-market program provided for in Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act of 1997 is allowed to expire on September 30, 2001, HUD estimates it will have to reduce the rents to market levels of well over 1,000 properties without having the tools needed to mitigate the potential effects of such reductions. If the reduced rents do not provide sufficient revenues to cover the properties’ operating expenses, mortgage payments, and repair needs, owners may be forced to reduce expenditures for maintenance or other operating expenses or may default on their mortgages. Such action could result in deteriorating property conditions and substantial claims against the FHA insurance fund, which, in turn, could adversely affect property residents and lead to a decrease in the supply of affordable housing. Extension of the program would permit Section 8 property owners with above-market rents and unexpired Section 8 contracts to benefit from the restructuring tools that are currently available and help offset many of the effects that are likely to occur if the program is not continued.

Transferring authority for the mark-to-market program to HUD's Office of Housing could potentially help facilitate the handling of some mark-to-market related functions that have required coordination between OMHAR and the Office of Housing. However, there are concerns that such a transfer is also likely to result in the loss of a substantial number of OMHAR staff unless the terms of existing staff are extended and staff are allowed to continue receiving higher salaries than other HUD staff. A substantial reduction in the number of OMHAR employees assigned to the mark-to-market program could result in additional delays in program implementation and substantially diminish institutional knowledge of program requirements. Furthermore, concerns about the adequacy of staffing in HUD's field offices raise questions about whether HUD would be able to provide comparable program oversight of the mark-to-market program without straining its field office staffs' ability to carry out existing responsibilities.

While the mark-to-market program has brought about successful restructurings resulting in Section 8 savings at a number of properties, at other properties the requirement that rents be reduced to market has increased the risk of physical and financial problems. Those at risk include properties that have not received mortgage restructurings but for which market rents may not provide sufficient income to cover existing mortgage payments, operating expenses, and ongoing repair needs. HUD recognized that these properties may become troubled, and the Office of Housing developed guidance for its field offices to use in monitoring potentially troubled mark-to-market properties. However, the guidance did not explicitly cover all properties that may be at risk. HUD has acknowledged that the guidance should be more inclusive and has plans to revise it. In addition, it will be important for HUD's field offices to strictly adhere to the monitoring guidance and take appropriate actions to address any problems that occur before the problems seriously affect the property's physical condition and the living conditions of its residents.

Matters for Congressional Consideration

To permit continued restructuring of Section 8 properties with above-market rents, the Congress should extend Subtitle A of the Multifamily Assisted Housing Reform and Affordability Act beyond September 30, 2001. To ensure that restructurings are completed expeditiously and in accordance with legislative and regulatory requirements, and that the federal government's interests are protected, the Congress should also extend legislative requirements placing the mark-to-market program under a separate office headed by a director who is responsible for administering the program. Regardless of whether program responsibility continues within OMHAR or is transferred to a separate office elsewhere in HUD, the office should have a sufficient number of trained staff dedicated to program administration.

Recommendation for Executive Action

To minimize the risks to properties and tenants' living conditions associated with reducing rents to market at those properties for which mortgage restructurings are needed but have not been completed because of owner resistance or other problems, we recommend that the Secretary of HUD direct the Assistant Secretary, Office of Housing to revise the guidance for monitoring potentially troubled mark-to-market properties to specifically include all properties that may be at risk of physical and financial problems.

Agency Comments and Our Evaluation

We provided HUD with a draft of this report for its review and comment. In its written comments, HUD said that our report accurately described OMHAR's experience in implementing the program and identified the issues related to program reauthorization. HUD agreed with the report's conclusion that legislative authority for the mark-to-market program should be extended past its current scheduled expiration date of September 30, 2001. HUD said the Administration has sought extension of the debt restructuring authority in its fiscal year 2002 budget proposal submitted to the Congress, and that the HUD Secretary stated in congressional testimony that the program is still needed.

Due to the critical nature of OMHAR's work, HUD also agreed that the program should be administered by a dedicated office and fully expects that OMHAR and its trained staff would continue to work strictly on the mark-to-market program. However, HUD believes OMHAR should be placed under the authority of the Office of Housing to simplify OMHAR's administrative structure and facilitate coordination between OMHAR and HUD's 18 Multifamily Hubs, which HUD believes have detailed information and knowledge on the Section 8 properties. HUD said that transferring authority to the Office of Housing could potentially help facilitate the handling of various functions that require coordination between OMHAR and the Office and Housing and that the completion of OMHAR's work would be expedited by a simpler administrative structure. While we agree with HUD that there are advantages to placing OMHAR under its Office of Housing, we continue to believe that such a transfer should not diminish the office's focus on administering the mark-to-market program or inhibit its ability to obtain the resources and expertise that it needs to carry out that task. HUD indicated in its comments that it recognizes these concerns.

With regard to how long OMHAR and the program's restructuring tools should be extended, HUD believes a 3-year extension beyond fiscal year 2001 is appropriate. The Department said that by 2004 it could determine whether any further extension is needed or if the remaining mark-to-market workload could be handled within the Federal Housing Administration.

The Department further agreed that some properties may face increased risk of physical and financial problems as a result of the required rent reductions. HUD noted that it had developed guidance for its field offices to use in monitoring such properties, but it also agreed with our recommendation that it make its existing guidance for monitoring at-risk properties more inclusive to cover all potentially troubled properties. HUD stated that it has made plans to revise the guidance accordingly. HUD also noted its interest in the recommendations for program improvement cited by our panel of experts and agreed to take them under advisement. Lastly, HUD suggested minor clarifications to specific statements in the report, which we incorporated as appropriate. The full text of HUD's written comments appears in appendix III.

We are sending copies of this report to the Secretary of Housing and Urban Development and to the Director of the Office of Multifamily Housing Assistance Restructuring. We will make copies available to others on request. If you or your staff have any questions on this report, please call me at (202) 512-2834. Key contributors to this report were Andy Clinton, Mark Egger, Rick Hale, Brandon Haller, Barbara Johnson, John McGrail, Sally Moino, Lynn Musser, Mark Stover, and Kathy Trimble.

Peter Guerrero,
Director, Physical Infrastructure Team

List of Committees

The Honorable Jack Reed
Chairman
The Honorable Wayne Allard
Ranking Minority Member
Subcommittee on Housing and Transportation
Committee on Banking, Housing,
and Urban Affairs
United States Senate

The Honorable Barbara A. Mikulski
Chairwoman
The Honorable Christopher S. Bond
Ranking Minority Member
Subcommittee on VA, HUD, and
Independent Agencies
Committee on Appropriations
United States Senate

The Honorable Marge Roukema
Chairwoman
The Honorable Barney Frank
Ranking Minority Member
Subcommittee on Housing and
Community Opportunity
Committee on Financial Services
House of Representatives

The Honorable James T. Walsh
Chairman
The Honorable Alan B. Mollohan
Ranking Minority Member
Subcommittee on VA, HUD,
and Independent Agencies
Committee on Appropriations
House of Representatives

Appendix I: Overview of the Mark-to-Market Process

In general, the process to be followed under the mark-to-market program, as outlined in OMHAR's operating procedures guide, has 13 phases: (1) project assignment to participating administrative entity, (2) kick-off meeting, (3) notice of first restructure plan consultation meeting, (4) tenant comments, (5) consultation meeting, (6) physical condition assessment, (7) second tenant meeting, (8) underwriting process, (9) submission of the draft restructuring plan, (10) restructuring plan execution, (11) notice of completion of restructuring plan, (12) closing, and (13) post-closing document distribution.[25]

1. Project Assignment to Participating Administrative Entity: The mark-to-market process is initiated when an owner of Section 8 housing notifies the HUD Multifamily Hub or program center of the intent to participate in the mark-to-market program.[26] The Hub or program center screens the owner and project to determine initial eligibility and then forwards eligible projects to OMHAR headquarters for assignment to a participating administrative entity. The participating administrative entity is responsible for making a complete and ongoing assessment of the eligibility of the owner and the project.

2. Kick-off Meeting: After headquarters assigns the project, the participating administrative entity contacts the owner and provides ground rules, forms, and other information. At this time, the participating administrative entity also sets the date for the kick-off meeting, which must be held within 15 days after providing the above materials to the owner. At the meeting, the participating administrative entity explains the restructuring process and distributes copies of all closing documents, among other things.

3. Notice of First Restructure Plan Consultation Meeting: Immediately following the kick-off meeting, the participating administrative entity (or the owner on the administrative entity's behalf) must send a Notice of First Restructure Plan Consultation Meeting to tenants and other interested parties. The notice states that the owner has elected to participate in the mark-to-market program; when the project-based Section 8 contract is scheduled to expire; how recipients can give

[25]This 13-phase process applies only to full mortgage restructurings, under which both a property's rents and mortgage are restructured.

[26]HUD's field office structure for delivering multifamily housing services consists of 18 jurisdictional Hubs with staff stationed in 33 program centers.

comments to the participating administrative entity regarding the property's physical condition and other matters; and the date, time, and place of a public meeting to be held between 20 and 40 days after the date of the notice.

4. Tenant Comments: After receiving the notice, tenants and other interested parties can provide written comments to the participating administrative entity on such matters as the property's physical condition, project management, and whether rental assistance should be project-based or tenant-based.

5. Consultation Meeting: Between 20 and 40 days after the notice, the participating administrative entity must conduct a meeting to hear oral presentations and comments by the tenants and other affected parties on the desired contents of a restructuring plan, on the owner's evaluation of the project's physical condition, and on any proposed transfer of the project to another owner.

6. Physical Condition Assessment: If the owner has not already submitted an evaluation of the project's physical condition, it should be completed soon after the consultation meeting. The participating administrative entity will work with a third-party inspector, who will consider the owner's evaluation as well as comments from the tenants and the local community. The participating administrative entity's inspector must coordinate his or her analysis with the participating administrative entity's third-party appraiser.

7. Second Tenant Meeting: The participating administrative entity must develop, in cooperation with the owner, a mortgage restructuring and rental assistance sufficiency plan for each project. Among other information, the plan provides conclusions on the project's new mortgage amount(s), rehabilitation needs, and financial return to the owner. Ten days before the participating administrative entity submits the draft restructuring plan to OMHAR for review, the participating administrative entity must hold a follow-up meeting with the tenants and other affected parties so that they can comment on the development of the plan. The proposed plan should be available for these parties to inspect at least 20 days before it is submitted to OMHAR for review.

8. Underwriting Process: Generally, underwriting is completed within 105 days after the project is assigned to the participating administrative entity. The participating administrative entity considers the project's

finances and completes a Rental Assistance Assessment Plan to determine whether the Section 8 assistance should be renewed as project-based assistance or converted to tenant-based assistance. The participating administrative entity, the owner, and the lender discuss mortgage options. The outcome of this process is the draft restructuring plan mentioned above (phase 7).

9. Submission of the Draft Restructuring Plan: The participating administrative entity submits the draft restructuring plan to OMHAR for review. OMHAR determines whether to approve, reject, or return the plan for modifications.

10. Restructuring Plan Execution: After OMHAR approves the plan, the participating administrative entity sends the owner notification and a restructuring plan commitment. The owner has 30 days after this restructuring commitment is issued to execute it.

11. Notice of Completion of Restructuring Plan: Within 10 days after the restructuring commitment is executed, the participating administrative entity must send the project's tenants and other interested parties a notice describing the final restructuring plan and restructuring commitment.

12. Closing: The owner, the lender, the participating administrative entity and HUD sign and record all documents. Closing should be completed within 60 days of executing the restructuring commitment.

13. Post-Closing Document Distribution: Closing dockets and other supporting documents are distributed to HUD officials, loan servicers, asset managers, and others.

Appendix II: Actions Suggested By Program Stakeholders to Improve Mark-to-Market Implementation

Stakeholder suggestions	Background	Advantages	Disadvantages
Have HUD provide rehabilitation grants to owners of Section 8 properties in poor physical condition that could not otherwise fund the rehabilitation needs identified in the properties' restructuring plans.	As of April 2001, OMHAR had identified 17 properties that required a full mortgage restructuring, but for which the restructuring plan was not feasible because the property was in excessively poor condition and/or the owner could not afford the rehabilitation costs. Nine out of 10 expert panelists believed that additional tools were needed to preserve properties in poor physical and/or poor financial condition.	Proponents believe rehabilitation grants could reduce the number of restructuring transactions that are discontinued because sufficient funds are not available to address property rehabilitation needs. Providing funding for rehabilitation needs at the beginning of the process could save participating administrative entities' and owners' time spent locating sources of funding and therefore shorten the restructuring process. This in turn could save the government from having to extend above-market rate contracts until restructurings are complete. Rehabilitation grants could result in the preservation of additional properties.	OMHAR cautioned that the proposal of any new financial incentive for owners would impede progress as some owners delay restructuring decisions in order to take advantage of the new incentive. Rehabilitation grants could increase overall costs to the government. Costs could be reduced if the federal government provided funding to only match funds provided from nonfederal sources.
Mark down rents in a more timely manner at the end of the initial 1-year contract extension, as required by the mark-to-market regulations.	Owners may receive a Section 8 contract extension at current (above-market) rents for up to 1 year while the participating administrative entity completes and closes a full mortgage restructuring. Any extension of a contract beyond 1 year must be at comparable market rents or exception rents. Section 8 contracts frequently have been extended at above-market rents beyond 1 year when various complications, such as lack of owner cooperation, delay the completion of a restructuring.	Proponents believe owners may be less likely to delay the restructuring process if faced with reduced rents. The government could realize savings if contracts are not extended at above-market rents beyond the time allowed in the regulations. As of March 31, 2001, HUD paid an additional $40 million in above-market rents due to the extension of Section 8 contracts on 716 properties.	The complexity of some restructuring actions, such as when a transfer of ownership is involved, makes it difficult to complete all restructurings within 1 year. Thus, enough flexibility should be allowed so that participating administrative entities and owners can find ways to complete restructurings of problematic properties.
Provide owners tax relief upon the sale of HUD-assisted properties to purchasers committed to affordable housing preservation. One proposal would involve deferring or eliminating the payment of taxes on noncash capital gains associated with the sale of properties.	One factor inhibiting implementation of the mark-to-market program has been some owners' reluctance to participate in the restructuring process. Proponents believe that it would be beneficial to encourage such owners to sell their properties to new owners who agree to preserve the properties as affordable housing for the property's remaining useful life. However, some owners may be disinclined to sell their properties because they	Proponents believe tax relief could help address the disincentive for owners to sell or transfer properties to purchasers who agree to preserve the properties as affordable housing.	The effect of such a change on federal tax revenues would need to be carefully assessed. Assessments would also need to be made of the extent to which tax relief would lead to an increase in the sales of properties to new owners, and whether the benefits of such relief would offset the federal government's costs. We have not performed such

Stakeholder suggestions	Background	Advantages	Disadvantages
	would be required to pay taxes that had been deferred.		assessments. OMHAR cautioned that once owners become aware that a change in tax relief is seriously being considered, some owners will delay restructuring decisions in hopes of getting the benefit of any tax change. It is unclear what actions would be taken if purchasers do not fulfill their commitments to preserve properties as affordable housing.
Ensure that participating administrative entities provide information to tenants affected by property restructurings in a timely manner.	Tenant representatives told us that some participating administrative entities have not provided information to tenants as required by program regulations. OMHAR told us that it has discussed this issue with tenant representatives and directly with a specific participating administrative entity alleged to have violated the regulations. OMHAR maintains that residents are receiving the relevant information they need to participate in the mark-to-market process. However, tenant organizations believe that the participating administrative entities need to be better trained on requirements relating to tenant participation. In response to these concerns, on June 5, 2001, OMHAR held a training session training session that focused on, among other things, developing ways to remove barriers to effective tenant participation in the mark-to-market program.	Proponents believe this action would ensure that participating administrative entities facilitate tenant participation in the mark-to-market process.	Would require additional efforts by OMHAR to ensure that participating administrative entities are aware of and comply with tenant participation requirements.
Provide property budget information to tenants.	Tenant representatives told us that by reviewing property budgets tenants, based on their knowledge of the buildings, may be able to identify potential savings such as opportunities for reducing property	Tenant access to property budgets could lead to lower restructuring costs if tenant findings result in lower property expenses or other savings.	Property budgets may contain proprietary information not normally made available to the public. Owner representatives

Stakeholder suggestions	Background	Advantages	Disadvantages
	expenses. Members of the expert panel were evenly divided as to whether tenants should be given access to information on property budgets as part of the mark-to-market process.		believe that budget information could be misinterpreted by tenants or cause problems for the owner.
Have HUD contract with an independent third party to conduct rent comparability studies for properties with expiring Section 8 contracts.	HUD field offices review rent comparability studies submitted by property owners to determine if rents are above market and eligible for the mark-to-market program. OMHAR estimates indicate that a substantial number of properties with rents above market are not being sent to OMHAR by the field offices for mark-to-market review and restructuring.[a] OMHAR staff, as well as some participating administrative entities, are concerned that field office staff are not performing quality reviews of rent comparability studies and in some cases are renewing Section 8 contracts at above-market rents.	This action could provide additional assurance that all eligible properties with rents above market are sent to OMHAR for restructuring. This action could yield additional Section 8 savings by reducing rents on properties eligible for the mark-to-market program.	An owner representative believed that property owners would be distrustful of HUD-contracted studies. If such an approach was adopted, it was recommended that rent comparability studies be submitted by both the owner and by a third party. The two studies could be compared, with a process established to reconcile any differences.

[a]For example, OMHAR estimated that 1,708 properties with Section 8 contracts expiring in fiscal year 2000 had rents above market and were therefore eligible for the mark-to-market program. However, only 546 properties (32 percent) were referred to OMHAR by HUD field offices in fiscal year 2000.

Appendix III: Comments From the Department of Housing and Urban Development

U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

June 22, 2001

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mr. Peter Guerrero
Director
Physical Infrastructure Team
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Guerrero:

The Department is pleased to respond to your Office's draft proposed report, MULTIFAMILY HOUSING: Issues Related to the Mark-to-Market Program Reauthorization (GAO-01-800). We appreciate the opportunity to review and comment on the report. Our comments are directed primarily to the conclusions that appear on pp. 30-31 of the report.

The Department agrees with your conclusion that legislative authority for mark-to-market should be extended past the currently scheduled expiration date of September 30, 2001. HUD's FY2002 budget proposal submitted to Congress in April stated the Administration's intention to seek an extension of the debt restructuring authority. Secretary Martinez has stated in Congressional testimony that the program is still needed, and that HUD would be seeking an extension of the restructuring tools.

As of June 18, 2001, according to OMHAR, the Office has closed 144 full mortgage restructurings (and processed another 173 that did not close), and completed 500 rent restructurings, and 108 rent comparability reviews. Most of this work has been completed within the last 18 months. Further closings, including at least another 75 full mortgage restructurings, are expected during the remaining three months of OMHAR's authorization. At the same time, more than 1,000 projects with rents above market remain to be restructured. As you point out in your report, "Extending the mark to market program past its scheduled termination date would be more advantageous to the federal government than ending the program."

The Department believes that transferring authority to HUD's Office of Housing could potentially help to facilitate the handling of various functions that require coordination between OMHAR and the Office of Housing. At present, the Office of Housing is responsible for subsidy payments and the management of insurance contracts, while at the same time OMHAR is responsible for restructuring them for the future.

The same projects are under the jurisdiction of two separate, equal offices, each reporting to the Secretary simultaneously. With OMHAR under the authority of the Office of Housing, this anomalous situation would no longer exist. In addition, this proposed structure would facilitate coordination between OMHAR and the 18 Multifamily Hubs, which are located throughout the country and have detailed information and knowledge on any particular property in the field. We believe the completion of OMHAR's work will be expedited by a simpler administrative structure.

The issues raised by GAO with regard to a transfer of the Mark-to-Market Program to HUD's Office of Housing are valid, and the Department recognizes the need to address them. Having come halfway through the mark-to-market process in the four years since OMHAR was created, we intend to see it through to completion. The Department recognizes the critical nature of the work under OMHAR, and would have every expectation that OMHAR and its trained staff, within the Office of Housing, would be fully dedicated to that work and only that work.

We understand that the bulk of the anticipated properties subject to debt restructuring have contracts that expire in the next two fiscal years. With an average processing time of approximately 13 months following contract expiration, we believe an extension of three years beyond FY2001 is appropriate. By 2004, we should all be able to judge whether any further extension is needed, or whether the small remaining workload can be handled within FHA.

The Department is interested in the recommendations for program improvement suggested by GAO's panel of experts, and is taking them under advisement.

The Department agrees that some properties may face increased risk of physical and financial problems as a result of the required rent restructurings. As your report notes, HUD is already aware of this potential problem, and has developed guidance for its field offices to use in monitoring potentially troubled properties. As your report also notes, HUD recognizes that the guidance should be more inclusive and has made plans to revise the guidance.

In general, the Department believes that your report has accurately described OMHAR's experience in implementing the mark-to-market program and identifying the issues related to program reauthorization.

We do have the following comments concerning specific statements in the report:

1. Page 3, first full paragraph. The statement that "It took almost 2 years to establish the program's infrastructure and for OMHAR to begin assigning a large volume of properties to the entities that would carry out restructuring actions" is literally correct but invites some misinterpretation. The timeline on page 16 (Figure 5) shows that the Director was not appointed until a year after Congress established OMHAR, and the operating procedure guide was not

issued for another six months. Thus 18 months were devoted to establishing the program's infrastructure alone.

2. Page 8, section entitled "Completed Restructurings Have Resulted in Savings," states that reducing rents to market has increased the risk of physical and financial problems. It should be noted that reducing rents is required by the legislation creating OMHAR.

3. Page 8, last paragraph, next to last sentence. OMHAR has completed fewer full mortgage restructurings than rent restructurings, but the pace of full restructurings has increased sharply in 2001. It is also important to note that full mortgage restructurings take longer than rent restructurings because they are more complex and require more time and consideration by both the PAE and the owner.

4. Page 16, figure 5. While a hard copy of the updated operating procedures guide was not officially issued until January 2001, the revisions were posted on OMHAR's web page in September and October 2000.

Thank you again for the opportunity to respond to the draft report.

Sincerely,

John C. Weicher

John C. Weicher
Assistant Secretary for Housing-
Federal Housing Commissioner

Appendix IV: Objectives, Scope, and Methodology

Section 521 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (P.L. 105-65) requires us to review the implementation of the mark-to-market program. Our objectives were to determine (1) the status of properties in the mark-to-market program; (2) factors that have affected the pace of program implementation and the actions OMHAR has taken to address these factors; (3) the advantages and disadvantages to the federal government of extending the program past its statutory termination date of September 30, 2001, and of transferring program responsibilities to HUD or keeping them with OMHAR; and (4) possible actions for strengthening program implementation.

To determine the status of the mark-to-market program, we obtained a database extract from OMHAR's Management Information System (MIS) as of June 15, 2001. This extract contained information on over 1,500 properties that had entered OMHAR's portfolio since late 1998. To determine the status of these properties, we focused on several key stages in OMHAR's processing pipeline and summarized data for each milestone and type of restructuring. Such milestones included the date a participating administrative entity accepted assignment of the property, when the participating administrative entity sent OMHAR a restructuring plan, the date OMHAR approved a restructuring plan, and the completed closing date. We also calculated the average amount of elapsed time between the major processing milestones for both full mortgage restructurings and rent restructurings and compared the cumulative number of full mortgage restructurings that OMHAR had closed with the cumulative number of approved rent restructurings for each quarter beginning with the fourth quarter of 1999. To assess the reliability of OMHAR's data, we (1) performed electronic testing (specifically for accuracy, reasonableness, and completeness); (2) reviewed related documentation, including contractor audit reports on data verification, and (3) worked closely with agency officials to identify any data problems. When we found discrepancies (such as nonpopulated fields or data entry errors) we brought them to OMHAR's attention and worked with them to correct the discrepancies before conducting our analyses. We determined that the data were reliable enough for the purposes of our report.

To determine the estimated savings OMHAR believes the federal government would realize from its restructuring actions over a 20-year period, we analyzed an Excel file created by an OMHAR contractor that calculated the savings estimate. This file reflected all closed full restructurings and approved rent restructurings as of June 15, 2001. We reviewed the methodology the contractor used to compute the savings estimate, including all financial formulas, and held discussions with OMHAR officials. We also compared the information used in the savings calculation with OMHAR's source database to ensure that the data used in the savings estimate were accurate and relevant and met with OMHAR officials to discuss the reasons for including properties in the estimate and the associated administrative costs of restructuring.

To obtain information on our remaining three objectives, we convened an expert panel composed of a cross section of mark-to-market program stakeholders representing HUD and OMHAR, participating administrative entities, lending institutions, tenant associations, Section 8 property owners, and nonprofit organizations. The names and organizational affiliations of the panel members are listed in appendix V. During a daylong meeting at our offices in Washington, D.C., the expert panelists responded to eight questions that we provided in advance. The questions presented to the panel covered issues related to (1) OMHAR's actions to implement the mark-to-market program in a timely manner, (2) advantages and disadvantages of extending the mark-to-market program and OMHAR, and (3) options for strengthening program implementation. After discussing each issue, we asked the panelists to answer specific questions on an anonymous ballot. These questions, for the most part, were closed-ended and allowed us to quantify the panelists' opinions related to each issue they had discussed. The meeting was recorded and transcribed to ensure that we had accurately captured the panel members' statements.

In addition to convening the expert panel, we interviewed and obtained relevant documentation from OMHAR headquarters and regional office staff, HUD, participating administrative entities, and other program stakeholders such as the National Council of State Housing Agencies, National Leased Housing Association, the National Housing Trust, property owners, property builders, and nonprofit organizations. Specifically, we obtained the views of 10 public and 5 nonpublic participating administrative entities on factors they believed affected the pace of program implementation. We interviewed OMHAR officials to determine what actions the Office has taken to address the factors cited as slowing implementation and reviewed the incentives OMHAR developed to encourage owner participation in the program as well as the revisions to the program's operating procedures guide. We also asked program stakeholders their opinions on the advantages and disadvantages of extending the mark-to-market program and for transferring program responsibilities to HUD. We reviewed the act that established the mark-to-market program to determine legislative requirements for the termination of the program and OMHAR. We also reviewed HUD and OMHAR's draft plan to transition OMHAR responsibilities to HUD when OMHAR's authority expires and examined OMHAR's personnel information to determine how many OMHAR staff would have transfer rights if program authority moves to HUD. In determining actions for strengthening program implementation, we identified possible actions based on discussions with various program stakeholders and then obtained views of other stakeholders on the actions presented. We also discussed a number of the possible actions during our expert panel. Furthermore, we reviewed relevant documentation such as HUD procedural notices relating to Section 8 contract renewals and rent comparability studies.

Appendix V: Panel Participants

Michael Bodaken, President, National Housing Trust

Scott Chamberlain, Assistant Vice President, GMAC Commercial Mortgage

Shaun Donovan, Deputy Assistant Secretary for Multifamily Housing Programs, U.S. Department of Housing and Urban Development

Isha Francis, President, Benchmark Management Corporation

Michael Kane, Executive Director, National Alliance of HUD Tenants

Denise Muha, Executive Director, National Leased Housing Association

Ira Peppercorn, Director, Office of Multifamily Housing Assistance Restructuring

Garth Rieman, Director for Program Development, National Council of State Housing Agencies

Cathy Vann, President, Ontra, Incorporated

Chuck Wehrwein, Vice President of Acquisitions, Mercy Housing

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