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April 28, 2021

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Save the Date – Virtual Asset Management Webinar Focusing on Regulatory Obligations and Risk Monitoring

HUD’s Office of Residential Care Facilities (ORCF) is pleased to announce an upcoming Virtual Asset Management Webinar, detailed below, that is being hosted by the Healthcare Mortgagee Advisory Council (HMAC) via GoToWebinar. This webinar is open to all Lenders, Borrowers, and Operators of HUD-insured (Section 232) healthcare facilities.

**Focus on Regulatory Obligations and Risk Monitoring.**Date:  Wednesday, May 5, 2021, 2:00-3:00 p.m., EST.  This session will focus on the important working relationship between the Borrower, Lender, and HUD, and will emphasize the roles and responsibilities of each. Register ([here](https://register.gotowebinar.com/register/5286203830838941968?utm_medium=email&utm_source=govdelivery)) for this session.

If you have questions you would like to submit for consideration, you may send them to [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov). HMAC lenders may also send their questions through their designated contacts.

***Keywords:*** *Asset Management, Webinar*

Operating Loss Loan Section 232/223(d) – COVID – Applications Due by August 30, 2021

On January 15, 2021, ORCF published Mortgagee Letter 2021-01 ([here](https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-01hsgml.pdf)) which implemented temporary statutory authority to insure operating loss loans under Section 223(d) of the National Housing Act to mitigate healthcare facilities’ COVID-related temporary revenue reductions.

As the Mortgagee Letter notes, **HUD’s temporary statutory authority under this program ends on September 30, 2021**; HUD can issue no firm commitments for this program after that date. Also, **HUD must receive any applications by Monday, August 30, 2021**. Given the statutory time constraints for HUD action, HUD cannot waive the submission deadline.

If you are in the process of submitting a 223(d) COVID application, or if you intend to submit an application in the coming months, please let us know by sending an email to [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov).

***Keywords:*** *COVID-19, 223(d)*

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Naming Documents in the Portal That Do Not Have a Standard File Name

Documents uploaded to the 232 Healthcare Portal should be named according to the Application Checklist. If the document is not a checklist item and it is an "Other" item, please include an identifier in the name of the document such as "financial information". Please note that an underscore (\_) must be used after "Other" and before the identifier, e.g. “Other\_financial information”.

Submitting documents with precise file names will reduce review times.

For more information, please see the 232 Healthcare Portal Training website [(here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/232_healthcare_portal/232HCP_Training)).

***Keywords:*** *Application Processing, 232 Healthcare Portal*

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REMINDER - Portfolio Names and Numbers

As previously outlined in the August 26, 2020 Email Blast, if a project is part of a portfolio, it requires a portfolio name. Lenders provide the portfolio name when an FHA Number Request is submitted.

Portfolio names are added to the name of the project for workload tracking in HUD systems so that the individual projects in the portfolio may be tracked together.  Identifying a portfolio name allows for more efficient processing of Production applications, as portfolio groups can be readily identified and assigned to the same reviewer.  In addition, a portfolio name assists Asset Management in their overall risk management of the ORCF portfolio by indicating the relationship of individual projects and more effectively assigning the projects to the same Account Executive for oversight.

A project is considered part of a portfolio where there are two or more borrower entities that are under common ownership and/or common control (Handbook 4232.1, Section II, Chapter 17.2).  Even if a single application is submitted at a time, if it meets the definition of a portfolio outlined in the Handbook, a portfolio name should be referenced in the FHA Number Request.

If a project is part of an existing portfolio and the Lender does not know the portfolio name and/or portfolio number, this information can be requested through the FHA Number Request. Lenders should note the request and any related information in the comments box, or by submitting an email inquiry to Lean Thinking.

***Keywords:*** *Portfolios*

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Flood Insurance Determinations and Life-of-Loan Monitoring Requirement

Lenders are reminded that a Flood Insurance Determination is required for every Mortgage Loan in the Section 232 Program.  The Lender must determine whether any of the Property improvements are located in a Special Flood Hazard Area (SFHA) and must document each determination on a Standard Flood Hazard Determination Form (SFHDF) issued by FEMA (FEMA Form 086-0-32).  The Lender must obtain flood-zone determinations from a qualified third-party flood-zone determination firm.

In addition to the initial flood-zone determination, which is used for underwriting, Lenders must also obtain from their flood-zone determination firm “life-of-loan” monitoring and coverage, which means that the monitoring company will notify the Lender if and when flood insurance is required for a monitored Property.  This is required for every Mortgage Loan in the Section 232 Program, regardless of the initial determination, because conditions and the status of a zone may change over time.  The Lender must ensure that the monitoring company it selects agrees to continue monitoring for all of the covered Properties in the event that the Lender sells or otherwise transfers its servicing rights to another Mortgage Loan servicer.  Typically, the monitoring company will indicate “life of loan” coverage on the SFHDF form.

The continuation of this “life-of-loan” monitoring and coverage also becomes a loan servicing requirement which continues during the entire life of the mortgage and survives a change in Loan Servicer. Should the flood-zone status change during the life of the Mortgage, Lenders are required to evaluate the flood insurance requirement as a result of the change and enforce the requirements for flood insurance, if applicable, due to the new information.

These requirements are covered under the Lender’s Certification for Insurance Coverage (Form HUD-92435-ORCF) ([here](https://www.hud.gov/sites/dfiles/OCHCO/documents/92435_orcf.docx)).  For more information, see [ORCF’s Handbook 4232.1](https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsgh/42321), Section II, Chapter 14.7.H ([here](https://www.hud.gov/program_offices/administration/hudclips/handbooks/hsgh/42321)).

***Keywords:*** *Floodplain, Insurance, Environmental*

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Addressing Risks Identified in the Lender Risk Surveillance Dashboard (RSD)

Since launching ORCF’s new Risk Monitoring Routine in September 2020, one recuring issue has been how to deal with risks that have been “resolved” once missing quarters of Operator financials have been submitted. ORCF stresses the need for ensuring project participants to honor their regulatory agreement obligations.

To streamline the process for addressing risk, ORCF Asset Management expects the Lender to take **one** of **three** of the following actions for every risk noted on the Lender RSD:

1. **Erroneous risk:** There may be instances where the Lender RSD identifies erroneous risk. For example, a backlog in uploading financials led to late submission of financials, which was due to the Lender’s inaction rather than an operational risk. Another instance might be that the Lender RSD data identifies the incorrect CMS Star rating. In these instances, Lenders should respond with an email to the Account Executive explaining that the RSD risk is an error (providing evidence of error when warranted) and confirm there is no risk.
2. **Valid risk that has been mitigated:** The Lender RSD may identify risks that have already been mitigated. For example, a project with a CMS 1-Star Rating has recently been upgraded to a 2-Star Rating, or missing financials that were late due to Operator non-compliance have now been submitted. In these instances, ORCF will require the completion of Form HUD-93334-ORCF to document that the risk was present. However, assuming that no other risks are present, an Action Plan would not be required since the risk has been mitigated. The Lender will submit the HUD-93334-ORCF through the Portal.
3. **Valid risk that remains:** When the Lender verifies the RSD risk remains, appropriate action is required and both a HUD-93334 or 93335-ORCF and an Action Plan are required. For example, if the project exhibits two or more consecutive quarters of DSCR below 1.0, an overall CMS 1-Star Rating or multiple missing quarters of operator financials and the Operator remains unresponsive, then the Lender should submit the 93334 to document the risk(s) and an Action Plan developed by the Borrower or Operator outlining steps needed to mitigate the risk.

***Keywords:*** *Risk Notification, Action Plans, Risk Surveillance Dashboard*

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The Lender’s Third-Party Project Capital Needs Assessment (PCNA)

A PCNA report identifies and estimates the cost of critical and noncritical repairs and replacement needs over time of various building systems. The PCNA’s Reserve for Replacement (R4R) schedule is an essential component of the PCNA that establishes positive capital reserves to cover major building components in years 1 through 15 and is used to estimate the initial and annual RFR deposits. ORCF Asset Management has noticed an increasing number of requests for modification and/or suspension of the R4R Account deposit, as well as requests for modification to the non-critical repair list, sometimes shortly after loan closing. Additionally, in recent PCNAs, accessibility compliance questions have arisen on currently insured projects (including those considering refinance), questions that were not addressed by a prior PCNA. Failure to correctly identify repairs and the replacement needs in a PCNA can cause later financial hardship. As such, Lenders are reminded of their responsibility to ensure compliance with ORCFs PCNA Statement of Work (SOW) (Please see Handbook 4232.1, Section II, Chapter 2.10).

***Keywords:*** *PCNA SOW, Statement of Work (SOW), Reserve for Replacement, Non-Critical Repairs*

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Master Lease Release and Termination Process

ORCF has posted an updated Prepayment and Requests for Insurance Termination Checklist ([here](https://www.hud.gov/sites/dfiles/Housing/documents/Prepay_9807_Checklist.docx)) and a new Master Lease Termination Checklist ([here](https://www.hud.gov/sites/dfiles/Housing/documents/Master_Lease_Term_Chklst.docx)). The request to release a project from a Master Lease generally occurs in conjunction with a prepayment request. The revised Prepayment and Requests for Insurance Termination Checklist now has two sections: Section I covers the documents associated with the prepayment and Section II covers the documents relating to a request to release a project from a master lease, due to prepayment. Section II presumes that some of the projects subject to the Master Lease will remain FHA insured. If all projects on the Master Lease are being prepaid, the new Master Lease Termination Checklist needs to be submitted in lieu of the documents noted in Section II. Both ORCF Asset Management and HUD’s Office of General Counsel field counsel will review all requests to release/terminate projects associated with a Master Lease. All requests should be submitted using the 232 Portal.

***Keywords:*** *Master Lease Release*

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REMINDER - Lender Responsibility for Professional Liability Insurance (PLI) Insurance Review

ORCF would like to remind Lenders about the importance of annual reviews of Professional Liability Insurance (PLI) coverage for their properties. On an **annual basis**, the Mortgagee/Servicer must verify each Project has the required PLI coverage, as approved during the Project’s underwriting (see *Handbook 4232.1, Section III, Chapter 3.10.7, Professional Liability Insurance*). The review must be consistent with the underwriting review standards set forth in the Handbook 4232.1, Section II, Appendix 14.1.VII.D.

ORCF has recently processed several PLI waiver requests for retroactive approval for an insurance policy already in place. This can be problematic as ORCF waiver approvals are not guaranteed and may cause the Owner and/or Operator to be in non-compliance.

Lenders need to be aware of current policy expiration dates to conduct timely annual reviews and ensure HUD-compliant insurance coverage **at the time of renewal**. Any waiver request to change minimum coverage requirements should be addressed prior to the expiration of the current policy to allow ORCF sufficient time for review.

Lenders are reminded that non-compliant insurance is a risk factor and will require a Form HUD-93334-ORCF notification.

***Keywords:*** *Professional Liability Insurance, Waivers*

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Reminders Concerning Substantive Action Plans

In the February 26, 2020 Email Blast ([here](https://www.hud.gov/sites/dfiles/Housing/documents/FebEmailBlast02262020.docx)), ORCF Asset Management provided guidance on the expected components of a corrective action plan for improving verified deficiencies. These include: a root cause analysis and an action plan with measurable goals, specific risk mitigation steps, a timeline for completion and a schedule for ensuring ongoing monitoring of an action plan, and a mechanism for revising a plan if the established plan is not proving effective. As the Risk Monitoring Routine evolves, we have observed that some Action Plans are insufficient. Many submitted plans do not include specific risk mitigation steps that, if taken and if proven effective, would mitigate the identified Action Plan risk. ORCF expects that servicing Lenders will work with their clients to ensure that each identified risk mitigation step in the Action Plan is a specific step taken to mitigate risk. For example:

* Rather than stating “Increase census by 10%” as a risk mitigation step, ORCF would expect to see specific steps that would be implemented with the anticipated goal of increasing census. For example, the risk mitigation steps might include enhancing marketing efforts through upgrading a web site, improving search engine results, or hiring an additional marketing staff member.
* Rather than stating “Increase DSCR to 1.2” as a risk mitigation step, ORCF would expect to see specific steps such as enhancing hiring efforts to reduce reliance on agency staffing services or hiring more nurses in preparation of expanding Medicare referral sources to improve payor mix.
* Rather than stating “Increase overall CMS Star Rating to 3 Stars” as a risk mitigation step, ORCF would expect to see specific steps such as policies on infection control, enhancing employee training or conducting monthly, unannounced test inspections.

ORCF has taken the additional step of revising the ORCF Action Plan Tool – SAMPLE ([here](https://www.hud.gov/sites/dfiles/Housing/documents/Act_Plan_Tool_SAMPLE.docx)). This optional resource was introduced in the April 30, 2020 Email Blast ([here](https://www.hud.gov/sites/dfiles/Housing/documents/AprEmailBlast04302020.docx)), and can be found on ORCF’s Loan Servicing Guidance Home Page ([here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/loan_servicing)), under “Documents for Notifying ORCF of Action Plans”:

***Keywords:*** *Action Plans, Risk Surveillance Dashboard*

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| Past Lean 232 Updates are [available online](https://lnks.gd/l/eyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDEsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMTAxMDQuMzI3OTIyMzEiLCJ1cmwiOiJodHRwczovL3d3dy5odWQuZ292L2ZlZGVyYWxfaG91c2luZ19hZG1pbmlzdHJhdGlvbi9oZWFsdGhjYXJlX2ZhY2lsaXRpZXMvcmVzaWRlbnRpYWxfY2FyZS9tYWlsX2JsYXN0X2luZGV4P3V0bV9tZWRpdW09ZW1haWwmdXRtX3NvdXJjZT1nb3ZkZWxpdmVyeSJ9.wD_kyOelsVj0O18oGZ6vB1qZQYtIH2lojk5kd633DYc/s/1356292409/br/92636915983-l).  Have questions about the Lean 232 Program? Please contact [LeanThinking@hud.gov](mailto:LeanThinking@hud.gov).  For more information on the Lean 232 Program, check out: [http://www.hud.gov/healthcare](https://lnks.gd/l/eyJhbGciOiJIUzI1NiJ9.eyJidWxsZXRpbl9saW5rX2lkIjoxMDIsInVyaSI6ImJwMjpjbGljayIsImJ1bGxldGluX2lkIjoiMjAyMTAxMDQuMzI3OTIyMzEiLCJ1cmwiOiJodHRwOi8vd3d3Lmh1ZC5nb3YvaGVhbHRoY2FyZT91dG1fbWVkaXVtPWVtYWlsJnV0bV9zb3VyY2U9Z292ZGVsaXZlcnkifQ.1u0SLtDtXsU62834yVCK0A042fLMrX4ZfmVsijRPzQI/s/1356292409/br/92636915983-l).    Stay Connected with the Office of Housing and the Federal Housing Administration: |
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