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The Office of Residential Care Facilities (ORCF) and the COVID-19 Pandemic

The Office of Residential Care Facilities (ORCF) has worked closely with our external stakeholders to address Section 232 program challenges brought on by the COVID-19 pandemic. Over the past month, ORCF has addressed several policy and operational issues and published them in the *COVID-19 Questions and Answers (Q&A) for External Stakeholders* ([here](https://www.hud.gov/sites/dfiles/Housing/documents/OHP%20Corona%20QA%20FINAL.pdf)). ORCF has also published Mortgagee Letter 2020-10 ([here](https://www.hud.gov/sites/dfiles/OCHCO/documents/2020-10hsngml.pdf)) regarding temporary revisions to underwriting standard processes for third-party and lender site inspections. We encourage you to continue to check back to our Section 232 Program website ([here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care)) for the latest information.

***Keywords:*** *COVID-19*

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Revised Production Application Checklists

ORCF has revised the Production Application Checklists to reflect the recently approved Paperwork Reduction Act (PRA) documents.  New checklists can be found ([here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/underwriting)). Lenders should use the new checklists for new application submissions.

***Keywords:*** *Checklists*

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Revised Loan Modification Checklist

ORCF has revised the Loan Modification Checklist to reflect the recently approved Paperwork Reduction Act (PRA) documents.  The new checklist can be found ([here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/loan_servicing)).  Borrowers should use the new checklist for new loan modification applications.

***Keywords:*** *Checklists*

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Request for Review of Pay.gov Submission Data

HUD has been experiencing a high rate of errors in the information provided with the Pay.gov fee/receipt submissions.  For example, if the “Section of the Act” is entered as new construction when it is actually a 223(f) refinance, or if a skilled nursing facility is listed as an assisted living facility, it will create an error in the system that requires a back-end correction.  We are asking that careful attention be paid to each piece of data provided, including the following:

* FHA #
* Project Name
* Correct selection of Program (e.g. paid to the Office of Healthcare Programs rather than Multifamily)
* Correct fee type (e.g. application vs. inspection vs. MIP vs. TPA, etc.)
* Correct program type (e.g. SNF vs. ALF vs. Board & Care; 223(a)(7) vs. 223(f) vs. New Construction, etc.)

***Keywords:*** *Pay.gov*

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Consideration of Business Income Coverage Provisions of Property Insurance Policies in light of COVID-19

Questions have arisen regarding whether business interruption insurance or related coverage may cover certain losses arising from the COVID-19 national emergency.  Relevant language among property insurance policies can vary significantly in this respect.  However, with respect to projects experiencing a COVID-19-related substantial reduction in NOI, the lender servicer should carefully consider this matter and should engage the insured in investigating whether the particular applicable policy, in light of pertinent exclusions and/or endorsements, does provide relevant coverage.  If some coverage is potentially available, then pursuing the coverage, though a business decision, could be an important component of an action plan encompassed in HUD*-*93334-ORCF, Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, Section 232 *(*[here](https://www.hud.gov/sites/dfiles/OCHCO/documents/93334_orcf.docx)), and/or HUD-Form 93335-ORCF, Operator’s Notification to HUD of Threats to Permits and Approvals ([here](https://www.hud.gov/sites/dfiles/OCHCO/documents/93335_orcf.docx)).  Information regarding Section 232 property and liability insurance coverages is set forth in ORCF’s Handbook 4232.1, Section II, Chapter 14 ([here](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/loan_servicing)).

***Keywords:*** *Insurance*

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ORCF Asset Management Reminder about Email Blasts

This is a reminder to our external stakeholders that you can sign-up to receive future Lean/232 Email Blasts online ([here](https://www.hud.gov/subscribe/signup?listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L)). We encourage all 232 Lean Lenders to ensure their servicing and asset management staff sign up for these updates. With the roll-out of the ORCF Asset Management Risk Monitoring Routine, we will be communicating with our servicing lender partners more frequently through this channel.

***Keywords****: Email Blasts*

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ORCF Asset Management Risk Monitoring Routine Launch

As referenced in the February 26, 2020 Email Blast, ORCF Asset Management is rolling out its new Risk Monitoring Routine. In the coming weeks, ORCF will be sending a list of those projects with potential risk indicators in each servicing lender’s portfolio to contacts at each lender. This communication will be sent from the shared mailbox, [232RiskMonitoring@hud.gov](mailto:232RiskMonitoring@hud.gov), and will include all assigned ORCF Account Executives (and supervising Workload Managers).

Servicing Lenders will be asked to provide a response to the assigned ORCF Account Executive within **10 business days**, unless existing guidance prescribes a faster timeframe. The lender’s response should either: 1) validate the risks cited with the submission of a complete Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy (Form HUD-93334-ORCF), or 2) inform the AE that the risk is unsubstantiated, and provide justification and documentation explaining why the risk indicated is invalid.

For those risks that are verified, Servicers/Lenders will be expected to work with their Borrowers and Operators to develop an Action Plan, which the Servicers/Lenders will provide to HUD with the Form HUD-93334-ORCF (as an addendum thereto should the project participants need additional time). Such addendums should be submitted no later than **30 business days** after the date of the Risk Monitoring Routine email.

***Keywords:*** *Asset Management, Risk Monitoring*

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Reminding Section 232 Lenders/Servicers of Their Obligations

The Office of Residential Care Facilities (ORCF) is responsible for asset and risk management of all Section 232 insured projects. Lenders/Servicers also provide routine reviews of these projects that include analyses of quarterly and annual financial performance and reporting when a project’s performance is at risk to the assigned ORCF Account Executive (AE).

All Operators are required by 24 CFR Section 232.1015 to provide prompt notification to HUD and the Lender/Servicer of circumstances placing the value of security at risk, as fully delineated in that CFR provision ([link](https://www.govregs.com/regulations/expand/title24_chapterII_part232_subpartF_section232.1015#title24_chapterII_part232_subpartF_section232.1015)). Although that provision applies to Operators of any Section 232 facility, the requirement is further set forth in Paragraph 25(d) of the Borrower Regulatory Agreement (92466-ORCF).

In addition to their routine reviews, Servicers/Lenders must also ensure that HUD has been made aware of any and all circumstances that place the value of security at risk. The required form for this notification is the Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy (Form HUD-93334-ORCF).

***Keywords:*** *Asset Management, Servicing Lender Obligations*

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ORCF Asset Management Update on Operator Financial Submissions

As ORCF Asset Management introduces its risk monitoring routine, it would like to take this opportunity to remind servicing lenders of their obligations in reporting quarterly operator financial data via the 232 Healthcare Portal.

ORCF acknowledges the varied state of Operator-prepared quarterly financial statements. Here are some suggestions and best practices for lenders to consider when making adjustments for each property’s financial calculations prior to submitting through the 232 Healthcare Portal, based on ORCF Asset Management’s review of lender portal submissions:

* **Actual vs. Normalized:** To ensure accurate portal calculations, Lenders should report actual figures for a given reporting period (3, 6, 9 or 12 months), rather than normalizing a given reporting period’s figures
* **Identity-of-Interest Management Fees:** Management fees are included in the Total Operating Expenses calculation lenders submit to the 232 Healthcare Portal. Handbook 4232.1 Section II, Chapter 8.7 A 5 notes that these fees “must be clearly designated in the management agreement, must be computed and paid in accordance with HUD Program Obligation, and must be approved by ORCF.” As such, we suggest that Identity-of-Interest Management Fees are included in the Total Operating Expenses to ensure an accurate picture of an operator’s cash flow is reflected in the 232 Healthcare Portal.
* **Debt Service Coverage Ratios (DSCR):** DSCRs calculated in the 232 Healthcare Portal are cumulative for a given fiscal year, meaning that the reported DSCR covers the number of months in the given reporting period (3, 6, 9 or 12 months). Lenders should take note that ORCF’s internal DSCR calculations focus on the trailing 12 month (T12) average DSCR, regardless of the point in time it is calculated.

The following bullets reiterate and clarify the information that can be found in the “Definitions and Data Format” tab of the “Batch File Upload Spreadsheet” found on ORCF’s 232 Healthcare Portal (here):

* **Total Operating Revenues:** This is the income derived from sources related to a facility’s everyday business operations and other income that is related to the services provided to the residents.
  + **What this includes:** Common operating incomes sources include private pay, private insurance, Medicare, Medicaid, VA, etc. Other income includes extra services provided to the residents (e.g. barbering/beautician servicers, extra meals, etc.)
  + **What this excludes:** Interest income, one-time gains, such as grants, revenue derived from selling assets, etc.
* **Total Operating Expenses:** These are the expenditures that are incurred as a result of performing normal operations directly related to the facility.
  + **What this includes:** For residential healthcare facilities, cash operating expenses typically consist of: General & Administrative, Payroll Taxes & Benefits, Resident Care, Food Service, Activities, Housekeeping/Laundry, Plant Operations, Utilities, Marketing/Promotions and Insurance (property & liability). This also includes: Bad Debt Expense, Real Estate Taxes, Management Fees and the required Reserve for Replacement (R4R) deposit
  + **What this excludes:** Non-cash operating expenses, such as depreciation and amortization, rent or lease expenses and capital expenditures are **excluded** from operating expenses.
* **FHA Insured Principal + Interest Payment:** The total amount paid in a given financial reporting period should be reported cumulatively (e.g. for an operator with a 12/31 FY end date, the quarter ending 3/31 would include 3 months of payments, the quarter ending 6/30 would include 6 months of payments, and so on).
* **FHA Mortgage Insurance Premium (MIP):** Although MIP is paid in advance for one year, the lender should report MIP cumulatively (e.g. ¼ of the annual payment should be reported for 3 months of reporting, ½ of the annual payment should be reported for 6 months of reporting, and so on).
* **Actual Number of Resident Days:** 1 resident day = one day that one person resided in the facility and/or paid the daily rate for rent and services.

***Keywords:*** *Risk Notification, Operator Financial Reporting*

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Enhanced Resources for Notifying ORCF of Action Plans

In the February 26, 2020 Email Blast, ORCF Asset Management provided some additional guidance to its stakeholders 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, 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.

In order to assist lenders and servicers in their efforts to work with borrowers and operators to establish effective corrective action plans, ORCF Asset Management collaborated with members of an HMAC Working Group and the MBA Servicers’ Subcommittee to develop some resources for Lenders.

Please find 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” the following optional resources:

* Sample ORCF Root Cause & Action Plan ([here](https://www.hud.gov/sites/dfiles/Housing/documents/Root_Cause_Tool.docx))
* Sample ORCF Action Plan ([here](https://www.hud.gov/sites/dfiles/Housing/documents/Action_Plan_Tool.docx))

ORCF commits to continuing to refine these sources, based on the feedback servicing lenders provide.

***Keywords:*** *Risk Notification, Operator Financial Reporting*

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Past Lean 232 Updates are [available online](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/mail_blast_index).

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>.

Have your loan servicing colleagues joined our email list? The Email Blasts contain information relevant to them as well. You might suggest they [Join here](http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L).

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