



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 2013-26

Date: August 15, 2013

To: All FHA-Approved Mortgagees

Subject Back to Work - Extenuating Circumstances

Purpose The purpose of this Mortgagee Letter (ML) is to:

- provide minimum underwriting standards and criteria for evaluating borrowers who have experienced an Economic Event, *as defined in this ML*, that resulted in a severe reduction in income due to a job loss or other circumstances resulting in reduced Household Income;
 - describe the use of housing counseling to qualify under the provisions of this ML;
 - amend HUD Handbook **4155.1, Chapter 4, Section C** to add an Economic Event to the list of examples of extenuating circumstances and instruct lenders to use the guidance for Back to Work – Extenuating Circumstances established in this ML as Chapter 6 Section G, to underwrite an applicant with an Economic Event; and,
 - revise HUD Handbook **4155.1, 4.A.7.e**, to clarify the process for requesting a review of information contained in CAIVRS for borrowers seeking an FHA-insured mortgage in accordance with the provisions of this ML.
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Introduction

FHA is continuing its commitment to fully evaluate borrowers who have experienced periods of financial difficulty due to extenuating circumstances.

As a result of the recent recession many borrowers who experienced unemployment or other severe reductions in income, were unable to make their monthly mortgage payments, and ultimately lost their homes to a pre-foreclosure sale, deed-in-lieu, or foreclosure. Some borrowers were forced to file for bankruptcy to discharge or restructure their debts. Because of these recent recession-related periods of financial difficulty, borrowers' credit has been negatively affected. FHA recognizes the hardships faced by these borrowers, and realizes that their credit histories may not fully reflect their true ability or propensity to repay a mortgage.

To that end, FHA is allowing for the consideration of borrowers who have experienced an *Economic Event* and can document that:

- certain credit impairments were the result of a Loss of Employment or a significant loss of Household Income beyond the borrower's control;
- the borrower has demonstrated full recovery from the event; and,
- the borrower has completed housing counseling.

Housing counseling is an important resource for both first-time home buyers and repeat home owners. Housing counseling enables borrowers to better understand their loan options and obligations, and assists borrowers in the creation and assessment of their household budget, accessing reliable information and resources, avoiding scams, and being better prepared for future financial shocks, among other benefits to the borrower.

Effective Date

The guidance in this ML is effective for case numbers assigned on or after August 15, 2013 through September 30, 2016.

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Affected Programs

HUD 4155.1, Mortgage Credit Analysis for Mortgage Insurance
Add Chapter 6 section G, “Back to Work – Extenuating Circumstances,” and the guidance in this ML in its entirety to this new section.
Add to section 4.C.2.f, Previous Mortgage Foreclosure, an Economic Event to the list of examples of extenuating circumstances and instruct lenders to use alternative guidance in Chapter 6.
Add to section 4.C.2.g, Chapter 7 Bankruptcy, instructions to lenders to use alternative guidance in Chapter 6 when the extenuating circumstance is a result of an Economic Event.

Note: This ML will serve as Section G until the 4155.1 Handbook can be updated.

Applicability

The guidance in this ML is applicable to purchase money mortgages in all FHA programs with the exception of Home Equity Conversion Mortgages.

Lenders must use the provisions of this ML when considering a borrower who experienced an Economic Event, as defined in this ML, which resulted in a foreclosure, short sale, bankruptcy or other negative impact on their credit, and whose application has been issued a “Refer” recommendation by TOTAL Scorecard, or received an “Accept/Approve” but is manually downgraded.

In addition to meeting the guidelines set forth in this ML, loans originated using these criteria must meet all other applicable FHA eligibility and policy criteria. Lenders remain responsible for determining whether the borrower meets all other HUD requirements before approving the loan.

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Eligibility for Borrowers affected by an Economic Event

Borrowers that may be otherwise ineligible for an FHA-insured mortgage due to FHA's waiting period for bankruptcies, foreclosures, deeds-in-lieu, and short sales, as well as delinquencies and/or indications of derogatory credit, including collections and judgments, may be eligible for an FHA-insured mortgage if the borrower

- can document that the delinquencies and/or indications of derogatory credit are the result of an Economic Event as defined in this ML,
- has completed satisfactory Housing Counseling, as described in this ML, and
- meets all other HUD requirements.

Definitions

An *Economic Event* is any occurrence beyond the borrower's control that results in Loss of Employment, Loss of Income, or a combination of both, which causes a reduction in the borrower's Household Income of twenty (20) percent or more for a period of at least six (6) months.

The *Onset of an Economic Event* is the month of Loss of Employment/Income.

Recovery from an Economic Event is the re-establishment of Satisfactory Credit (as defined on page 5 of this ML) for a minimum of twelve (12) months.

The term *borrower* includes borrowers and co-borrower.

Borrower Household Income means the gross income of the borrower and all *Household Members*, as defined below, for purposes of assessing loss of income. The gross income of each Household Member must be computed in accordance with FHA income requirements.

Note: *Household Member*, for the purpose of this ML, means an individual residing at the borrower's primary residence at the time of the Economic Event and who was a co-borrower on the borrower's previous mortgage.

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Eligibility for Borrowers affected by an Economic Event- Continued

Note: *Borrower Household Income* is used for the purpose of defining an Economic Event. Only the income from the borrower, not Household Income, may be used as Effective Income for the purpose of qualifying for the new loan.

Housing Counseling, for purposes of this ML, means counseling from a HUD-approved housing counseling agency related to homeownership and residential mortgage loans that is provided in accordance with 24 C.F.R. part 214 “Housing Counseling Program” and satisfies the requirements identified in *Satisfactory Housing Counseling*.

Satisfactory Credit

1. Satisfactory Credit: Requirements

The lender may deem a borrower to have Satisfactory Credit if:

- the borrower’s credit history is clear of late housing or installment debt payments, and major derogatory credit issues on revolving accounts;
 - any open mortgage is current and shows twelve (12) months satisfactory payment history. Mortgages may have been brought current through loan modification, which may be “temporary” or “permanent” so long as all payments have been documented as being received in accordance with the modification agreement(s); and
 - the borrower meets the requirements of this ML.
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Eligibility for Borrowers affected by an Economic Event-Continued

When evaluating a borrower with non-traditional credit history, the lender may deem a borrower to have Satisfactory Credit if the borrower's non-traditional credit history covering at least twelve (12) months in duration includes:

- no history of delinquency on rental housing payments; and
- no more than one thirty (30) days delinquency on payments due to other creditors; and
- no collection accounts/court records reporting (other than medical and/or identity theft).

Refer to Handbook 4155.1 Chapter 4 Section C for more information on analyzing a borrower with non-traditional credit history.

2. Satisfactory Credit: *Required Documentation*

The lender must verify and document a reduction in the borrower's Household Income of twenty (20) percent or more for a period of at least six (6) months that resulted from the Loss of Employment, Loss of Income, or a combination of both.

A. *Loss of Employment*

The lender must verify and document the Loss of Employment by obtaining:

- A written Verification of Employment (VOE) evidencing the termination date or in cases where the prior employer is no longer in business:
 - a written termination notice, or
 - other publicly available documentation of the business closure, and
 - documentation of receipt of unemployment income.

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**Eligibility for
Borrowers
affected by an
Economic
Event-
Continued**

B. *Loss of Income*

The lender must verify and document the Borrower's Household Income prior to Loss of Income by obtaining:

- a written VOE evidencing prior income; or
- signed tax returns or W-2s evidencing prior income.

For a Loss of Income based on seasonal employment, the lender must verify and document a two year history of seasonal employment in the same field just prior to the Loss of Income, in addition to meeting the documentation requirement above.

For a Loss of Income based on part-time employment, the lender must verify and document a two year history of continuous part-time employment just prior to the Loss of Income in addition to meeting the documentation requirement above.

C. *Post Economic Event Income*

The lender must verify and document the Borrower's Household Income after the onset of the Economic Event in accordance with the guidance in Handbook 4155.1 Chapter 4 sections D-E & ML 12-3.

3. Satisfactory Credit: *Analysis*

The lender must then analyze the documentation to determine the Loss of Employment and/or Loss of Income resulted in a minimum twenty (20) percent reduction in income for a minimum of six (6) months.

Note: Even if the Household Member (as defined in this ML) is not an applicant on the current loan, the lender is responsible for obtaining the necessary authorizations to verify Household Members employment or income as part of the requirement to document reduction in household income at the time of the event.

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Analysis of Economic Event-Related Payments or Credit Deficiencies

The lender must first analyze and document (1) all delinquent accounts and (2) all indications of derogatory credit, including collections and judgments, bankruptcies, foreclosures, deeds-in-lieu, short sales, and other credit problems, to determine whether associated late payment, credit deficiencies or other credit problems were the result of an Economic Event, or an inability to manage debt or a general disregard for managing financial obligations.

To establish that borrower's derogatory credit was the result of an Economic Event, the lender must review the credit report and determine that:

- the borrower exhibited Satisfactory Credit prior to the Economic Event Onset;
- the borrower's derogatory credit occurred after the Economic Event Onset, and
- the borrower has re-established Satisfactory Credit for a minimum of twelve (12) months.

Required Documentation

A. Economic Event-Related Collections and Judgments

The lender must verify and document all collections and judgments were the result of the Economic Event.

For borrowers with open collection accounts or judgments, the lender must also meet the requirements of Handbook 4155.1, Section 4.C.2.e, Analysis of Collections and Judgments.

B. Economic Event-Related Mortgage Foreclosure

The lender must verify and document that:

- a minimum of twelve (12) months have elapsed since the date of foreclosure or deed-in-lieu; and
 - the foreclosure or deed-in-lieu was the result of the Economic Event.
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Mortgagee Letter 2013-26 Continued

Analysis of an Economic Event Related Late Payments or Credit Deficiencies-Continued

C. Economic Event-Related Short Sale

The lender must verify and document that:

- a minimum of (12) months have elapsed since the date of sale; and
- the short sale was the result of the Economic Event.

D. Economic Event-Related Chapter 7 Bankruptcy

The lender must verify and document that:

- a minimum of twelve (12) months have elapsed since the date of discharge of the bankruptcy; and
- the bankruptcy was the result of the Economic Event.

E. Economic Event-Related Chapter 13 Bankruptcy

The lender must verify and document that:

- the Chapter 13 Bankruptcy was discharged prior to loan application and all required bankruptcy payments were made on-time, or a minimum of twelve (12) months of the pay-out period under the bankruptcy has elapsed and all required bankruptcy payments were made on time; and
- the bankruptcy was the result of the Economic Event.

If the Chapter 13 Bankruptcy was not discharged prior to loan application, the lender must also verify and document that the borrower has received written permission from the Bankruptcy Court to enter into the subject mortgage transaction.

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**Economic
Event-Related
Factor -
Housing
Counseling**

Housing Counseling

1. Satisfactory Housing Counseling: Requirements

To qualify for purposes of establishing Satisfactory Credit following an Economic Event, participants in this FHA initiative must:

- receive homeownership counseling or a combination of homeownership education and counseling provided that each participant receives, at a minimum, one hour of one-on-one counseling from HUD-approved housing counseling agencies, as defined at 24 C.F.R. §214.100. The counseling must address the cause of the economic event and the actions taken to overcome the economic event and reduce the likelihood of reoccurrence. The housing education may be provided by HUD-approved housing counseling agencies, state housing finance agencies, approved intermediaries or their sub-grantees, or through an on-line course, and
- be completed a minimum of thirty (30) days but no more than six (6) months prior to submitting a loan application to a lender, as application is defined in Regulation X, implementing the Real Estate Settlement Procedures Act, 24 C.F.R. §3500.2(b).

Housing counseling may be conducted in person, via telephone, via internet, or other methods approved by HUD, and mutually agreed upon by the borrower and housing counseling agency, as provided for in the regulations at 24 CFR §214.300 and in the Housing Counseling Handbook.

A list of agencies can be obtained online at <http://www.hud.gov/> or by calling 1 (800) 569-4287.

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Economic Event-Related Factor- Housing Counseling- Continued

B. Housing Counseling Fees

Housing Counseling provided to potential borrowers who experienced an Economic Event may be funded through any means permitted by the HUD Housing Counseling Program, see 24 C.F.R. Part 214 and Handbook 7610.1, Rev-5.

(http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsg/7610.1). However, any housing counseling fee must be charged in accordance with 24 C.F.R. §214.313, and must be reasonable, affordable, customary and commensurate with the services provided.

C. Required Disclosures

Housing counseling agencies must provide the following disclosures to all clients:

- An explicit description of any financial relationships between the agency and any lender;
- A statement that the borrower is not obligated to pursue a loan with a lender; and
- A statement that “Completion of this housing counseling program and receipt of a letter of completion of counseling do not qualify {you/the borrower} for an FHA loan. A lender will have to determine if {you/the borrower} qualify for a loan. You understand that you may not be approved for a loan.”

Furthermore, the agency must provide information on alternative services, programs and products that are available.

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Economic Event-Related Factor- Housing Counseling- Continued

2. *Housing Counseling: Required Documentation*

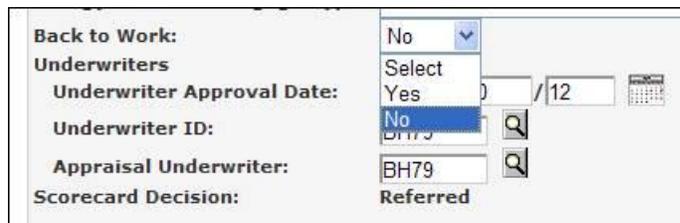
The lender must verify and document that:

- the borrower has completed the required pre-purchase housing counseling by obtaining a letter from the borrower issued by the Participating Housing Counseling Agency on agency letterhead and that includes the agency's Tax Identification Number (TIN). The letter must state: the borrower's name, the counselor's name, that counseling was delivered in accordance with ML 2013-26 requirements, the date upon which counseling was completed, borrower's signature and the signature of an authorized official of the counseling agency providing the counseling, and
- the borrower received the proper disclosures (*C. Required Disclosures*) from the housing counseling agency.

The lender must place the letter evidencing completion of the pre-purchase housing counseling and copies of the housing counseling agency disclosures in the FHA Case Binder immediately after the borrower's credit report.

Insurance Application Processing

In order to identify loans utilizing the alternative guidance found in this section, lenders must indicate the application has been underwritten in accordance with the "Back to Work – Extenuating Circumstance" guidance in the insurance application screen on FHA Connection:



The screenshot shows a form with the following fields and values:

Back to Work:	No
Underwriters	Select
Underwriter Approval Date:	0 / 12
Underwriter ID:	No
Appraisal Underwriter:	BH79
Scorecard Decision:	Referred

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Insurance Application Processing-Continued

Lenders must also complete the housing counseling information in the insurance application screen, including the housing counseling agency TIN:

Counsel Type:	HUD Approved ▼
N/A	
Not Counseled	
Lender	
Third Party	
HUD Approved	
Counsel TIN:	12 - 3456789

Request for Waiver or Resolution of CAIVRS Indicator

In accordance with Handbook 4155.1, mortgagees are required to screen borrowers through CAIVRS. If CAIVRS screening indicates that the borrower has had a claim paid within the previous three years on a loan insured on the borrower's behalf by FHA, the lender may submit a request for waiver or resolution of the unresolved CAIVRS indicator.

Prior to submitting the request for waiver or resolution, for loans that meet the requirements found in this Mortgagee Letter, the DE underwriter must:

- fully underwrite the application to determine all other eligibility requirements have been met; and,
- approve the loan subject to additional conditions.

On the direct endorsement approval, (HUD 92900-A page 3), indicate in the Additional Conditions under "Other:" "Subject to CAIVRS indicator resolution by FHA."

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Request for Waiver or Resolution of CAIVRS Indicator-Continued

The Mortgagee may then submit the request, including the following information, to HUD at the address below.

- A cover sheet indicating CAIVRS clearance request for “Back to Work” FHA Case number, Name(s) of borrower(s) with CAIVRS indicators, Point of Contact for the Mortgagee, Page 3 of the 92900A, signed by the DE underwriter indicating “Subject to CAIVRS indicator resolution by HUD” under “Other”.

Send to:

US Department of Housing and Urban Development
Attn: Division Director, Home Mortgage Insurance Division
451 7th St. SW, Room 9266
Washington, DC 20410

HUD will review the request and provide the Lender with affirmation of the decision for waiver or resolution.

Paperwork Reduction Act

The current information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) and assigned OMB control number 2502-0059. The new information collection requirements contained in this document are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) and assigned the existing OMB control number 2502-New. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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Questions

If you have questions regarding this Mortgagee Letter, please call the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Carol J. Galante
Assistant Secretary for Housing-Federal Housing Commissioner
