



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

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Mortgagee Letter 2013-41

To **All FHA-Approved Lenders**

Subject Lender Self-Reporting Requirements

Purpose of Mortgagee Letter This Mortgagee Letter clarifies the self-reporting requirements of all Single Family FHA-approved lenders, including:

- What must be reported to FHA;
- Timeframe for lenders’ internal reporting to senior management;
- Timeframe for lenders’ external reporting to FHA;
- How findings should be reported to FHA;
- FHA’s review process; and
- The repercussions of failing to report to FHA.

All Single Family FHA-approved lenders must self-report in accordance with the guidance set forth in this Mortgagee Letter.

Effective Date All requirements contained in this Mortgagee Letter are effective immediately.

Affected Topics The following sections of HUD Handbook 4060.1, REV-2, will be replaced with guidance provided in this Mortgagee Letter:

Handbook 4060.1, REV-2	
Section 7-3 Paragraph (I)	Basic Elements of Quality Control Reporting and Corrective Action
Section 7-3 Paragraph (J)	Basic Elements of Quality Control Notification to HUD

Quality Control Plan Requirements In accordance with HUD Handbook 4060.1, REV-2, Section 7-1, all FHA lenders are required to adopt and implement a Quality Control Plan as a prerequisite to FHA approval. HUD Handbook 4060.1, REV-2, Section 7-3 outlines the basic elements required of a FHA lender’s Quality Control Plan.

In accordance with Section 7-3, Paragraphs (I) and (J), all Quality Control Plans must include procedures for conducting quality control reviews, including procedures for reporting findings to the lender's senior management, taking corrective action, and notifying FHA.

Once admitted to the FHA Program, lenders are required to maintain their Quality Control Plan, including periodic updates to ensure the plan is in compliance with current FHA requirements.

What Must be Reported to FHA

1. Lenders must report to FHA all findings of fraud and material misrepresentations. Lenders must also report any material findings concerning the origination, underwriting, or servicing of the loan, that the lender is unable to mitigate or otherwise resolve in accordance with this Mortgagee Letter.

A **finding** is a final determination of defect by the lender. Suspected instances of fraud, material misrepresentations, and other material findings must be investigated by the lender's quality control team who must determine whether or not fraud or material misrepresentation actually occurred, or whether material findings exist.

A finding is **material** if disclosure of the finding would have altered the lender's decision to approve the loan or to endorse or seek endorsement from FHA for insurance of the mortgage loan.

Examples of material findings include, *but are not limited to*:

- Failing to ensure that the borrower meets applicable eligibility requirements in accordance with FHA requirements;
- Failing to verify the creditworthiness, income, and/or employment of a borrower in accordance with FHA requirements;
- Failing to verify the assets used by the borrower for down payment and/or closing costs, or to meet applicable reserve requirements, in accordance with FHA requirements;
- Failing to ensure that the amount of the loan insured is consistent with the loan type, property value and other applicable FHA requirements;
- Failure to ensure that the loan was current and met any applicable payment history requirements at the time of insurance endorsement in accordance with FHA requirements;
- Failing to address property deficiencies identified in the appraisal affecting the health and safety of the occupants or the structural integrity of the property in accordance with FHA requirements; and
- Failing to ensure that the appraisal of the property satisfies FHA appraisal requirements.

This list is not exhaustive.

What Must be Reported to FHA

Lenders must report to FHA any findings that occurred after the lender submits its request for mortgage insurance or endorses the loan through the Lender Insurance process. Findings that occurred and were resolved prior to funding do not have to be reported.

Findings that do not involve fraud or material misrepresentation and were already mitigated or resolved by the lender do not have to be reported to FHA. However, in accordance with HUD Handbook 4060.1, REV-2, Section 7-3(K), lenders must retain all quality control review results, including all selection criteria, review documentation, findings, and actions taken to mitigate or resolve findings, for a period of two years. These quality control review records must be made available to FHA upon request.

A finding has been **mitigated** or resolved if the lender has adequately addressed the deficiencies underlying the finding, and such deficiencies have been remedied through updated and accurate documentation, calculations, or other actions taken by the lender so that the loan presents an acceptable level of risk to the lender and to FHA.

Findings can only be mitigated to the extent that the information used to mitigate the finding was sufficient to support borrower qualification and eligibility at the time the loan was endorsed. All FHA requirements must be met at time the lender submits the loan for endorsement. A lender cannot subsequently mitigate a previously existing finding based on changed circumstances.

FHA must be involved in the potential mitigation of any findings involving fraud or material misrepresentations. Fraud and misrepresentation cannot be mitigated solely by action of the lender.

The lender should discuss all findings with the responsible party in order to ensure corrective action and to prevent similar findings from occurring in the future. The lender is responsible for ensuring it only does business with responsible parties.

2. For all findings which must be reported, the lender must identify what actions, if any, have been taken to attempt to mitigate or resolve each finding, and report any planned or pending follow-up activities.

The Lender Reporting feature in the Neighborhood Watch Early Warning System has been updated with new functionality in order to allow lenders to comply with this guidance. Specific instructions on how to use the new reporting features are available on the Neighborhood Watch website at <https://entp.hud.gov/sfnw/public/>.

Timeframe for Internal Reporting to Senior Management

Once a lender has conducted a quality control review, initial review findings must be reported to the lender's senior management within **30 days** of completion of the initial findings report.

As noted above, suspected instances of fraud, material misrepresentations, and material findings concerning the origination, underwriting, or servicing of the loan must be investigated by the lender's quality control team and a determination must be made whether or not fraud or material misrepresentation actually occurred, or whether material findings exist.

Lender management must review and respond appropriately to each instance of fraud, material misrepresentation, or other material finding. The lender's final report must identify the actions being taken, the timetable for completion, and any planned follow-up activities.

Timeframe for External Reporting to FHA

Any findings of fraud or material misrepresentation must be reported to FHA **immediately**.

The lender must report all other material findings under this Mortgagee Letter to FHA no later than **30 days** after the lender has completed its own internal evaluation of the findings, or within **60 days** of initial disclosure of the findings, whichever occurs first.

How Findings Should be Reported to FHA

Lenders must report findings to FHA via the Neighborhood Watch Early Warning System ("Neighborhood Watch") using the Lender Reporting feature. Paper reports will not be accepted. The required use of Neighborhood Watch **supersedes** the current Section 7-3(J) of HUD Handbook 4060.1, REV-2, which states that findings of fraud or other serious violations must be referred to the Director of the Quality Assurance Division in the HUD Homeownership Center (HOC) having jurisdiction.

FHA shares all findings of fraud and material misrepresentation with HUD's Office of Inspector General (OIG). However, if HUD employees or contractors are suspected of involvement, the matter must be referred directly to HUD's OIG by contacting the HUD OIG website at <https://www.hudoig.gov/report-fraud>, by sending a written referral to HUD OIG Hotline (GFI) at 451 7th Street, SW, Room 8254, Washington, DC 20410, or by fax at (202) 708-4829. Do not report findings of fraud or material misrepresentation suspected of involving HUD employees or contractors via the Neighborhood Watch Early Warning System.

FHA's Review Process FHA will review each self-report to determine if supporting documentation is needed. FHA may request documentation from the contact person listed in the self-report. The contact person listed in the self-report must have access to the following documents and be prepared to submit them to FHA immediately upon request:

- The Endorsement Case Binder;
- The Quality Control Report; and
- Any additional documentation necessary for FHA to fully evaluate the finding.

FHA will examine the self-report and any supporting documentation to determine if fraud, material misrepresentation, or other material findings exist. FHA may provide the lender an additional opportunity to mitigate or resolve the findings.

If FHA finds the lender has not satisfactorily mitigated or resolved the findings, FHA may demand indemnification for loans endorsed through the Lender Insurance (LI) process or request indemnification for any non-LI-endorsed loans, or seek any other remedy permissible by law.

Repercussions of Failing to Report to FHA FHA monitors lender self-reporting on a monthly basis. Failure of an FHA-approved lender to comply with FHA requirements may result in FHA taking administrative action against the lender.

Information Collection Requirements Paperwork reduction information collection requirements contained in this Mortgagee Letter 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 have been assigned OMB Control Number 2502-0600. 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.

Questions

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

Signature

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