

## Section B. Fair Housing and Other Regulatory Requirements

### Overview

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**In This Section** This section contains the topics listed in the table below.

<b>Topic</b>	<b>Topic Name</b>	<b>See Page</b>
1	General Information on Fair Housing and Other Regulatory Requirements	1-B-2
2	The Fair Housing Act	1-B-4
3	Affirmative Fair Housing Marketing	1-B-6
4	Fair Credit Reporting Act (FCRA)	1-B-8
5	Equal Credit Opportunity Act (ECOA)	1-B-9
6	Executive Order 11063 (as Amended by Executive Order 12259)	1-B-12
7	Helping Families Save Their Homes Act and Other Housing Act Requirements	1-B-13
8	Reporting Fraud and Abuse	1-B-21

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## 1. General Information on Fair Housing and Other Regulatory Requirements

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**Introduction** This topic contains general information on Fair Housing and other regulatory requirements, including

- the applicability of Federal statutes and regulations to FHA single family programs, and
- references for locating information on various statutes and regulations.

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**4155.2 1.B.1.a  
Applicability of  
Federal  
Statutes and  
Regulations to  
FHA Single  
Family  
Programs** Federal statutes and regulations concerning fair housing and equal credit opportunities apply to all of FHA's single family mortgage insurance programs. Lenders must abide by these statutes and regulations for all new origination and assumption transactions.

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**4155.2 1.B.1.b  
Locating  
Information on  
Various  
Statutes and  
Regulations** The table below lists the statutes and regulations with which lenders must comply, and reference information for locating information on each statute or regulation.

Statute/Regulation	Reference
Title VIII of the Civil Rights Act of 1968, as amended (Public Law 90-284)	<b>Office of Fair Housing and Equal Opportunity</b> U.S. Department of Housing and Urban Development 451 7 <sup>th</sup> Street, SW Washington, DC 20410
Fair Housing Act	See <a href="#">HUD 4155.2 1.B.2</a>

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# 1. General Information on Fair Housing and Other Regulatory Requirements, Continued

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## 4155.2 1.B.1.b Locating Information on Various Statutes and Regulations (continued)

Statute/Regulation	Reference
Affirmative Fair Housing Marketing	See <a href="#">HUD 4155.2 1.B.3</a>
Fair Credit Reporting Act (FCRA)	See <a href="#">HUD 4155.2 1.B.4</a>
Equal Credit Opportunity Act (ECOA)	See <a href="#">HUD 4155.2 1.B.5</a>
Executive Order 11063, as amended by Executive Order 12259	See <a href="#">HUD 4155.2 1.B.6</a>
Helping Families Save Their Homes Act and Other Housing Act Requirements	See <a href="#">HUD 4155.2 1.B.7</a>

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## 2. The Fair Housing Act

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**Introduction** This topic contains information on the Fair Housing Act, including

- a description of the Fair Housing Act
- prohibited practices in making loans
- prohibited practices in determining loan terms and conditions and loan availability, and
- prohibited practices in the selling, brokering or appraising of real estate.

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**4155.2 1.B.2.a Description of the Fair Housing Act** HUD is responsible for enforcing the Fair Housing Act. The Fair Housing Act, contained in [42 U.S.C. 3605](#), prohibits discrimination in residential real estate-related transactions, such as

- making or purchasing loans or providing other financial assistance, and
- the terms and conditions for making available loans or other financial assistance.

Lenders are prohibited from discriminating on the basis of

- race
- color
- religion
- sex
- handicap/disability
- familial status (existence of children), or
- national origin.

**Notes:**

- While the statute uses the term “handicap,” the preferred term is “disability” or “person with disabilities.”
  - While not prohibited by the Fair Housing Act, discrimination on the basis of marital status, sexual orientation, age, source of income, and other factors is prohibited by other federal, state or local laws, which must be followed where applicable.
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## 2. The Fair Housing Act, Continued

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### 4155.2 1.B.2.b Prohibited Practices in Making Loans

When making loans or providing other financial assistance, a lender is prohibited from discriminating against individuals by

- failing or refusing to provide information regarding
    - the availability of loans or other financial assistance
    - the application requirements, procedures or standards for review and approval of loans or financial assistance, or
  - providing information that is
    - inaccurate, or
    - different from that provided to others because of race, color, religion, sex, disability, familial status, or national origin.
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### 4155.2 1.B.2.c Prohibited Practices in Loan Terms & Conditions and Availability

It is unlawful for a lender to discriminate against an individual because of race, color, religion, sex, disability, familial status, or national origin by using different policies, practices, or procedures to

- evaluate or determine the creditworthiness of any person in connection with a loan or other financial assistance secured by residential real estate
  - determine the type of loan or other financial assistance to be provided, or
  - determine the loan amount, interest rate, duration or other terms for the loan or other financial assistance.
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### 4155.2 1.B.2.d Prohibited Practices in the Selling, Brokering, or Appraising of Real Estate

It is unlawful for any person or entity whose business includes engaging in the selling, brokering, or appraising of residential real property to discriminate in making available such services, or in the performance of such services, because of race, color, religion, sex, handicap, familial status, or national origin.

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### 3. Affirmative Fair Housing Marketing

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**Introduction** This topic contains information on Affirmative Fair Housing Marketing, including

- applicability of the Fair Housing Marketing policy, and
  - specific requirements regarding
    - hiring policies
    - display of the Equal Housing Opportunity logo, and
    - marketing plans.
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**4155.2 1.B.3.a Applicability of the Fair Housing Marketing Policy** FHA's regulations on Affirmative Fair Housing Marketing apply to all single family mortgage insurance programs. Homebuilders building five or more units per year must comply with specific policies outlined in [HUD 4155.2 1.B.3.b](#).

**Reference:** For more information on Fair Housing Marketing, see [24 CFR Part 200, Subpart M](#).

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**4155.2 1.B.3.b Specific Requirements of the Fair Housing Policy** The table below outlines the requirements with which all homebuilders building five or more units per year must comply.

Requirement	Policy
Hiring	Applicants must <ul style="list-style-type: none"> <li>• maintain a non-discriminatory policy in hiring sales staff</li> <li>• instruct all employees on the laws and philosophy of fair housing, and</li> <li>• submit an Equal Housing Opportunity (EHO) Certification to FHA.</li> </ul>

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### 3. Affirmative Fair Housing Marketing, Continued

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4155.2 1.B.3.b Specific Requirements of the Fair Housing Policy (continued)

Requirement	Policy
Logo	<p>Applicants must display the Equal Housing Opportunity (EHO) statement, logotype, and slogan on all</p> <ul style="list-style-type: none"> <li>• advertising</li> <li>• brochures</li> <li>• site signs, and</li> <li>• other materials.</li> </ul>
Affirmative Fair Housing Marketing Plan	<p>Single family homebuilders are required to provide information to HUD on their affirmative fair housing marketing activities. These activities, among other things, are intended to inform everyone of the availability of housing opportunities, regardless of</p> <ul style="list-style-type: none"> <li>• race</li> <li>• color</li> <li>• religion</li> <li>• sex</li> <li>• disability,</li> <li>• familial status, or</li> <li>• national origin.</li> </ul>

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## 4. Fair Credit Reporting Act (FCRA)

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**Introduction** This topic contains information on the Fair Credit Reporting Act (FCRA) including

- the purpose of the FCRA, and
  - lender requirements when taking adverse action against a borrower.
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**Change Date** March 1, 2011

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**4155.2 1.B.4.a Purpose of the FCRA** The [Fair Credit Reporting Act](#) (FCRA) is intended to control collection and dissemination of information about granting credit to a borrower.

The FCRA is designed primarily to ensure that consumer reporting agencies exercise fairness, confidentiality, and accuracy in preparing and disclosing credit information.

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**4155.2 1.B.4.b Lender Requirements When Taking Adverse Action Against a Borrower**

As required under the [FCRA](#), if a lender takes adverse action that is based in whole or in part on a credit report, the lender must disclose to the borrower the name, address, and, if available, the telephone number of the credit reporting agency issuing the report. Additionally, the notice must

- be provided at the time of notice of mortgage rejection, or within a reasonable time thereafter, and
- indicate that the borrower is entitled to request, from the credit reporting agency, the information reported to the lender that was used as a reason for rejection.

*Note:* A copy of any such notice should be retained in the application file.

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## 5. Equal Credit Opportunity Act (ECOA)

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**Introduction** This topic contains information on the Equal Credit Opportunity Act (ECOA), including

- the requirements of the ECOA and Regulation B
  - lender restrictions per the ECOA, and
  - Regulation B requirements for borrower notification of action taken
  - Regulation B time limit for borrower notification, and
  - requirements for rejected loan applications.
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**Change Date** March 1, 2011

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**4155.2 1.B.5.a Requirements of the ECOA and Regulation B** The Equal Credit Opportunity Act (ECOA) prohibits discrimination in the extension of credit

- on the basis of
  - race
  - color
  - religion
  - national origin
  - sex
  - marital status, or
  - age
- because all or part of the borrower’s income derives from public assistance, or
- because the borrower has, in good faith, exercised any right under the Consumer Credit Protection Act.

The ECOA and Regulation B of the Board of Governors of the Federal Reserve System outline rules to be observed in evaluating the creditworthiness of borrowers.

Under *no* circumstances can the source of confidential credit information be disclosed to third parties, except as required by law.

**References:** For more information on

- the ECOA, see [15 USC 1601](#), and
  - Regulation B, see [12 CFR 202](#).
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## 5. Equal Credit Opportunity Act (ECOA), Continued

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<b>4155.2 1.B.5.b</b> <b>Lender</b> <b>Restrictions per</b> <b>ECOA</b>	<p>The <a href="#">ECOA</a> prohibits a lender from</p> <ul style="list-style-type: none"> <li>• making any oral or written statement, in advertising or otherwise, to borrowers or prospective borrowers that would discourage on a prohibited basis a reasonable person from making or pursuing an application</li> <li>• inquiring whether income stated in an application is derived from alimony, child support, or separate maintenance payments, <i>unless</i> the lender discloses to the borrower that such income need not be revealed if the borrower does not want the lender to consider it in determining the borrower's creditworthiness</li> <li>• inquiring about the sex, race, color, religion, or national origin of an applicant (except as provided in <a href="#">12 CFR 202.13</a> regarding information for monitoring purposes), or</li> <li>• inquiring about birth control practices, or intentions concerning the bearing and rearing of children, or the capability to bear them.</li> </ul>
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<b>4155.2 1.B.5.c</b> <b>Regulation B</b> <b>Requirement</b> <b>for Borrower</b> <b>Notification of</b> <b>Action Taken</b>	<p>Regulation B requires that a borrower be notified of action taken by the creditor. Actions taken by HUD or the Direct Endorsement (DE) lender include</p> <ul style="list-style-type: none"> <li>• issuing a Firm Commitment or <a href="#">DE</a> approval</li> <li>• rejecting the borrower for mortgage credit reasons, and</li> <li>• notifying the borrower of the lender's inability to process the application because certain items are incomplete or were not submitted.</li> </ul>
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<b>4155.2 1.B.5.d</b> <b>Regulation B</b> <b>Time Limit for</b> <b>Borrower</b> <b>Notification</b>	<p>Under Regulation B, the maximum time limit for borrower notification is 30 days after the date the <a href="#">DE</a> underwriter receives the application, or the resubmission or reconsideration of an application. Under <i>no</i> circumstances is the processing of an application to be delayed to such an extent that notification cannot be provided within this time limit.</p>
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For purposes of complying with the notification requirements of Regulation B, resubmissions and reconsiderations are considered new applications.

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## 5. Equal Credit Opportunity Act (ECOA), Continued

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### 4155.2 1.B.5.e Requirements for Rejected Loan Applications

Under Regulation B, for loan applications that are rejected, the lender must

- complete rejection notices that
  - provide all of the specific reasons for the rejections and any counter proposals to effectuate loan approvals (such as a reduced mortgage amount), and
  - otherwise comply with the requirements of Regulation B, and
- retain case binders on the rejected loans for 26 months from the date the applications are
  - received by the [DE](#) underwriter, or
  - rejected by the appropriate Homeownership Center (HOC).

*Notes:*

- Delinquent accounts need not be listed in the rejection notice.
- At least one credit aspect must be rejected before an overall rejection can be issued.

*Reference:* For more information on requirements for rejected loan applications, see [HUD 4155.1 1.A.5.g](#).

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## 6. Executive Order 11063 (as Amended by Executive Order 12259)

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**Change Date**      March 1, 2011

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**4155.2 1.B.6.a**      [Executive Order 11063](#), as amended by [Executive Order 12259](#), prohibits  
**Description of**      discrimination in lending practices involving housing and related facilities  
**Executive**              that are financed, insured, or guaranteed by the Federal government.  
**Order 11063**

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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements

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**Introduction** This topic contains information on Section 203 of the Helping Families Save Their Homes Act (HFSH) of 2009, as well as the requirements of other housing acts, including

- Section 527 of the National Housing Act
  - Section 535 of the National Housing Act
  - National Affordable Housing Act requirements
  - HFSH Act eligibility requirements
  - investigations for crimes related to the mortgage industry
  - definition of corporate officer
  - definition of unresolved findings
  - change of lender status under the HFSH Act
  - compliance with the S.A.F.E Act and NMLS
  - notification of business changes
  - changes to lender's address, and
  - use of lender's name in advertising under the HFSH Act.
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**4155.2 1.B.7.a  
NHA Section  
527  
Requirements** [Section 527](#) of the [National Housing Act](#) (NHA) prohibits denial of a federally-related mortgage loan on the basis of sex.

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**4155.2 1.B.7.b  
NHA Section  
535  
Requirements** Under [Section 535](#) of the [NHA](#), a lender is prohibited from requiring, as a condition of providing a loan to be insured by FHA, that the loan amount equal or exceed a minimum amount established by the lender.

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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

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**4155.2 1.B.7.c  
National  
Affordable  
Housing Act  
Requirements**

Section 330(a) of the [1990 National Affordable Housing Act](#) prohibits a variation in the mortgage rates charged by the lender (known as “tiered pricing”) that exceeds 2% for FHA-insured mortgages made on dwellings located within a particular area.

*Reference:* For more information on the prohibition of mortgage rate variation, see [24 CFR 202.12](#).

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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

**4155.2 1.B.7.d HFSH Act Eligibility Requirements** Section 203 of the [Helping Families Save Their Homes Act](#) (HFSH) of 2009 contains provisions that place additional requirements on FHA-approved lenders and expand FHA’s authority to pursue civil money penalties for violations of program requirements. The provisions that limit eligibility for those participating in FHA programs are described in the table below.

<b>All Principal Owners and Corporate Officers must confirm that the institution and any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator participating in FHA programs, is not...</b>	
<b>1</b>	<p>currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under</p> <ul style="list-style-type: none"> <li>• <a href="#">part 25 of Title 24 of the Code of Federal Regulations</a></li> <li>• <a href="#">part 180</a> as implemented by part 2424</li> <li>• any successor regulations to such parts, or</li> <li>• similar provisions of any other Federal agency .</li> </ul>
<b>2</b>	<p>under indictment for, or been convicted of, an offense that reflects adversely upon the lender’s integrity, competence or fitness to meet the responsibilities of an approved lender.</p>
<b>3</b>	<p>subject to unresolved findings or federal lawsuits resulting from an audit, investigation, or review by</p> <ul style="list-style-type: none"> <li>• the Department of HUD or</li> <li>• other federal, state or local governmental agencies, or</li> <li>• any other regulatory/oversight entities with jurisdiction over the activities of their institutions and/or employees.</li> </ul> <p><i>Note:</i> For a definition of unresolved findings, see <a href="#">HUD 4155.1 1.B.7.f</a>.</p>
<b>4</b>	<ul style="list-style-type: none"> <li>• engaged in business practices that do not conform to generally accepted practices of prudent lenders or that demonstrate irresponsibility.</li> </ul>
<b>5</b>	<p>convicted of, or pled nolo contendere to, a felony related to participation in the real estate or mortgage loan industry</p> <ul style="list-style-type: none"> <li>• during the seven-year period preceding the date of application for licensing and registration, or</li> <li>• at any time preceding such date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.</li> </ul>

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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

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### 4155.2 1.B.7.d HFSH Act Eligibility Requirements (continued)

<b>All Principal Owners and Corporate Officers must confirm that the institution and any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator participating in FHA programs, is not...</b>	
<b>6</b>	in violation of provisions of the <a href="#">Secure and Fair Enforcement (S.A.F.E.) for Mortgage Licensing Act of 2008</a> (Public Law 12 U.S.C 5101 et seq.), or any applicable provision of state law.
<b>7</b>	in violation of any other requirement as established by the Secretary.

**Reference:** For more information on civil money penalties, see [HUD 4155.2 9.D.5](#).

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### 4155.2 1.B.7.e Investigations for Crimes Related to the Mortgage Industry

All principal owners and corporate officers of FHA-approved lenders must confirm that none of their employees or subsidiaries are involved in investigations or reviews that may be due to an instance of fraud, embezzlement, forgery, or any other crime related to the real estate or mortgage loan industry.

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### 4155.2 1.B.7.f Definition of Corporate Officer

FHA defines a Corporate Officer as a person with any of the following titles:

- Owner
  - President
  - Vice President
  - Chief Operating Officer
  - Chief Financial Officer
  - Director
  - Corporate Secretary
  - Chief Executive Officer
  - Member (i.e., of a Limited Liability Corporation), and
  - Chairman of the Board.
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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

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**4155.2 1.B.7.g  
Definition of  
Unresolved  
Findings**

The unresolved findings and lawsuits and findings referenced in [HUD 4155.2 1.B.7.d](#) may include, but are not limited to

- Fair Housing Act lawsuits by the Department of Justice alleging an ongoing pattern or practice of discrimination
- HUD letters of findings or charges alleging systemic violations of the Fair Housing Act
- open issues in any HUD Office of the Inspector General (OIG) audit, investigation or review
- any action by HUD’s Mortgage Review Board (MRB)
- the suspension, surrender, or revocation of a license of any kind (e.g., Mortgage Broker License, CPA) by a state or local jurisdiction
- the imposition of fines, settlement agreements, or other monetary sanctions by a state or local entity, or
- any other action taken by a government agency.

Findings are considered “unresolved” until an action is taken by the investigating entity, or the entity formally determines that no action is warranted.

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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

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### 4155.2 1.B.7.h Change of Lender Status under the HFSH Act

An FHA-approved lender is required to notify FHA if any of its individual employees are subject to a sanction or another administrative action.

Lender must report to FHA business changes including the

- debarment, suspension or [LDP](#), or the application of other sanctions, exclusions, fines, or penalties pursuant to applicable provisions of state or federal law, and applied to the lender, or to any of the lender's
  - officers
  - partners
  - directors
  - principals
  - managers
  - supervisors
  - loan processors
  - loan underwriters, or
  - loan originators, and
- revocation of a state-issued mortgage loan originator license issued pursuant to the [S.A.F.E.](#) Act, or any other declaration of ineligibility pursuant to state law.

**References:** For more information on

- the S.A.F.E. Mortgage Licensing Act of 2008, see <http://www.nls.gov/offices/hsg/ramh/safe/safeact1.pdf>, and
- all business changes lenders must report to FHA, see
  - Chapters 2 and 6 of [HUD 4060.1](#) REV-2, *Mortgage Approval Handbook*
  - [ML 10-38](#), and
  - [HUD 4155.2 1.B.7.k](#).

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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

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### 4155.2 1.B.7.i Compliance with the SAFE Act and NMLS

The failure of an FHA-approved lender to comply with the requirements of the S.A.F.E. Act and applicable state law is cause for withdrawal of FHA lender approval, or loss of authorization to participate in FHA lending programs.

Principal Owners and Corporate Officers must confirm that all employees, as required, consistently meet their respective states' licensing requirements, as well as all federally-mandated licensing or registration requirements, including registration with the Nationwide Mortgage Licensing System and Registry (NMLS).

**References:** For more information on

- the S.A.F.E. Mortgage Licensing Act of 2008, see <http://www.nls.gov/offices/hsg/ramh/safe/safeact1.pdf>, and
  - each state's NMLS requirements and implementation plans, see <http://mortgage.nationwidelicingsystem.org>.
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### 4155.2 1.B.7.j Notification of Business Changes

Subsequent to approval, an FHA-approved lender must immediately notify HUD in writing of any business changes that affect its approval status or its ability to effectively and efficiently engage in FHA activity, such as changes to corporate officers, shareholders, ownership, partnerships or control. These changes must be reported on the lender's company letterhead, signed by a principal owner or corporate officer, and sent to:

U.S. Department of Housing and Urban Development  
Office of Lender Activities and Program Compliance  
Attn: Director, Lender Approval and Recertification  
451 7<sup>th</sup> St. SW, Room B-133/P3214  
Washington, DC 20410

**References:**

- For additional information on all business changes lenders must report to FHA, see
    - Chapter 6 of [HUD 4060.1 REV-2, Mortgage Approval Handbook](#)
    - [ML 10-38](#), and
    - [HUD 4155.2 1.B.7.k](#).
  - For a definition of corporate officer, see [HUD 4155.2 1.B.7.e](#).
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## 7. Helping Families Save Their Homes Act and Other Housing Act Requirements, Continued

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**4155.2 1.B.7.k**      FHA Connection (FHAC) must reflect an approved lender’s current address at all times. For HUD to ensure a delivery confirmation of any official notices, the lender must input its street address in the FHAC field labeled *Administrative Address*.

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**4155.2 1.B.7.l**      Under Section 203 of the [HFSH](#) Act, an FHA-approved lender must use its HUD-registered business name(s) in all advertisements and promotional materials related to FHA programs. HUD-registered business names must include any aliases or “doing business as” (DBA) names on file with FHA.

**Use of Lender’s Name in Advertising under the HFSH Act**

Lenders must keep copies of all advertisements and promotional materials for a period of two years from the date that the materials are circulated or used to advertise.

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**4155.2 1.B.7.m**      Under [HFSH](#), it is a violation warranting a civil money penalty to use, without authorization

**Unauthorized Use of Seal, Logo or Acronyms**

- the FHA seal or logo
- the Department of HUD seal or logo
- the Government National Mortgage Association (Ginnie Mae) seal or logo
- the acronyms HUD, FHA or GNMA, or
- any other official seal or logo of the Department of HUD, except as authorized by the Secretary.

**References:** For more information on

- civil money penalties, see [HUD 4155.2 9.D.5](#), and
  - additional requirements for lenders under HFSH, see [ML 09-31](#).
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## 8. Reporting Fraud and Abuse

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**Introduction** This topic contains information on reporting fraud and abuse, including

- reporting fraud, violations and program abuses
- methods of reporting fraud or abuse, and
- management response and corrective actions for material deficiencies.

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**4155.2 1.B.8.a Reporting Fraud, Violations and Program Abuses** A lender, or any of its employees, must report immediately to HUD if they detect any

- violations of law or regulation
- false statements
- potential fraud
- material deficiencies, or
- program abuses.

Lenders must monitor all loans they originate, underwrite or service for the above items throughout the lifecycle of the loans.

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## 8. Reporting Fraud and Abuse, Continued

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### 4155.2 1.B.8.b Methods for Reporting Fraud or Abuse

A report of fraud or abuse may be submitted to HUD via

- the Internet at <http://www.hud.gov/offices/pih/programs/ph/rhiip/uivreporting.cfm>
- the Neighborhood Watch Early Warning system, as described in paragraph 7-3(J) of [HUD 4060.1](#), REV-2 *Mortgage Approval Handbook*
- phone, by calling
  - toll-free at 1-800-347-3735, or
  - TDD at 202-708-2451
- fax, at 202-708-4829, or
- U.S. Mail, by sending the report to the following address:

U.S. Department of Housing & Urban Development  
Office of Inspector General Hotline  
Assistant Inspector General for Investigations  
451 7<sup>th</sup> Street, S.W., Room 8270  
Washington, DC 20410

**Reference:** For the *Hotline Complaint Intake Form*, see <http://www.hud.gov/offices/pih/programs/ph/rhiip/docs/complaintform.doc>.

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### 4155.2 1.B.8.c Management Response and Corrective Actions for Material Deficiencies

Management is expected to review and respond accordingly to each instance of fraud or other serious deficiency, indicating what steps, if any, have been taken to cure or resolve the violations.

All corrective actions taken in response to instances of fraud or other serious material deficiencies should be reported to HUD via the Neighborhood Watch Early Warning System, as described in [HUD 4155.2 1.B.8.b](#).

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