

From: Carol J. Galante, Assistant Secretary for Housing–Federal Housing Commissioner
Subject: Update on HUD Mortgagee Letter 2013-04
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Implementation of HUD’s Mortgagee Letter on Cancellation of the Annual Mortgage Insurance Premium

FHA is aware of issues related to the implementation of Mortgagee Letter 2013-04, *Revision of Federal Housing Administration (FHA) Policies Concerning Cancellation of the Annual Mortgage Insurance Premium (MIP)*, [on-line here](#).

Specifically, since the effective date of this Mortgagee Letter, some mortgages have been originated using incorrect Truth in Lending Act (TILA) disclosures and/or incorrectly prepared HUD 92900–A/B forms. FHA has consulted with the Consumer Financial Protection Bureau (CFPB) regarding the impact of these issues on Regulation Z. If either error or both occurred in the origination of a mortgage, the mortgagee must resolve all errors as discussed below, before the mortgage would be eligible for FHA insurance.

Incorrect TILA disclosures

Where the TILA disclosures incorrectly reflected an APR calculated with annual MIP cancelation at 78% LTV, a Regulation Z violation has occurred. The mortgagee must take the necessary steps to cure this violation of Regulation Z in accordance with 15 USC § 1640. The mortgagee could choose to cure the violation by ensuring that the borrower is not charged in excess of the amounts disclosed.

In order for loans with incorrect TILA disclosures to be insured by FHA, the mortgagee must cure the TILA violation and reaffirm it is ultimate responsibility for the payment of MIP based on the actual FHA policy on the payment of MIP in effect at the time, rather than the previous policy allowing cancellation at 78% LTV. FHA will require that the mortgagee satisfy their requirement to pay the MIP even after the borrower’s obligation has expired. FHA is in the process of determining what specifically it will consider sufficient to satisfy the mortgagee’s liability for the full expected MIP due over the life of the mortgage.

Incorrect 92900-A/B Forms

Mortgagees who originated the mortgage with incorrect information concerning the payment of MIP reflected on the HUD 92900-A/B have not complied with FHA requirements for obtaining mortgage insurance. If the mortgagee is able to secure corrected HUD 92900-A/B disclosures from the borrower(s), these mortgages may still be eligible for endorsement by FHA.

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