



AHACPA

HUD AUDIT GUIDE UPDATE

Program Objective

HUD insures
loans and
mortgages

Institutions must be
approved to
participate in FHA

Types of approval

- Title I
 - Manufactured housing loans
- Title II
 - Single Family Mortgages
 - Multifamily Mortgages

Recertify
annually to
maintain FHA
approval

Supervised Lenders

- Banks and Credit Unions
- Small Supervised Lenders
 - Assets less than \$500,000,000
- Large Supervised Lender

Nonsupervised Lenders

- Principal activity of lending or investing of funds in real estate mortgages, consumer installment notes, etc.

Investing Lenders

- May purchase, hold or sell FHA loans
- May not originate

Governmental Lenders

Audit and Reporting Requirements

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Scenario	Level of financial statements	Audited Consolidating Schedules	Financial data templates, including net worth schedule	Net worth schedule (audited)
Supervised Lenders				
Stand-alone bank	Bank	N/A	Bank	Bank
Bank \geq 40% of consolidated entity' no guarantee by parent	Consolidated	Not required	Consolidated	Bank
Bank < 40% of consolidated entity; guarantee by parent	Consolidated	Not required	Consolidated	Bank
Bank < 40% of consolidated entity; no guarantee by parent	Consolidated	Required	Bank	Bank
Multiple banks, each < 40% of consolidated entity; no guarantee by parent	Consolidated	Required	Each Bank	Each Bank
Non-Supervised Lenders				
Stand-alone lender	Lender	Lender	Lender	Lender
Lender in a parent/ subsidiary structure	Lender	Lender	Lender	Lender

Small Supervised Lender

Audit and
Reporting
Requirements,
continued



Submit unaudited regulatory report



Signed by corporate officer



Aligns with fiscal year end

- Audited Financial Statements & Supplementary Information

- ◆ Required regardless of number of loans originated or serviced
- ◆ GAAP
- ◆ GAAS and GAGAS

- ◆ Supplementary Information in Relation to the Financial Statements as a Whole
 - Adjusted Net Worth
 - Hardcopy of Electronic Submission
 - Consolidating schedules – if applicable

Internal Control Report

Report on
Internal
Control over
Financial
Reporting

Report on
Internal
Control over
Compliance
with HUD-
assisted
programs

May use a
combined
report

- Compliance Report

- ◆ Listing of compliance areas tested
- ◆ Opinion on compliance with specific program requirements
- ◆ Major program (No non-major programs)
 - If combined originations and servicing portfolio less than 2 million
 - ▶ Quality Control Plan
 - ▶ Lender Annual Recertification, Adjusted Net worth Liquidity, and Licensing

- Schedule of Findings and Questions Costs
 - ◆ All material instances of non-compliance, significant deficiencies, and material weaknesses in internal control
 - ◆ Management Letter on all immaterial instances of noncompliance
 - Referenced in Audit Report
 - Included in LEAP submission
 - ◆ Need schedule even if no material findings
 - No Findings required to be reported
 - Must be uploaded in LEAP
 - ◆ Schedule of Prior Audit Findings
 - ◆ See Sample



Audit and Reporting Requirements, continued

Corrective Action Plan

- See Sample

- LEAP
- 90 Days end of fiscal year
- Reports MUST be signed – All reports
- Upload complete audit package
- Lender approved by both FHA and Ginnie Mae
 - ◆ Must submit through each system
- Auditor Involvement
 - ◆ AUP that submission agrees to hard copy AFS
- Extensions
 - ◆ Submitted through LEAP 45 days before due date
- Operating Loss Reporting
 - ◆ Operating loss of 20% or greater of ANW
 - Submit audited or unaudited financial statements
 - 30 days after end of each quarter
 - Profit 2 consecutive quarters or next annual recertification
 - Submitted as a “Notice of Material Event” in LEAP

Quality Control Plan

- Maintain QC Plan
 - ◆ Must be up to date
- Quality control reviews are performed on regular and timely basis
- QC function must be independent of origination and service functions
- See Quality Control Plan Checklist



- Mortgagee must be Unconditional DE to sponsor TPO
- Mortgagee responsible for TPO
 - ◆ TPO meets all state license, registration approval requirements
 - ◆ Officers, partners, directors, principals, managers, supervisors, loan processors, and loan originators are not ineligible
- TPO does not purchase or hold FHA Mortgages and may not close Mortgages in their own name
- Only HUD approved Mortgagees acting as TPO's have direct access to FHA Connection (FHAC)
- Semiannual reverify compliance with all laws relating to licensing, qualification and eligibility

Branch Office Operations

- Business Forms Allowed
 - ◆ Standard
 - Corporation
 - LLC (2 or more members; 10-year minimum existence from date of application; succession)
 - Series LLC - Comply with all LLC rules, plus:
 - ▶ NO series may participate in FHA programs unless the approved mortgagee owns 100% of the membership interest in the series; and
 - ▶ The approved mortgagee remains fully liable for the debts, liabilities, obligations and expenses of any and all series that participate in FHA programs
 - Partnership
 - Non-Profit

Home Office

Two full-time employees

May not use a shared receptionist

Located in Commercial space

Clearly identified (permanently affixed signage)

Display the fair Housing poster

Branch (must register all branches conducting FHA business)

1 full-time employee (no receptionist or contractor)

Fair housing poster

Cannot register a new branch within a HUD Field Office which it has withdrawn a branch in last 6 months – NEW

Must have branch and/or regional manager

- Mortgagees must pay operating expenses
 - ◆ Home office expenses
 - ◆ Branch office expenses
- Net Branching Prohibition
 - ◆ May not engage a legally separate mortgage company or broker to function as Mortgagee's branch office
 - ◆ Lender with separate EIN must have its own FHA approval

Branch Office
Operations,
continued

- Principals, not suspended or debarred

Business Form Publicly Traded Corporation Private or Close Corporation	Principal Owners 10% or more ownership 25% or more ownership
Limited Liability Company Partnerships	All Members All Partners

- Identify all Principal Owners
- Must ensure that only represents 1 approved mortgagee unless:
 - ◆ Entities have some or all of the same officers/principals
 - ◆ Clear & effective separation of entities. Borrowers always know which entity is being represented
 - ◆ Officer in charge who only conducts mortgagee business during business hours (requires a 7-year resume)

Branch Office
Operations,
continued

Employees

No suspension or
debarment

Report all
compensation on W-2

Dual employment –
prohibited unless other
employment is not a
conflict of interest

Conflicts of interest –
prohibited having
multiple sources of
compensation from
FHA transaction

Staffing

Mortgagee responsible for actions of staff and ensuring compliance with licensing and registrations

Use of Contractors

Cannot contract with TPO's, real estate brokers, or similar entities

Entity or persons may not be suspended, debarred, etc.

Affiliates

Contractors, agents, vendors, subservicers, sponsored TPO's

Mortgagee must ensure they are eligible, trained and follow FHA requirements

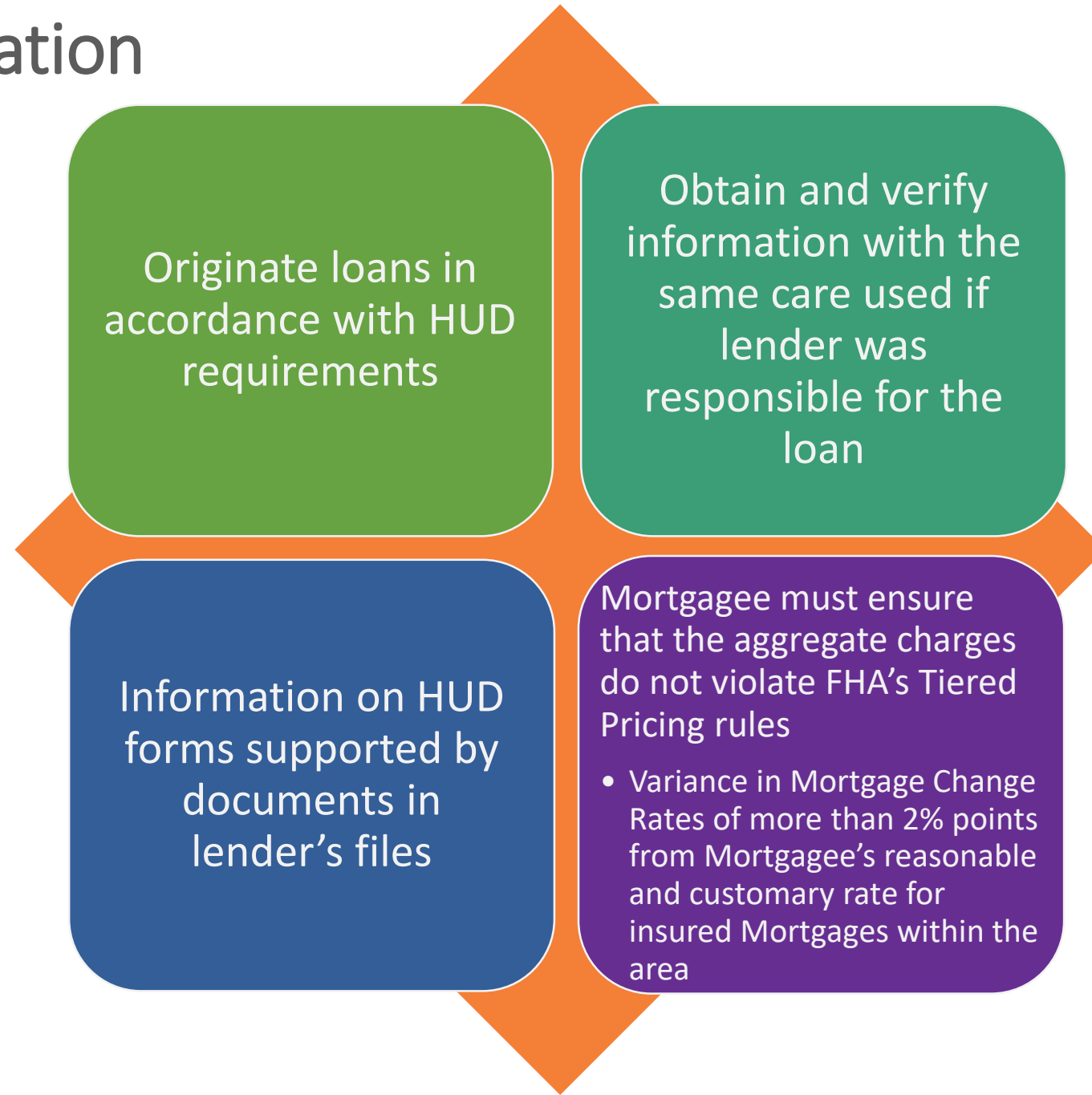
Must be a
registered FHA
branch

Fair Housing
Notice

Advertising

- Mortgagee and Affiliates advertising must comply with FHA, state and regulatory requirements
- Only Mortgagee may use official FHA-Approved Lending Institution logo on advertising
- Sponsored TPO's cannot use FHA logo

Loan Origination



Loan Origination, continued

Requirement	Pre-Closing Review	Post-Closing Review
Appraisal	✓	✓
Mortgage application, eligibility, and underwriting documents	✓	✓
Disclosures and legal compliance	✓	✓
Mortgage origination documents	✓	✓
Handling of mortgage documents	✓	✓
Borrower occupancy		✓
Credit reports	✓	✓
Outstanding debt obligations	✓	✓
Verifications of employment and deposit	✓	✓
Self-employed Borrowers	✓	✓
Borrower's source of funds	✓	✓
Underwriting accuracy and completeness, including compensating factors	✓	✓
Property Flipping restrictions	✓	✓

Loan Origination, continued

Requirement	Pre-Closing Review	Post-Closing Review
Prohibited restrictive covenants	✓	✓
Qualified Mortgage (QM)	✓	✓
Good Faith Estimate (GFE)	✓	✓
Discrepancies in the loan file	✓	✓
Condition clearance	✓	✓
Closing procedures and documents		✓
Settlement Statement or other similar legal document		✓
Pre-endorsement review		✓
Timely submission for insurance		✓

- Loan Origination Documents
 - ◆ May not be more than 120 days old at disbursement date
 - Tax returns and divorce decrees may be older
 - ◆ Appraisals may be extended for 30 days
 - ◆ Employment, income, assets or credit of Borrowers
 - May not accept if handled by, or transmitted from or through equipment of Unknown or Interested Parties
 - Information sent electronically or via internet must be authenticated
 - ▶ Document name, telephone number of individual who validated document
 - ▶ Examine ULR address, date and time documents were printed

- Forms completed by applicant and signed & dated
 - ◆ Power of Attorney (POA)
 - Military personnel – used for only 1 application (initial or final) not both
 - Incapacitated borrowers unable to sign
 - ◆ Electronic signatures
 - Allowed when meets Performance Standards (E-Sign Act)
 - Indication of ES and date should be clearly visible when viewed electronically and in paper copies
- Disclosures and Legal Compliance
 - ◆ Informed Consumer Choice Disclosure
 - ◆ Form HUD 92900-B – Important Notice to Homebuyers
 - ◆ Lead-Based Paint
 - Property built before 1978
 - ◆ Form HUD 92564-CN – For Your Protection: Get a Home Inspection

- Appraiser
 - ◆ Must be independent
 - Compensation, withholding payment, valuation, etc.
 - ◆ Effective date cannot be before FHA case number.
 - ◆ Second appraisal is prohibited unless DE Underwriter determines 1st appraisal is materially deficient and the Appraiser is unable or uncooperative in resolving deficiency
 - ◆ Update to an Appraisal
 - Mortgagee listed as intended user on original and permission from client
 - Performed by same Appraiser
 - Property has not declined in value
 - Ordered and completed before exp. of initial 120 day
 - Not previously updated

- Fees collected from borrowers are in accordance with HUD rules
 - ◆ Reasonable and customary for the local jurisdiction
 - ◆ Based on actual cost of work performed or actual out-of-pocket expenses and not a percentage of the face amount or unpaid principal balance of the mortgage
 - ◆ Within the maximum amount allowed by HUD
 - Post-Endorsement Fees and Charges by HOC table
- Identify payment status of delinquent loans to enable personnel to initiate and follow up on collection activities
- Accept partial payments

Loan Servicing, continued

Servicing Loan File Compliance

All aspects of servicing operations

Subserviced mortgages must be reviewed

Servicing loan file to include (See complete list in handbook)

- Servicing records
- Transfer servicing notifications
- Documentation of purchased mortgages
- MIPs
- Mortgage Record Changes
- Qualifying assumptions
- Borrower requests, complaints
- Escrow account functions
- Fees
- Collection activities
- Loss mitigation
- Foreclosure proceedings

Federal Financial And Activity Reports

- ✓ Obtain a list of HUD programs participating in and related reporting requirements
- ✓ Determine financial and activity reports are prepared in accordance with HUD instructions and filed timely
- ✓ HMDA report is required

Lender Annual Recertification

Due 90 days
after fiscal
year end

Online Certification

- Corporate Officer granted Certifying Official authorization
- Unable to certify
 - Explanation for each item unable to complete
 - FHA will review and render a final decision
- False certification
 - Mortgagee & Corporate Officer referred for criminal, civil or administrative action

Lender Annual Recertification, continued

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Annual Recertification Fee

- Pay online
- Based on home and each branch office
- If terminating a branch, must be done before last day of year

Financial Data Submission

- Small Supervised Mortgagees
 - Unaudited Regulator Report
 - Signed by Corporate Officer

Lender Annual Recertification, continued

Supervised, Nonsupervised, and Investing Mortgagees

Audited financial statements

HUD Audit Guide

GAAP

GAGAS
(Yellow Book)

Audit Related Questions

Type of audit and any findings

Attestation of Independent Public Accountant

Agreed Upon Procedures of compliance with required audit procedures

Recertification Extension Requests

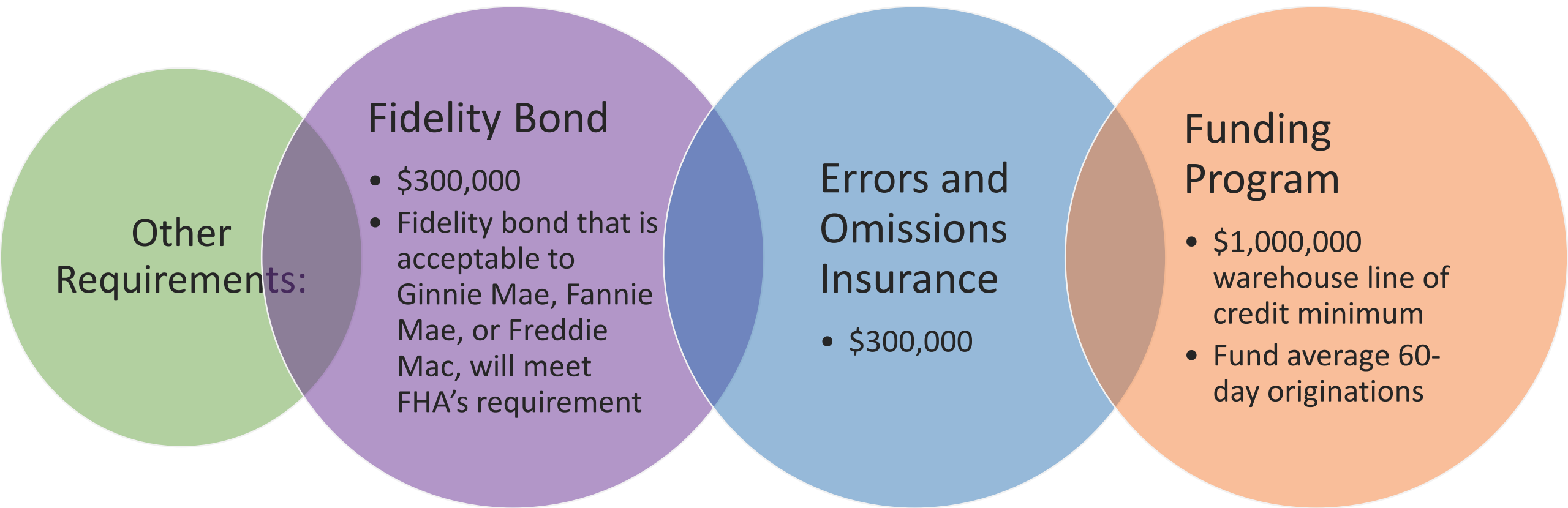
Submit through LEAP at least 45 days prior to due date

Failure to Recertify

Referred to MRB

- New approval
 - ◆ Audited Financial Statements – Complete set
 - ◆ AFS over 6 months old – submit unaudited financials, signed, less than 3 months old
 - ◆ New institution – Income statement and cash flow not required





- Principal Activity of Nonsupervised Mortgagees
 - ◆ 50% of activities (revenue) from real estate mortgages, consumer installment notes or similar credit, or from a directly related field

Lender Annual
Recertification,
continued

- Net Worth
 - ◆ 1,000,000 plus 1% total volume in excess of \$25,000,000 up to max of 2,500,000
 - ◆ Multifamily programs without servicing
 - 1,000,000 plus ½% of volume in excess of \$25,000,000
 - ◆ Net Worth computation required for ALL lenders, even if no loans originated or serviced
- Liquidity
 - ◆ 20% of required adjusted net worth
 - 200,000 – 500,000 max
- Test compliance at year-end AND representative points of time during audit period

- Unacceptable assets

- ◆ Asset pledged to secure obligations of another entity or any person. Pledged assets that provide financial services to incorporated communities are acceptable for supervised institutions only.
- ◆ Asset due from an officer or stockholder or related entity, except for:
 - Construction loan receivable secured by 1st mortgage.
 - Mortgage loan receivable established in the normal course of business in an arm's length transaction secured by 1st mortgage.
 - Receivable from related party when there is a cross-default agreement or corporate guarantee agreement with Ginnie Mae.
 - Receivable from officer or stockholder of a publicly traded supervised institution that owns less than 5% of shares.

- ◆ Investment in a related entity in which any officer or stockholder of the lender has a personal interest unrelated to that person's position as an officer or stockholder of the lender.
- ◆ Any intangible asset, including
 - Goodwill, covenants not to compete, franchise fees, organization costs, value placed on insurance renewals or property management contract renewals
- ◆ Value of any servicing contract not determined in accordance with FASB Accounting Standards
- ◆ Portion of any marketable security (listed or unlisted) in excess of the lower of cost or market, except for shares of Fannie Mae stock.
- ◆ Any amount in excess of the lower of cost or market value of mortgages in foreclosure, construction loans, or property acquired through foreclosure.

- ◆ Asset used principally for the personal enjoyment or benefit of an officer, director, or stockholder and not for normal business purposes. Includes vehicles and personal residences.
- ◆ “Other assets” on financial statements unless a schedule is included covered by the audit opinion or signed by an officer.
- ◆ That portion of contributed property, not otherwise excluded, in excess of the value as of the date of contribution, determined by an independent appraisal. Property contributed without the related mortgage or debt, value of contributed property should be reduced by that obligation.

Licensing

- License or Registration
 - ◆ Entity
 - Active state license, registration for home office
 - Each branch office is licensed or registered
 - Certify has not been refused a license or sanctioned by any state in which it will originate FHA Mortgages
 - ◆ Personnel Licenses
 - Corporate Officers
 - Employees
 - Affiliates
 - ▶ Ensure have all state and federal licenses and registrations

A green circle with a white border, containing the text 'Licensing, continued'.

Licensing, continued

- Area Approved for Business (AAFB)
 - ◆ Initially granted nationwide AAFB – NEW
 - ◆ Originate and Underwrite in states licensed and meet approval requirements

- Compliance with all applicable federal, state, and local laws
- Must be FHA approved to service FHA Mortgages
 - ◆ Mortgagee must ensure subservicer is FHA approved
 - ◆ Mortgagee responsible for actions of subservicer

- Loan origination fee should compensate lender for settlement services
 - ◆ No limit on origination fee
- Fees and charges collected from borrowers are reasonable and in accordance with HUD guidelines
 - ◆ Agree to HUD settlement statements including GFE
 - ◆ Agree to amounts charged to Mortgagee
- MIP submitted to HUD timely
- Disbursing funds and completing transaction in accordance with closing documents without undue delay

- Lenders required to establish escrow accounts
 - ◆ Must be separate account
 - ◆ MIP
 - ◆ Taxes, special assessments
 - ◆ Insurance premiums
 - ◆ Flood insurance premiums when required
- Analyze escrow at least annually to determine amount is sufficient
 - ◆ Shortage collected by either lump sum or over 12-month period
- Escrow bills paid timely
- Escrow funds used only for purposes received

Kickbacks

Prohibited Payments

Pay or receive any fee, kickback or compensation except for services actually performed

No-interest loans or low interest loans to real estate agents, brokers, etc. as advance of anticipated commissions

Any payments represented as kickbacks are reported in a finding

Multifamily Insured Loans Reporting Requirement

- Loan fees in excess of 5% on loans more than \$2,000,000 must be reported

FHA Loan Number	Dollar amount of endorsed loan	Loan fees earned that exceed 5% of insured loan amount	
		Percentage of insured loan amount	Amount in dollars



Samples

● SAMPLE - FINDING

◆ SAMPLE - CORRECTIVE
ACTION PLAN