

All FHA handbooks and mortgagee letters are available online at:
<http://www.hud.gov/offices/adm/hudclips/>.

1. Question: Where can I find the FAQs from the October 25, 2011 Industry Call?

Answer: These FAQs are available via the “FAQs Oct 25 Industry Call” link in the What’s New section of FHA’s main lender page at: www.hud.gov/lenders.

2. Question: Is the October 25, 2011 Industry Call available online or as an archived Webinar?

Answer: This call is not available online or as an archived Webinar, but FAQs on the call are available via the “FAQs Oct 25 Industry Call” link in the What’s New section of FHA’s main lender page at: www.hud.gov/lenders.

3. Question: How do I obtain a copy of the PowerPoint slides used in the October 25, 2011 Industry Call?

Answer: The PowerPoint slides used in the call will be posted online in the What’s New section on the right-hand side of FHA’s main lender page at: www.hud.gov/lenders.

Mortgagee Letter 2011-34: Officers and Owners FAQs

4. Question: Which owners and officers of an FHA-approved lender must be reported to FHA?

Answer: An FHA-approved lender must list all of its Corporate Officers on Form HUD 92001-A who will be directly involved in managing, overseeing, or conducting the FHA business of the applicant. It also must provide, for each individual listed, a credit report and a resume in accordance with paragraphs 3-2.A.4 and 3-2.A.5 of HUD Handbook 4060.1. The term “Corporate Officer” refers to a natural person who is an Owner, President, Vice President, Chief Operating Officer, Chief Financial Officer, Director, Corporate Secretary, Chief Executive Officer, Chairman of the Board, or Member or Manager of a limited liability company. This definition of Corporate Officer supersedes the definition of “Corporate Officer” which is contained in Mortgagee Letter 2010-38.

The types of owners which must be reported for various business forms are listed below:

Publically traded company or corporation:	Owners with 10% or more ownership
Non-publically traded company or corporation:	Owners with 25% or more ownership
Limited Liability Company (LLC):	All members
General Partnership:	All general partners

5. Question: Does an FHA-approved lender have to report all officers with a title of Vice President or higher to FHA?

Answer: No. An FHA-approved lender must list all of its Corporate Officers on Form HUD 92001-A who will be directly involved in managing, overseeing, or conducting the FHA business of the applicant. Please also see Mortgagee Letters 2011-34, 2010-38, and 2009-31 for additional restrictions on who can be an owner or officer of an FHA-approved lender.

6. Question: Are Members of the Board of Directors a “corporate officer?”

Answer: The term Corporate Officer does not include a Member of the Board of Directors if the individual does not also hold another office that is a “Corporate Officer” within the definition provided in Mortgagee Letter 2011-34.

7. Question: Will FHA use as its definition for “corporate officer” the same definition that NMLS uses for a “control person?”

Answer: No. FHA requirements are different than NMLS due to the financial risk of FHA’s mortgage insurance programs.

8. Question: Are all officers with a title of Vice President a “corporate officer?”

Answer: No. Any officer of a lender with a title of vice president is “corporate officer” if he/she has the authority to legally bind the lender. This criteria is in paragraph 2-9.B of HUD Handbook 4060.1. For the definition of a corporate officer and/or more details on which corporate officers must be reported to FHA, see Mortgagee Letter 2011-34.

9. Question: Does an FHA-approved lender need to report all branch managers as “corporate officers” to FHA?

Answer: No. The managers of FHA-registered branch offices are reported to FHA as part of the branch registration process and the lender does not have to report them to FHA as “corporate officers.”

10. Question: Must all FHA-approved lenders provide credit reports and resumes of “corporate officers” to FHA?

Answer: No. Supervised and Government Lenders are not required to provide credit reports and resumes. Please see paragraphs 3-2.A.4 and 3-2.A.5 of HUD Handbook 4060.1 for more details.

11. Question: When does a lender have to report corporate officer updates to FHA?

Answer: Corporate officer updates must be reported to FHA within 10 business days. The reporting deadline for all business changes are detailed in a chart located in paragraph 6-1 of HUD Handbook 4060.1. FHA-approved lenders must submit the required information on each corporate officer in hard copy by sending a letter to the following FHA address designated in Mortgagee Letter 2011-34:

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

Mortgagee Letter 2011-34: Branch Office FAQs

12. Question: Which origination branch offices of a lender must be registered with FHA?

Answer: An FHA-approved lender must conduct its origination activities on FHA loans from one of their offices that is approved and registered with FHA. Individual employees that work in remote locations may be registered to a single branch office. Each registered branch must meet the office facilities and staffing requirements for an approved branch office and all expenses must be paid by the lender. All branch office facilities, regardless of type, must fully comply with all state licensing requirements in effect in the jurisdiction in which the branch office facilities are located.

13. Question: Must taking an FHA loan application occur at a registered branch?

Answer: No. An FHA-approved lender can have employees, including loan officers, who are associated with a registered branch but who are physically located elsewhere. This applies to arrangements that provide for telework or telecommuting, as well as arrangements that allow loan officers to take applications elsewhere for the convenience of a borrower. In these situations, the registered branch location which has responsibility for supervising and overseeing the activities of the loan officer must be registered with FHA.

Each registered branch must meet the office facilities and staffing requirements for an approved branch office and all expenses must be paid by the lender. All branch office facilities, regardless of type, must fully comply with all state licensing requirements in effect in the jurisdiction in which the branch office facilities are located.

14. Question: Can loan officers be outstationed?

Answer: Yes. Loan officers may be physically located elsewhere (outstationed) from their registered home or branch office location where they are employees. This applies to

arrangements that provide for telework or telecommuting, as well as arrangements that allow loan officers to take applications elsewhere for the convenience of a borrower.

In these situations, the registered branch location which has responsibility for supervising and overseeing the activities of the loan officer must be registered with FHA. Loan officers conducting FHA business must be directly supervised by the branch manager.

Loan officers participating in such arrangements must be registered with the Nationwide Mortgage Licensing System & Registry (NMLS), must be in compliance with NMLS requirements, must be legally licensed in the geographic area in which they are originating loans, and must meet all state requirements. Lenders are required to make sure that the geographic address of their home office and any registered branch office is current in FHA's systems.

15. Question: What are the geographic limits for a lender's home or branch office when originating FHA loans?

Answer: FHA removed the geographic restriction on each home office or registered branch office of an FHA-approved lender for the origination of loans in Mortgage Letter 2011-34. This allows lenders to originate nationwide in any State where the lender meets a State's origination requirements.

FHA will continue to maintain its Area Approved for Business (AAFB), also known as a lender's origination lending area. A lender's AAFB is maintained at the HUD field office jurisdiction level in FHA's systems for implementation of any Credit Watch Terminations.

16. Question: Does FHA allow net branching?

Answer: No. FHA lenders may not engage in "net branching" arrangements in which a party, other than the approved lender, pays some or all of an office's expenses. An FHA-approved lender is prohibited from engaging an existing, separate mortgage company or broker to function as a branch of the approved mortgagee and allowing that separate entity to originate insured mortgages under the approved mortgagee's FHA mortgagee number. This constitutes a prohibited branch arrangement. Separate entities may not operate as "branches" or "DBAs" of a FHA-approved mortgagee.

An FHA-approved lender must pay all its own operating expenses. This includes expenses of its main and branch offices involved in originating or servicing any FHA-insured mortgages. Operating expenses include, but are not limited to, equipment, furniture, office rent, overhead, employee compensation, and similar expenses.

17. Question: What is a Direct Lending Branch and what are its registration requirements?

Answer: A Direct Lending Branch is a branch identified by a lender that is solely used for direct marketing to consumers and whose origination operation only uses the internet, direct mail or

telemarketing for contacting consumers. Its ten digit branch office ID number can only be used for these types of originations in each State where the lender meets State requirements to take loan applications.

A lender must submit the following information, in addition to the submission requirements in paragraph 5-8 of HUD Handbook 4060.1: (1) the toll free number and web site used by consumers to contact the direct lending branch operation; (2) an explanation of its marketing plan plus copies of the material that it sends to consumers, such as mass mailings or e-mails, any telemarketing scripts and internet pages used in its marketing efforts; and (3) a copy of the branch fee payment made directly in the Department of Treasury's pay.gov system pursuant to Mortgagee Letter 2010-12.

Please submit the completed Branch Registration Form 92001-B available at: <http://www.hud.gov/offices/adm/hudclips/forms/files/92001-b.pdf> along with a copy of all required documents to:

via courier to: HUD Lender Approval and Recertification Division, 490 L'Enfant Plaza East, SW, Suite 3214, Washington, DC 20024

via USPS: HUD Lender Approval and Recertification Division, 451 7th Street, S.W., Room B133/P3214, Washington, DC 20410

18. Question: What are the FHA lender requirements for branch office facilities and staffing?

Answer: Pursuant to Mortgagee Letter 2011-34, FHA no longer regulates branch office facilities. However, all branch office facilities, regardless of type, must fully comply with all state licensing requirements in effect in the jurisdiction in which the branch office facilities are located.

FHA still has staffing requirements for branch offices as detailed in paragraph 2-12 of HUD Handbook 4060.1. An FHA-approved mortgagee must have sufficient staff or permitted contractor support for loan origination, processing, underwriting, servicing, and collection activities, to the extent that the lender engages in these activities. The mortgagee must have a home office staff of at least two full time employees. A shared receptionist, while permitted, may not be used to meet this requirement. A mortgagee must have at least one full time employee at each branch office. A manager must be assigned to each traditional and nontraditional branch office. A separate manager must be located at each direct lending branch. Loan officers of FHA-insured mortgages must be employees of the mortgagee. Underwriters of FHA-insured mortgages must be employees of the mortgagee or its authorized agent. Managers, loan originators and underwriters may not be independent contractors or contract employees. Processing and/or underwriting functions may be centralized in any office(s) of the mortgagee or performed at each office of the mortgagee.

Additional information for branch offices is provided in Chapter 5, Part A, of HUD Handbook 4060.1.

19. Question: How does an FHA-approved lender register a new branch office?

Answer: Lenders must register their branches (except for a direct lending branch) in the FHA Connection. For an explanation of the online registration process please see the lender approval portion of the FHA Connection Guide available at: https://entp.hud.gov/pdf/mp_indapp.pdf. All required fields are shown on the screen. If the registration is successful, the branch is electronically assigned an identification number and the number is transmitted back to the mortgagee immediately. For the basic requirements and types of branches a lender may register please see Chapter 5 of HUD Handbook 4060.1.

20. Question: How do I originate FHA loans in a State where I have a license?

Answer: A lender can originate FHA loans from its home office and any FHA-registered branch office that meets the State's origination requirements. FHA removed the geographic restriction on each home office or registered branch office's origination area in Mortgagee Letter 2011-34. However, FHA will continue to maintain its Area Approved for Business (AAFB), also known as a lender's origination lending area. A lender's AAFB is maintained at the HUD field office jurisdiction level in FHA's systems for implementation of any Credit Watch Terminations.

Dual Employment FAQs

21. Question: Is holding a vocational/professional license in the real estate lending field equivalent to "employment"?

Answer: No. FHA does not prohibit anyone from holding a vocational/professional license. FHA prohibits employees who are involved with FHA transactions from selling real estate.

22. Question: Can a manager who is also a licensed real estate broker supervise loan originators that originate FHA loans? Does it make a difference if they are actively using their license by listing or selling real estate or not?

Answer: A manager who is also a licensed real estate broker can supervise loan originators that originate FHA loans. However, the manager will be prohibited from selling real estate while managing employees who are involved in FHA transactions.

23. Question: Can a manager who oversees loan originators, but does not personally originate FHA loans, conduct real estate sales transactions on a part time basis if it is outside of the business of the mortgagee?

Answer: No. A manager of a FHA-approved office is prohibited from having part-time employment in the real estate industry.

24. Question: Can a licensed broker represent a buyer in an FHA purchase transaction and also act as the Loan Officer on that transaction if they properly disclose this information to the borrower?

Answer: No. Loan officers involved in FHA transactions are prohibited from selling real estate.

25. Question: Does the restriction on dual employment apply to non-loan officer employees of a mortgagee?

Answer: The dual employment requirement applies to all employees of FHA-approved lenders who are involved in FHA transactions.

26. Question: Does the restriction on dual employment extend to other financial services related employment such as employment at a title company, financial planning, etc.?

Answer: Yes. The dual employment requirement extends to related fields. Employment in financial planning and with title companies are considered related fields. For more information, please see our regulations at 24 CFR § 202.5(l) on conflict of interest and responsibility.

27. Question: Does the restriction on dual employment apply to sponsored third-party originators being sponsored by FHA-approved lenders?

Answer: FHA rules and regulations apply to FHA-approved mortgagees only.

28. Question: If a real estate agent originates an FHA loan when they are not supposed to what are the ramifications? Could they lose their real estate license and/or LO license?

Answer: FHA holds the FHA-approved lender 100% responsible for non-compliance issues. Depending on the issue, the FHA lender may be referred to the Mortgagee Review Board (MRB), Office of Consumer and Regulatory Affairs (RESPA issue) and state licensing agencies for whatever action they deem appropriate for the violation.

Sponsored Third-Party Originator (TPO) FAQs

29. Question: Can an FHA-approved mortgagee acting as a sponsored TPO close the loan in its name and have the Mortgage Insurance Certificate (MIC) issued in its name?

Answer: Yes. An FHA-approved mortgagee acting as a sponsored TPO can close the loan in its name and have the MIC issued in its name. The Sponsor will use the FHA Insurance Application screen to advise FHA in whose name (Sponsor or Sponsored TPO) the MIC is to be issued and where the MIC is to be delivered.

30. Question: Can an FHA-approved mortgagee acting as a sponsored TPO close in its own name, regardless of whether it has unconditional Direct Endorsement (DE) authority?

Answer: Yes. Both FHA-approved conditional and unconditional DE mortgagees acting as a sponsored TPO can close loans in their own name.

31. Question: If the sponsored TPO is a direct lender, does the MIC have to be issued in the name of the sponsored TPO?

Answer: The sponsored TPO process does not define in whose name the MIC must be issued. The Sponsor and Sponsored TPO must determine in whose name the MIC will be issued in accordance with all other applicable government and investor guidelines.

32. Question: Can an FHA-approved unconditional DE mortgagee set up a relationship with another unconditional FHA-approved mortgagee to act as a sponsored TPO in a sponsored TPO/Sponsor relationship and an authorized agent in a Principal/Authorized Agent relationship?

Answer: Yes. There is no relationship limitation on an FHA-approved unconditional DE mortgagee.

33. Question: Is the “FHA-approved mortgagee acting as a sponsored TPO” category limited to those lenders currently approved by FHA?

Answer: Yes. Lenders who receive their FHA approval in the future may act as an “FHA-approved mortgagee acting as a sponsored TPO” upon their approval.

34. Question: FHA’s “Sponsored Originator FAQs” issued after the May 12, 2011 Industry Call state an FHA-approved mortgagee acting as a sponsored TPO can close the loan in its name, but HUD Handbook 4155.2 states the loan must close in the name of the Sponsor. What is the applicable guidance?

Answer: The FAQ is the applicable guidance. FHA is preparing to issue a Mortgagee Letter clarifying the discrepancy in HUD Handbook 4155.2 regarding an FHA-approved mortgagee closing the loan in its name.

35. Question: What is the link for the Sponsored Originator FAQ’s?

Answer: These FAQs are available via the “FAQs Sponsored Originators” link on the right-hand side of FHA’s main lender page at: www.hud.gov/lenders.

36. Question: Can an FHA-approved mortgagee acting as a sponsored TPO access the FHA Connection to make an application for FHA Insurance on the case?

Answer: No. Only the Sponsor can access the FHA Connection Insurance Application screen.

37. Question: Can an FHA-approved mortgagee acting as a sponsored TPO access the case in the FHA Connection?

Answer: No. An FHA-approved mortgagee acting as a sponsored TPO on a case cannot access that case in the FHA Connection.

38. Question: What is the definition of an FHA-approved mortgagee acting as a sponsored TPO?

Answer: An FHA-approved mortgagee acting as a sponsored third-party originator is authorized to originate FHA Title II mortgage loans for sale or transfer to a sponsoring FHA-approved mortgagee which holds a valid Title II Origination Approval Agreement. Entities which were previously approved as FHA-approved Loan Correspondents and have not obtained new and different FHA lender approval as a Title II Mortgagee are not FHA-approved.

39. Question: Can FHA-approved lenders acting as sponsored TPOs and closing in their own name with their own funds manage the appraisal process and be shown as the lender/client on the appraisal?

Answer: FHA-approved mortgagees should refer to Mortgagee Letter 2009-28 as guidance on who can order the appraisal. With the elimination of the FHA-approved loan correspondent program, FHA has defined the responsible mortgagee as the lender which underwrites the loan (the Sponsor). The Sponsor has the authority to establish requirements as to who can order the

appraisal over and above the basic guidelines published by HUD in Mortgagee Letter 2009-28 regarding separation of functions and independence. The Sponsor can require the appraisal be ordered in their name, even if the originating lender meets FHA guidance published in Mortgagee Letter 2009-28.

Mortgagee Letter 2011-33: Mortgage Record Change FAQs

40. Question: Is the buying or selling lender of an FHA loan required to do the record change?

Answer: Both the buying and selling lender are responsible to make sure the record change is made in FHA's computer system by the prescribed deadline.

41. Question: Can the selling lender complete a record change before the loan is insured?

Answer: Yes. A Mortgage Record Change (MRC) will not impact the insuring process in the FHA Connection. In October 2005, changes were implemented that allowed MRCs submitted prior to endorsement to be processed in the order received. Please see Mortgagee Letter 2005-42 for more details.

42. Question: How does a lender confirm that its request for a Mortgage Record Change (MRC) has been made?

Answer: A lender may confirm HUD's records of the holder and servicer information by accessing the FHA Connection system. The lender can use the Lender Query screen at <https://entp.hud.gov/a43i/html/a43qry.html> to confirm if the change has been made. The lender can also use the Portfolio Request or Case Details screens to confirm the change has been made.

43. Question: What does a lender do if it fails to report the record change within the 15 day deadline?

Answer: Mortgage Record Changes should be processed in the FHA Connection as soon as possible. However, the system still allows lenders to record MRCs when the 15 day limit has been exceeded.

Although HUD's system will accept requests for MRCs—and the request will be logged on the system—this does not indicate compliance with mortgage record change timelines. Statistics regarding the number of cases and the date received are compiled for all lender requests. An error message is sent if the MRC does not meet the reporting requirement deadline.

44. Question: What does the error message “1A Case not yet endorsed: Update will be processed when endorsement received” mean?

Answer: If you receive the error message “1A Case not yet endorsed: Update will be processed when endorsement received,” you should follow up with the appropriate Home Ownership Center (HOC) to ensure that the loan has been endorsed for insurance. Once the endorsement is completed some corrections may be needed, especially if a case is being refinanced from another loan. This will ensure the MRC is processed correctly.

While HUD’s system will track when the MRC was submitted, it is still the responsibility of the lender to ensure that HUD’s records are updated properly.