ratios of the Program mortgage do not exceed the thresholds set forth in either paragraph (a)(1) or (a)(2) of this section.

(1) *Program mortgage with LTV ratio of 90 percent or less.* (i) The initial principal balance of the Program mortgage as a percentage of the current appraised value of the property does not exceed 90 percent;

(ii) The total monthly mortgage payment of the mortgagor under the Program mortgage does not exceed 38 percent of the mortgagor's monthly gross income; and

(iii) The sum of the total monthly mortgage payment under the Program mortgage and all monthly recurring expenses of the mortgagor does not exceed 50 percent of the mortgagor's monthly gross income.

(2) *Program mortgage with up to 96.5 percent LTV.* (i) The initial principal balance of the Program mortgage as a percentage of the current appraised value of the property does not exceed 96.5 percent;

(ii) The total monthly mortgage payment of the mortgagor under the Program mortgage does not exceed 31 percent of the mortgagor's monthly gross income; and

(iii) The sum of the total monthly mortgage payment under the Program mortgage and all monthly recurring expenses of the mortgagor does not exceed 43 percent of the mortgagor's monthly gross income.

(b) *Past credit performance.* The mortgagor must have made at least six full payments on the existing senior mortgage being refinanced under the Program.

(c) The Program mortgage shall have a maturity of not less than 30 years and not more than 40 years from the date of origination.

(d) *Non-occupant co-borrowers.* A mortgage loan may be insured by the FHA under the Program, even if one of the mortgagors on the loan (*i.e.* , a cosigner) does not reside at the residence securing the loan, provided that the non-resident mortgagor relinquishes all interests in the property that is to be security for the mortgage before an application is submitted for FHA insurance under the Program.

(e) *Amount of new mortgage payment.* The mortgagor's total monthly payment on the mortgage to be insured under the Program must not be greater than the mortgagor's aggregate total monthly mortgage payment under the mortgagor's existing senior mortgage and all existing subordinate mortgages.

(f) *Limit on origination fees.* Mortgagees may charge and collect from mortgagors allowable closing costs.

[73 FR 58420, Oct. 6, 2008, as amended at 74 FR 621, Jan. 7, 2009]

§ 4001.112 Income verification.

The mortgagee shall use FHA's procedures to verify the mortgagor's income and shall comply with the following additional requirements:

(a) The mortgagee shall document and verify the income of the mortgagor by obtaining a transcript of the borrower's Federal income tax returns or a copy of the borrower's Federal income tax returns obtained directly from the Internal Revenue Service for the most recent two years; and

(b) The mortgagee shall document and verify the mortgagor's income in any case in which the mortgagor has not filed a Federal income tax return.

§ 4001.114 Appraisal.

(a) The property shall be appraised by an appraiser on the FHA Appraiser Roster.

(b) An appraisal of a property to be security for a Program mortgage shall be conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) but dated no more than 90 days from the date on which the mortgage transaction is closed, except as otherwise provided by the Board.

(c) The mortgagee must inform the appraiser that copies of the appraisal may be shared with holders and servicers of existing subordinate mortgages.

§ 4001.116 Representations and prohibitions.

(a) *Underwriting and appraisal standards.* In order for the Program mortgage to be eligible for insurance under the Program, the underwriter and the mortgagee must provide certifications, in a format approved by the FHA, that the mortgage is in compliance with the underwriting and the appraisal standards set forth in this part, and that it meets all requirements applicable to the Program. FHA may require additional certifications by the mortgagee to ensure compliance with such additional standards as the FHA deems necessary given the specific mortgage transaction presented.

(b) *Mortgagor's liability for repayment.* (1) The mortgagor shall provide a certification to FHA that the mortgagor has not:

(i) Intentionally defaulted on the mortgagor's existing mortgage(s), or any other debt; or

(ii) Knowingly or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining the mortgagor's existing mortgage(s).

(2) The mortgagor shall provide any other certifications that FHA may otherwise require.

(3) A mortgagor obligated under a Program mortgage shall agree in writing, on a form approved by the Board, to be liable to pay to FHA any Direct Financial Benefit achieved from the reduction of indebtedness on the existing senior and subordinate mortgages that are being refinanced under the Program if he or she makes a false statement or other misrepresentation in the certifications and documentation required for Program eligibility, including but not limited to the certifications required under section 257(e)(1)(A)(i) of the Act.

(c) *Mortgagee in violation of Program requirements.* (1) If the mortgagee holds a Program mortgage that it originated and/or underwrote, and FHA finds that the mortgagee violated the Program requirements, FHA is prohibited from paying FHA insurance benefits to that mortgagee.

(2) If the mortgagee no longer holds the Program mortgage that it originated and/or underwrote, FHA will pay the insurance claim to the mortgagee presently holding the Program mortgage (if all other requirements of the contract for mortgage insurance are met and the present holder did not participate in the violation of Program requirements) and shall seek indemnification from the non-holding mortgagee.

(d) *FHA insurance.* A mortgage is eligible for insurance if the mortgagee submits a complete case binder within such time period as the Board prescribes. The binder shall include evidence acceptable to the Board that the mortgage is current.

(e) *Mortgagor failure to make first mortgage payment.* FHA shall not pay a mortgage insurance claim to any mortgagee if the first total monthly mortgage payment is not made within 120 days from the date of closing of the mortgage. The mortgagee shall not, directly or indirectly, make all or a part of the first total monthly mortgage payment on behalf of the mortgagor. The mortgagee is prohibited from escrowing funds at closing for all or part of the first total monthly mortgage payment.

[73 FR 58420, Oct. 6, 2008, as amended at 74 FR 621, Jan. 7, 2009]

§ 4001.118 Equity sharing.

(a) *Initial Equity.* For purposes of section 257(k)(1) of the Act, the initial equity created as a direct result of the origination of a Program mortgage on a property, as calculated by the Program mortgage lender, shall equal:

(1) The lesser of—

(i) The appraised value of the property that was used at the time of origination of the Program mortgage to underwrite the mortgage and to determine compliance with the maximum loan-to-value ratio at origination established by section 257(e)(2)(B) of the Act; or

(ii) The outstanding amount due under all existing senior mortgages, existing subordinate mortgages, and nonmortgage liens on the property; less

(2) The original principal amount of the Program mortgage on the property.

(b) *FHA's interest.* Upon the sale or disposition of a property or Program mortgage refinancing, FHA shall calculate and be entitled to receive the portion of the initial equity (as defined by paragraph (a) of this section) set forth in section 257(k)(1) of the Act,