

§ 200.1520

(2) When suspension is lifted, the lender's name shall be promptly reinstated on the MAP-Approved Lender list posted on HUD's Web site.

§ 200.1520 Termination of MAP privileges.

(a) *In general.* Except as provided in paragraph (b) of this section, only the MAP Lender Review Board may terminate a lender's MAP privileges, in accordance with the procedures of § 200.1535.

(b) *Administrative termination.* HUD will notify a lender of immediate termination of MAP privileges when either of the following circumstances is present:

(1) Failure by the MAP lender to maintain its status as an FHA-approved lender; or

(2) Failure by the MAP lender to maintain a minimum level of MAP lender activity, as evidenced by failure to submit either a pre-application package or firm commitment application at least once every 12 months.

(c) *Effect of termination.* (1) The terminated lender shall be removed from the MAP-Approved Lender list on HUD's Web site.

(2) A terminated lender may not submit, and the HUD field office may not accept, materials after the close of business of the date of the termination letter for new multifamily mortgage insurance from HUD.

(3) Any MAP pre-application or MAP application in process may no longer be processed under MAP by the terminated lender. The lender will either:

(i) Immediately transfer the transaction to the traditional application processing (TAP) procedure. HUD will completely reprocess all stages of the transaction; or

(ii) Immediately transfer the project to a new MAP lender. The new MAP lender must completely reprocess all stages of the transaction. At no time can the new MAP lender assign the pre-application, the firm application, the mortgage insurance commitment, or the insured construction loan back to the original MAP lender.

(4) HUD will not endorse any MAP loan processed by the terminated lender unless a firm commitment was issued before the date of termination.

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(i) Firm commitments involving new construction or substantial rehabilitation must be immediately transferred to a new MAP lender. At no time can the new MAP lender assign the firm mortgage insurance commitment, or the insured construction loan, back to the original MAP lender.

(ii) Firm commitments issued for Section 223(f) projects may be transferred before final endorsement to any approved FHA lender or kept in the lender's portfolio.

(iii) For those construction loans that have been initially endorsed, the MAP lender will lose its MAP privileges for construction loan administration. HUD will assume all the construction loan administration duties it normally performs for TAP processing.

(iv) The original lender may service a transferred loan once it is finally endorsed.

(5) Termination is nationwide in effect.

(6) When a MAP lender loses its MAP lender status as a result of termination, the lender's status to process transactions using TAP is unaffected, provided that the lender has maintained its status as an FHA-approved multifamily lender.

(d) *Reinstatement.* An application for reinstatement of MAP authority may not be made until at least 12 months after the date of termination. The requirements for reinstatement shall be the same as for initial qualification, and the applicant must show that the problems that led to termination have been resolved.

§ 200.1525 Settlement agreements.

(a) HUD staff, as authorized, may negotiate a settlement agreement with a MAP lender before or after the issuance of a warning letter or referral to the MAP Lender Review Board. Once a matter has been referred to the MAP Lender Review Board, only the Board may approve a settlement agreement.

(b) Settlement agreements may provide for:

(1) Cessation of any violation;

(2) Correction or mitigation of the effects of any violation;

(3) Removal of lender staff from positions involving origination, underwriting, and/or construction loan administration;

(4) Actions to collect sums of money wrongfully or incorrectly paid by the MAP lender to a third party;

(5) Implementation or revision of a quality control plan or other corrective measure acceptable to HUD; and

(6) Modification of the duration or provisions of any administrative sanction deemed to be appropriate by HUD.

(c) A MAP lender's compliance with a settlement agreement is evidenced by the lender certifying its compliance with the conditions of the agreement, and HUD's determination that the lender is in compliance with the conditions of the agreement.

(d) Failure by a MAP lender to comply with a settlement agreement may result in a probation, or suspension, or termination of MAP privileges, or referral to the Mortgagee Review Board.

§ 200.1530 Bases for sanctioning a MAP lender.

It is HUD policy that approved MAP lenders are expected to comply at all times with HUD's underwriting and construction loan administration requirements and not to take any action that presents a risk to HUD's insurance funds. A MAP lender's improper underwriting and construction loan administration activities may lead to a warning letter or other sanction from HUD. Examples of such activities include, but are not limited to, the following:

(a) *Minor offenses that may be the basis for a warning letter include:*

(1) Failure to provide required exhibits or the submission of incomplete or inaccurate exhibits. Although the MAP lender will be permitted to correct minor errors or provide additional information, substantial inaccuracies or lack of significant information will result in a return of the application and retention of any fee collected;

(2) Repeated failure to complete processing to firm commitment unrelated to an underwriting analysis that demonstrates that the process should not proceed to firm commitment;

(3) Preparation of an underwriting summary that is not supported by the

appropriate documentation and analysis;

(4) Failure to notify the HUD processing office promptly of changes in the mortgage loan application for a firm commitment submitted, such as changes in rents, numbers of units, or gross project area;

(5) Failure to meet MAP closing requirements or construction loan administration requirements;

(6) Business practices that do not conform to those generally accepted by prudent lenders or that show irresponsibility; and

(7) Failure to cooperate with a Lender Qualifications and Monitoring Division review by HUD.

(b) *Serious offenses that might be a basis for a warning letter or probation, suspension, or termination include:*

(1) Receipt of multiple warning letters over any one-year period. In determining which sanction to pursue as a result of prior warning letters, HUD will consider the facts and circumstances surrounding those warning letters and the corrective actions, if any, undertaken by the lender;

(2) Fraud or material misrepresentation in the lender's participation in FHA multifamily programs;

(3) Lender collusion with, or influence upon, third party contractors to modify reports affecting the contractor's independent evaluation;

(4) A violation of MAP procedures by a third party contractor, which the MAP lender knew, or should have known, was occurring and which, if performed by the MAP lender itself, would constitute a ground for a sanction under this chapter;

(5) Evidence that a lender's inadequate or inaccurate underwriting was a cause for assignment of an FHA-insured mortgage and claim for insurance benefits to HUD;

(6) Identity-of-interest violations as defined by Chapter 2 of the MAP Guide;

(7) Payment by, or receipt of a payment by, a MAP lender of any kickback or other consideration, directly or indirectly, which would affect the lender's independent evaluation, or represent a conflict of interest, in connection with any FHA-insured mortgage transaction;