

**July 14, 2015**  
**Comment submitted by:**

**Center for Responsible Lending, Leadership Conference on Civil and Human Rights, AFL-CIO, Consumer Action, Council for Native Hawaiian Advancement, NAACP, National Coalition for Asian Pacific American Community Development, National Community Reinvestment Coalition, National Council of La Raza, National Fair Housing Alliance, National Housing Resource Center, National People's Action, National Urban League, The Greenlining Institute, and U.S. PIRG**

**To the Department of Housing and Urban Development**

**RE: Proposed Changes to Federal Housing Administration Loan Certifications**

Docket Number: FR-5835-N-06  
OMB Approval Number: 2502-0059  
27851 Fed. Reg. 27,998 (May 15, 2015)

Thank you for providing public notice and an opportunity to comment on the Department of Housing and Urban Development’s proposal to change the certification requirements that lenders must make in order to secure Federal Housing Administration insurance on a mortgage loan.

## **I. Introduction and Overview of Recommendations**

Certification plays an important role in protecting the health of the Federal Housing Administration’s (FHA) mutual mortgage insurance fund so that millions of Americans—many of whom are first-time buyers, come from low and moderate-income backgrounds, or purchase homes in communities of color—can continue to become successful homeowners. Certification also serves another equally important purpose by requiring lenders to certify that the loans meet FHA underwriting requirements and will yield safe and sustainable mortgage products for all consumers. These dual objectives guide our recommendations on the proposed changes to the certification language.

The current language requires lenders to certify, among other things, that the loan submissions are completely correct and that the loan meets all FHA requirements. Any manufacturing defects in the loan production create potential violations of this certification and make the lender subject to a range of consequences, including liability under the False Claims Act. However, as recognized in FHA’s recently published taxonomy of defects, different defects have different causes and impacts. Logically, they should also have different consequences for lenders. A more targeted certification would focus enforcement on defects that pose the greatest risk to the insurance fund and borrowers, and also focus on lenders with deficient underwriting and quality control systems.<sup>1</sup> Specifically, we urge FHA to improve its current proposal and adopt an enhanced certification requirement that requires lenders to certify that they meet all three of the following:

- Exercise due diligence and good faith in underwriting the mortgage and submitting the application for insurance, which is proposed;
- Establish, operate and monitor a Quality Control program that complies with all FHA requirements; and
- For any defects that occur notwithstanding compliance with the first two lender duties, timely remediate or indemnify FHA for any defects that affect the insurability of the loan.

Together, these three recommendations represent an enhanced certification process that will better protect consumers, better ensure the fiscal strength of FHA and the Mutual Mortgage Insurance (MMI) Fund, and also better provide lenders with the necessary assurances to stimulate access to mortgage credit for consumers of FHA-insured products. After providing a

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<sup>1</sup> FHA is proposing changes in other documents that were not formally included for comment. Among these are changes to FHA mortgage and note forms. While we do not address these issues in this comment, we strongly oppose the draft changes, which would make it harder for borrowers to hold lenders accountable to FHA’s loan loss mitigation requirements. In addition to underwriting responsibilities, lenders should be equally held responsible for assisting borrowers with loss mitigation and foreclosure prevention options when a loan becomes delinquent. Mitigation requirements are both essential for borrowers and they protect the Mutual Mortgage Insurance (MMI) Fund by reducing losses.

brief overview of the current certification requirements and proposed changes, each of our recommendations is discussed in more detail below.

We make these recommendations in the context that many families, especially those of color, were deeply harmed by the unsustainable and often abusive lending that occurred in the housing boom leading up to the great recession. Despite repeated warnings and calls for reform from civil rights groups and consumer advocates, this lending proliferated without basic standards and protections, leading to historic levels of foreclosures. The country suffered trillions of dollars of losses, and families of color lost a generation of wealth building. Home ownership rates for African-American households are plummeting towards 40%, in contrast to white home ownership rates of well over 70%. Hispanic homeownership was also hard hit and still lags far behind white ownership.<sup>2</sup>

FHA loans, fortunately, performed much better than other loans, especially compared to other loans to average families and first time homebuyers, such as private label subprime loans. Between 2000 and 2008, 14 percent of FHA loan became seriously delinquent or went to foreclosure, which could have been worse (32 percent of subprime loans suffered this fate over this time period) without the quality control procedures already in place.<sup>3</sup> However, FHA also suffered *in part* from the onslaught of bad loan products that clearly had not been properly vetted by the lending institutions that originated them. For instance, nearly 20 percent of FHA insured loans in 2007 became seriously delinquent.<sup>4</sup> The MMI Fund also took a huge hit during this period. In 2007, the MMI reserves were above 6 percent, but decreased to just 0.53 percent in 2009.<sup>5</sup> Enforcement efforts against lenders who engaged in this abusive lending clearly have been badly needed.

Subsequent to the crisis, the Dodd–Frank Wall Street Reform and Consumer Protection Act mortgage protections and the Consumer Financial Protection Bureau (CFPB) implementing regulations, with their FHA and Government Sponsored Enterprise (GSE) counterparts, make loans much safer, though vigilant oversight and enforcement is still needed. FHA stepped in and during recent years provided badly needed home credit, which not only served the housing market but substantially aided the overall economic recovery.<sup>6</sup> FHA has resumed its role as a critical provider of credit to first time homeowners. This is especially critical to borrowers of color, as nearly half of all Latino and African-American home purchases in 2013 were financed

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<sup>2</sup> UNITED STATES CENSUS BUREAU, HOUSING VACANCIES AND HOMEOWNERSHIP (CPS/HVS) FIG.8 (2014), *available at* <http://www.census.gov/housing/hvs/data/charts/fig08.pdf>.

<sup>3</sup> Roberto G. Quercia and Kevin Park, *FHA and Enduring the Housing Crisis* (2012), *available at* <https://planning.unc.edu/quercia-viewpoint>.

<sup>4</sup> David Streitfeld, *Housing Agency's Cash Reserves Down Sharply*, *New York Times* (2009), *available at* [http://www.nytimes.com/2009/11/13/business/economy/13fha.html?\\_r=0](http://www.nytimes.com/2009/11/13/business/economy/13fha.html?_r=0).

<sup>5</sup> *Id.*

<sup>6</sup> Mark Zandi, *FHA role may be bloated, but we'd be much worse off without it*, *Washington Post* (2011), *available at* [http://www.washingtonpost.com/real-estate/fha-role-may-be-bloated-but-wed-be-much-worse-off-without-it/2011/12/09/gIQAled3vO\\_story.html](http://www.washingtonpost.com/real-estate/fha-role-may-be-bloated-but-wed-be-much-worse-off-without-it/2011/12/09/gIQAled3vO_story.html). See also John Griffith, Center for American Progress, *The Federal Housing Administration Saved the Housing Market* (2012), *available at* <https://www.americanprogress.org/issues/housing/report/2012/10/11/40824/the-federal-housing-administration-saved-the-housing-market/>.

by FHA.<sup>7</sup> Credit, though, remains very tight for these borrowers compared to historically normal lending periods. Current mortgage lending is falling short by over a million purchase loans each year compared to 2001 lending standards.<sup>8</sup>

The recommendations set out in this comment are designed to build upon the stronger regulatory standards established since the crisis and the enhanced enforcement activity that has ensued. Fortunately, this can be done in a manner that also preserves and expands access to sustainable home lending.

## **II. The Status Quo**

### **FHA's Current Certification Requirements and the Department of Housing and Urban Development's (HUD) Proposed Changes**

Federal regulation 24 CFR §203 outlines the requirements for application completion and loan approval for an FHA-insured mortgage. Together, the Uniform Residential Loan Application (URLA), and form HUD-92900-A, constitute the “standard application form” called for by 24 CFR 203.255. Under these documents, every mortgage application for insurance is used to determine eligibility in three general areas: (1) the proposed loan under the statute, i.e., term, mortgage amount, and ratios of loan-to-value or replacement cost; (2) the property with respect to compliance with HUD/FHA statutory and regulatory requirements; (3) and the proposed mortgage debt, including the borrower's ability to repay. FHA relies on the information provided to verify the lender's determination of eligibility or perform its own determination of the mortgage's eligibility for a FHA insurance endorsement. In each of these areas, FHA requires lenders to make specific certifications about the accuracy of the information and underwriting process.

Specifically, FHA currently requires lenders of FHA-insured mortgages to certify to the following information:

“The undersigned lender makes the following certifications to induce the Department of Veterans Affairs to issue a certificate of commitment to guarantee the subject loan or a Loan Guaranty Certificate under Title 38, U.S. Code, or to induce the Department of Housing and Urban Development - Federal Housing Commissioner to issue a firm commitment for mortgage insurance or a Mortgage Insurance Certificate under the National Housing Act.

A. The loan terms furnished in the Uniform Residential Loan Application and this Addendum are true, accurate and complete.

B. The information contained in the Uniform Residential Loan Application and this Addendum was obtained directly from the borrower by an employee of the undersigned lender or its duly authorized agent and is true to the best of the lender's knowledge and belief.

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<sup>7</sup> This figure excludes refinances. See DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ANNUAL REPORT TO CONGRESS REGARDING THE FINANCIAL STATUS OF THE FHA MUTUAL MORTGAGE INSURANCE FUND FY 2014, at 18 (2014), available at [http://portal.hud.gov/hudportal/documents/huddoc?id=FY2014FHAAnnRep11\\_17\\_14.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=FY2014FHAAnnRep11_17_14.pdf).

<sup>8</sup> LAURIE GOODMAN, ET. AL. “WHERE HAVE ALL THE LOANS GONE? THE IMPACT OF CREDIT AVAILABILITY ON MORTGAGE VOLUME,” URBAN INSTITUTE (2014), available at <http://www.urban.org/publications/413052.html>.

- C. The credit report submitted on the subject borrower (and co-borrower, if any) was ordered by the undersigned lender or its duly authorized agent directly from the credit bureau which prepared the report and was received directly from said credit bureau.
- D. The verification of employment and verification of deposits were requested and received by the lender or its duly authorized agent without passing through the hands of any third persons and are true to the best of the lender's knowledge and belief.
- E. The Uniform Residential Loan Application and this Addendum were signed by the borrower after all sections were completed.
- F. This proposed loan to the named borrower meets the income and credit requirements of the governing law in the judgment of the undersigned.
- G. To the best of my knowledge and belief, I and my firm and its principals: (1) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (2) have not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for (a) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; (b) violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph G(2) of this certification; and (4) have not, within a three-year period preceding this application/proposal, had one or more public transactions (Federal, State or local) terminated for cause or default.”<sup>9</sup>

FHA's proposal includes an expansion of language on the above mentioned certification forms. Specifically, the new language would require lenders to certify that:

“B. (1) The information contained in the initial Uniform Residential Loan Application and this Addendum was obtained from the Borrower by an employee of the undersigned lender/ mortgagee or its duly authorized agent and is to the best of lender/mortgagee's knowledge true, complete and accurate as of the date the Borrower provided the information to the undersigned lender/ mortgagee or its duly authorized agent.

(2) The information contained in the final Uniform Residential Loan Application, which was signed by the Borrower at the time of settlement, was obtained by an employee of the undersigned lender/mortgagee or its duly authorized agent is to the best of lender/mortgagee's knowledge true, complete and accurate as of the date verified by the lender/mortgagee.

E. (1) To the best of my knowledge, neither I nor any parties to this transaction are suspended, debarred, under a limited denial of participation, or otherwise restricted under 2 CFR part 2424, or under similar procedures of any other federal agency

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<sup>9</sup> HUD/FHA Certification form 929000-A, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=92900-a.pdf>.

(2) The lender/mortgagee involved in this transaction is not suspended, debarred<sup>10</sup>, under a limited denial of participation, or otherwise restricted under 2 CFR part 2424 or 24 CFR part 25, or under similar procedures of any other federal agency.

This mortgage was rated as an “accept” or “approve” by FHA’s TOTAL Mortgage Scorecard and the undersigned Direct Endorsement underwriter certifies that I have personally reviewed and underwritten the appraisal according to standard FHA requirements. This mortgage was rated as a “refer” by a FHA’s TOTAL Mortgage Scorecard, or was manually underwritten by a Direct Endorsement underwriter. As such, the undersigned Direct Endorsement Underwriter certifies that I have personally reviewed the appraisal report (if applicable), credit application, and all associated documents used in underwriting this mortgage. I further certify that: I have approved this loan and my Final Underwriting Decision was made having exercised the required level of Care and Due Diligence; I have performed all Specific Underwriter Responsibilities for Underwriters and my underwriting of the borrower’s Credit and Debt, Income, Qualifying Ratios and Compensating Factors, if any, and the borrower’s DTI with Compensating Factors, if any, are within the parameters established by FHA and the borrower has assets to satisfy any required down payment and closing costs of this mortgage; and I have verified the Mortgage Insurance Premium and Mortgage Amount are true and correct and this loan is in an amount that is permitted by FHA for this loan type, property type, and geographic area.”<sup>11</sup>

The FHA certification process could be substantially improved by adopting requirements that result in better quality loans to consumers, lower FHA costs in pursuing indemnification for lender errors, and result in greater certainty from responsible lenders who fear that minor loan errors could result in treble damage claims under the False Claims Act.

Therefore, we urge the FHA to adopt a certification process that facilitates its focusing on identifying and preventing the most serious defects, identifies and singles out those lenders whose underwriting and quality control systems are deficient, and requires responsible lenders to commit to curing good faith, inadvertent errors that occur notwithstanding a robust lender Quality Control program by remediation or by indemnifying FHA from future insurance claims.

We believe that this more focused system will yield fewer claims on the FHA mutual mortgage insurance fund, reduce FHA and Department of Justice litigation expenses, result in more high-quality lending to the first-time and traditionally underserved borrowers that most heavily rely on FHA for access to mortgage credit, and encourage lenders to continue to make FHA loans a central component of their mortgage lending activities.

### **III. Recommendations**

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<sup>10</sup> This proposal will change the placement and wording of the lender disbarment section of the loan certification. Items G2-4 of HUD form 929000-A would be deleted from the lender certification and moved to the annual certification section, putting the language to more closely track the statutory language. We prefer in this instance that FHA leaves the disbarment clause as is. We oppose any steps that weaken the language or standards for lender disbarment.

<sup>11</sup> DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PROPOSAL, changes to HUD form 929000-A, 27851 Fed. Reg. 27,998-999 (May 15, 2015), *available at* <http://www.gpo.gov/fdsys/pkg/FR-2015-05-15/pdf/2015-11807.pdf>.

## RECOMMENDATION ONE:

**As proposed, FHA’s final language should include a lender obligation to certify that it has exercised good faith and due diligence in underwriting the loan.**

Both the existing and proposed Lender/Mortgagee Certifications require the mortgagee to certify that all information contained in the final Uniform Residential Loan Application is “*to the best of lender/mortgagee’s knowledge true, complete and accurate as of the date verified by the lender/mortgagee.*”<sup>12</sup> Going forward, we agree with FHA’s recommendation that level of care and due diligence of loan underwriting be added to the lender certification. FHA should include this language in the final certification form.

This requirement establishes the basic standard that a lender must exercise due diligence in determining and documenting eligibility of a loan for insurance. The good faith requirement alone would further create a violation in any situations where the lender recklessly or knowingly submitted inaccurate information. These requirements also incorporate and build on FHA requirements and procedures, better tying them to the certification process.

## RECOMMENDATION TWO:

**The FHA certification language must mandate a strong Quality Control obligation for all FHA-insurance lenders by requiring the lender to certify that it has a properly established, operated and monitored Quality Control program that complies with all FHA requirements.**

Responsible mortgage lending requires a combination of strong loan attributes and solid underwriting, along with a lender’s commitment to having processes in place to ensure the right data is collected, verified, and complies with FHA guidelines.

An additional safeguard for assuring that mortgagees meet FHA loan eligibility requirements are the internal quality control programs that FHA requires. The FHA Mortgagee Approval Handbook stipulates that all mortgagees must implement and document comprehensive quality control plans.<sup>13</sup> While such plans are no guarantee that all loans will meet all requirements, these quality control programs are perhaps the most important tool in assuring the overall quality of loans submitted by a lender for insurance. Consequently, having an approved and properly implemented quality control plan in place should be another threshold requirement for a lender’s ability to be in compliance with FHA program requirements and avoid enforcement actions.

This newly proposed language would allow FHA to focus its limited resources on those lenders that are engaging in fraudulent or harmful activity under the good-faith and due diligence standard and, at the same time, single out those actors whose activities—though not necessarily undertaken in bad faith—routinely demonstrate a lack of thoroughness in underwriting. The

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<sup>12</sup> Id., HUD/FHA Certification form 929000-A *supra* note 9.

<sup>13</sup> DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, MORTGAGEE APPROVAL HANDBOOK 4060.1, CHAPTER 7, available at <http://portal.hud.gov/hudportal/documents/huddoc?id=40601c7HSGH.pdf>.

latter standard, in particular, would allow FHA to use its existing tools—such as the tracking of early defaults, compare ratios and supplemental performance metrics—to monitor and enforce the requirement. A lender’s failure to meet the required underwriting due diligence and to operate a strong Quality Control program will be manifested in the metrics that FHA uses to assess a lenders’ loan performance over time.

This more focused approach would improve outcomes for both borrowers and the FHA MMI Fund. Under such a standard, lenders could be held accountable if they knowingly provided false information, or demonstrated poor attention to underwriting standards and quality control in their FHA originations. At the same time, consumers will benefit from FHA’s ability to more quickly identify and weed out problematic lenders and responsible lenders will continue to be able to provide sustainable mortgage credit.

This approach is designed to be implemented immediately and to utilize and maximize FHA’s existing oversight resources and procedure. An additional benefit of this approach is that it can be integrated with the FHA loan defect taxonomy program when it is implemented. The taxonomy program will provide additional procedures and tools, including the documentation, classification and tracking of loan defects that will help further target FHA’s oversight and enforcement most effectively. The taxonomy and FHA’s oversight should also track the frequency, nature, and impact of loan defects on borrowers, including data by race, gender, and other demographics.

### **RECOMMENDATION THREE:**

**In addition to complying with the first two requirements, the final certification should mandate that a lender timely remediate or indemnify FHA if any defect affects the insurability of the loan.**

Requiring all FHA lenders to cure /indemnify FHA when a serious defect affects the insurability of a loan would be advantageous for FHA, lenders and consumers. Where possible, lenders will want to, and should be able, to remediate defects by fixing the loan to make it compliant. As the taxonomy presently provides, this should be done so in a way that holds innocent consumers harmless. If they do this, the lender should not be liable for indemnification when the other requirements of the certification have also been satisfied. When remediation is not possible, such as after default, indemnification is required for these defects.

In addition to making FHA whole, FHA should consider establishing requirements for lenders to provide remedies to borrowers when they are harmed by loan defects.

### **III. Conclusion**

**A more focused and effective loan certification and quality control regime is needed.**

The certification form signed by the mortgagees’ representative is the lynchpin for enforcement of FHA insurance obligations. The current and proposed certification requirements should be improved to ensure optimum effectiveness and competitiveness for FHA-insured mortgage



products. A more focused and effective approach to certification is necessary. Accordingly, we recommend that the final certification include the following language:

“This mortgage was rated as an “accept” or “approve” by FHA’s TOTAL Mortgage Scorecard. As such, as the undersigned representative of the mortgagee I certify that I have reviewed the TOTAL Mortgage Scorecard findings and have determined, based on reasonable underwriting diligence and judgment, and to the best of my knowledge, the loan complies with the written credit guidelines currently established by FHA, as published in the Single Family Housing Policy Handbook and/or applicable Mortgagee Letters, and the mortgagee did not knowingly or recklessly rely on false statements in the loan application or its addendum.

If the loan contains a significant underwriting defect(s) that would render the loan uninsurable, the mortgagee will be in compliance with program requirements if the mortgagee and the loan meet ALL THREE of the following conditions: (1) the mortgagee submitted the certification in the good faith belief that the loan was free of such defect(s) and it did not knowingly or recklessly rely on false statements in the loan application or its addendum; (2) the mortgagee has a Quality Control plan that meets the standards set out in the Mortgagee Approval Handbook and/or any applicable Mortgagee Letters in effect at the time the loan was originated; and (3) the mortgagee undertakes remedies of such defects(s) as provided in the following paragraph.

If any significant underwriting defect(s) that would render the loan uninsurable is found before the loan has been endorsed for insurance and such defect(s) is corrected, then the loan will be treated as remedied in compliance with this certification. If any such defect(s) is discovered after the loans is endorsed for insurance, and if the mortgagee or its agent thereafter remedies that defect, withdraws a claim or reimburses a claim payment, or indemnifies FHA (each, whether before or after a claim for insurance is submitted) in accordance with FHA’s administrative rules and procedures in effect at the time the loan was endorsed, then the loan will be treated as remedied in compliance with this certification, it being understood that nothing in this certification shall expand the quality control requirements set out in the Mortgagee Approval Handbook and/or applicable Mortgagee Letters. As the undersigned representative of the mortgagee I certify that it is the mortgagee’s understanding that, with respect to loans that contain a significant underwriting defect(s) that would render the loan uninsurable, the loan will be in compliance with program requirements if (a) the above conditions in this paragraph are met, and (b) conditions (1) and (2) above are true as of the date of this certification.

This loan was rated as a “refer” by a FHA’s TOTAL Mortgage Scorecard, or was manually underwritten by the undersigned. As such, as the undersigned Direct Endorsement underwriter and representative of the mortgagee, I certify that I have personally reviewed the appraisal report (if applicable), credit application, and all associated documents used in underwriting this loan and have determined, based on reasonable underwriting diligence and judgment, and to the best of my knowledge, the loan complies with the written credit guidelines currently established by FHA, as published in the appropriate Handbook(s) and/or Mortgagee Letters, and the mortgagee did not knowingly or recklessly rely on false statements in the loan application or its addendum.

I further certify that to the best of my knowledge:

- I have performed all specific responsibilities for underwriters and my underwriting of the loan is within the program parameters established by FHA in the appropriate Handbook(s) and/or Mortgagee Letters, and
- I have verified the Mortgage Insurance Premium and Mortgage Amount are true and correct and this loan is in an amount that is permitted by FHA for this loan type, property type, and geographic area.

If the loan contains a significant underwriting defect(s) that would render the loan uninsurable, the mortgagee will be in compliance with program requirements if the mortgagee and the loan meet all of the following: (1) the mortgagee submitted the certification in the good faith belief that the loan was free of such defect(s) and the mortgagee did not knowingly or recklessly rely on false statements in the loan application or its addendum; (2) the mortgagee has a Quality Control plan that meets the standards set out in Mortgagee Approval Handbook and/or any applicable Mortgagee Letters in effect at the time the loan was originated; and (3) the mortgagee undertakes remedies of such defects(s) as provided in this paragraph. If any significant underwriting defect(s) that would render the loan uninsurable is found before the loan has been endorsed for insurance and such defect(s) is corrected, then the loan will be treated as remedied in compliance with this certification. If any such defect(s) is discovered after the loan is endorsed for insurance, and if the mortgagee or its agent thereafter remedies that defect, withdraws a claim or reimburses a claim payment, or indemnifies FHA (each, whether before or after a claim for insurance is submitted) in accordance with FHA’s administrative rules and procedures in effect at the time the loan was endorsed then the loan will be treated as remedied in compliance with this certification, it being understood that nothing in this certification shall expand the quality control requirements set out in the Handbook and/or applicable Mortgagee Letters. As the undersigned representative of the mortgagee I

certify that, with respect to loans that contain a significant underwriting defect(s) that would render the loan uninsurable, it is the mortgagee's understanding that the loan will be in compliance with program requirements if (a) the above conditions in this paragraph are met and (b) conditions (1) and (2) above are true as of the date of this certification."

Importantly, these requirements tie in to FHA procedures and standards that are set out in the Handbook and elsewhere. This elevates the importance and enforceability of these standards, and it also gives the FHA flexibility in adapting these provisions going forward without having to revise the certification language itself. Finally, it accommodates the need of lenders to know what standards apply to loans when they originate them, but provides FHA the flexibility to adjust these for future loans when needed.

The components of our recommended framework would include providing a certification that includes provisions for all of the following: 1) the requirement that a lender exercise due diligence and good faith in underwriting a FHA-insured mortgage loan; 2) a strong quality control obligation on the part of all FHA insurance lenders; and 3) an automatic obligation to remediate or indemnify FHA for any defect that affects the insurability of a loan origination. If each of these provisions is met, a lender should be considered to be in compliance with FHA's certification and program requirements and, as a result, not be subject to further enforcement actions. Together, these three recommendations represent an enhanced certification process that will better protect consumers, better ensure the fiscal strength of FHA and the MMI Fund, and also better provide lenders with the necessary assurances to stimulate access to mortgage credit for consumers of FHA-insured products.

### **National Signatories**

Center for Responsible Lending  
Leadership Conference on Civil and Human Rights  
AFL-CIO  
Consumer Action  
Council for Native Hawaiian Advancement (CNHA)  
NAACP  
National Coalition for Asian Pacific American Community Development (National CAPACD)  
National Community Reinvestment Coalition (NCRC)  
National Council of La Raza (NCLR)  
National Fair Housing Alliance (NFHA)  
National Housing Resource Center (NHRC)  
National People's Action (NPA)  
National Urban League (NUL)  
The Greenlining Institute  
U.S. PIRG