



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

**Date: December 15, 2022**

**Mortgagee Letter 2022-22**

**To:** All FHA-Approved Mortgagees  
All Direct Endorsement Underwriters  
All Eligible Submission Sources for Condominium Project Approvals  
All FHA Roster Appraisers  
All FHA-Approved 203(k) Consultants  
All HUD-Approved Housing Counselors  
All HUD-Approved Nonprofit Organizations  
All Governmental Entity Participants  
All Real Estate Brokers  
All Closing Agents

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**Subject** Clarification of Conflict of Interest and Dual Employment Policy for Most Title II Single Family FHA-Insured Mortgage Transactions

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**Purpose** This Mortgagee Letter revises Federal Housing Administration (FHA) conflict of interest and dual employment policy to clarify when individuals may perform multiple roles in a single FHA-insured transaction.

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**Effective Date** This guidance is effective immediately for case numbers assigned on or after the date of this Mortgagee Letter.

All policy updates will be incorporated into a forthcoming revision of the Department of Housing and Urban Development (HUD) Single Family Housing Policy Handbook 4000.1 (Handbook 4000.1).

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**Public Feedback** HUD welcomes feedback from interested parties for a period of 30 calendar days from the date of issuance. To provide feedback on this policy document, please send feedback to the FHA Resource Center at [answers@hud.gov](mailto:answers@hud.gov). HUD will consider the feedback in determining the need for future updates.

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**Affected Programs** This guidance applies to all FHA Title II Single Family programs unless otherwise specified in program requirements.

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## Mortgagee Letter 2022-22, Continued

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### Background

FHA continues to receive requests to clarify its conflict of interest and dual employment guidance regarding Mortgagee employees and other individuals that may wish to perform multiple roles in a single FHA-insured transaction. Most questions relate to indirect compensation, including ownership interest in a business that is participating in the same FHA-insured transaction or a family relationship between two participants in an FHA-insured transaction.

With this Mortgagee Letter, FHA is consolidating various conflict of interest and dual employment subsections of Handbook 4000.1 and clarifying its general conflict of interest policy by prohibiting individuals that have a direct impact on the mortgage approval decision from having multiple roles or sources of compensation from a single FHA-insured transaction while permitting all other individuals to have multiple compensated roles for services actually performed and permitted by HUD, provided that the FHA-insured transaction complies with all applicable federal, state and local laws, rules, and requirements.

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### Summary of Changes

This Mortgagee Letter:

- Deletes Section I.A.3.c.iv(B)(3)(b)(iv) – *Dual Employment* and renumbers subsequent sections.
  - Revises Section I.A.3.c.iv(B)(3)(b)(v) – *Conflicts of Interest*.
  - Revises Section I.A.6.f – *Conflicts of Interest*.
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### Single Family Housing Policy Handbook 4000.1

The policy changes will be incorporated into Handbook 4000.1 as follows:

#### Employees (I.A.3.c.iv(B)(3))

#### (b) Standard [Text was deleted in this section.]

##### (i) Eligibility of Employees

The Mortgagee must not employ any individual who will participate in FHA transactions if the individual is suspended, debarred, under a Limited Denial of Participation (LDP), or otherwise excluded from participation in FHA programs (see [Restricted Participation](#) (V.A.2.b.i(B))).

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## Mortgagee Letter 2022-22, Continued

**Single Family  
Housing Policy  
Handbook  
4000.1, cont'd**

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### **(ii) Compensation**

The Mortgagee must not compensate employees who perform underwriting or Quality Control (QC) activities on a commission basis.

The Mortgagee must report all employee compensation in accordance with IRS requirements.

### **(iii) SAFE Act Compliance**

The Mortgagee must ensure that it and its employees comply with the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) (12 U.S.C. § 1501 et seq.), including the licensing and registration of its employees in the Nationwide Mortgage Licensing System ([NMLS](#)).

### **(iv) Conflicts of Interest**

The Mortgagee's employees will be subject to FHA's [Conflict of Interest policy](#).

### **(v) Underwriters**

The Mortgagee must ensure that its underwriters are not managed by and do not report to any individual who performs mortgage origination activities.

The Mortgagee must ensure that its underwriters:

- meet basic [eligibility requirements](#) (I.B.3.b); and
- perform the underwriting function in a manner consistent with FHA guidelines.

### **(vi) HECM Originators**

The Mortgagee and any other party that participates in the origination of a HECM transaction must not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity, unless the Mortgagee demonstrates that it or any other party maintains firewalls and other safeguards designed to ensure that:

- individuals participating in the origination of the HECM must have no involvement with, or incentive to provide the Borrower with, any other financial or insurance product; and
  - the Borrower must not be required, directly or indirectly, as a condition of obtaining a HECM, to purchase any other financial or insurance product.
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## Mortgagee Letter 2022-22, Continued

**Single Family  
Housing Policy  
Handbook  
4000.1, cont'd**

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### Post-approval Operations (I.A.6)

#### f. Conflicts of Interest

This policy applies to all FHA-insured transactions unless otherwise specified in program requirements.

Participants that have a direct impact on the mortgage approval decision are prohibited from having multiple roles or sources of compensation, either directly or indirectly, from a single FHA-insured transaction. These participants are:

- underwriters
- Appraisers
- inspectors
- engineers

Indirect compensation includes any compensation resulting from the same FHA-insured transaction, other than for services performed in a direct role. Examples include, but are not limited to:

- Compensation resulting from an ownership interest in any other business that is a party to the same FHA-insured transaction; or
- Compensation earned by a spouse, domestic partner, or other Family Member that has a direct role in the same FHA-insured transaction.

The Mortgagee must ensure that participants with a direct impact on the mortgage approval decision do not have multiple roles or sources of compensation from the same FHA-insured transaction.

Participants that do not have a direct impact on the mortgage approval decision may have multiple roles and/or sources of compensation for services actually performed and permitted by HUD, provided that the FHA-insured transaction complies with all applicable federal, state, and local laws, rules, and requirements.

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**Paperwork  
Reduction Act**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2502-0005; 2502-0059; 2502-0117; 2502-0189; 2502-0302; 2502-0306; 2502-0322; 2502-0358; 2502-0404; 2502-0414; 2502-0429; 2502-0494; 2502-0496; 2502-0525; 2502-0527; 2502-0538; 2502-0540; 2502-0556; 2502-0561; 2502-0566; 2502-0570; 2502-0583; 2502-0584; 2502-0589; 2502-0595; 2502-0600; and 2502-0610. In accordance with the PRA, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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## Mortgagee Letter 2022-22, Continued

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### Questions

Any questions regarding this ML may be directed to the FHA Resource Center at 1-800-CALL-FHA, [answers@hud.gov](mailto:answers@hud.gov), or [www.hud.gov/answers](http://www.hud.gov/answers). The FHA Resource Center is prepared to accept calls from persons who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. Information on how to make an accessible phone call is available at <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>

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### Signature

Julia R. Gordon  
Assistant Secretary for Housing -  
FHA Commissioner