

17.1

Background and Overview

This chapter provides an overview of HUD's policy with respect to portfolios - multiple projects with ~~the same ownership and supersedes previous guidance in HUD Housing Notice H-01-03: "Review of Health Care Facility Portfolios and Changes to the Section 232 Programs" issued in 2001, and Mortgage Letter 00-42: "Headquarters Review of Certain Applications for Section 232 Mortgage Insurance" issued in 2000.~~ common ownership.

This policy ~~enhances~~strengthens the ability of ~~the Office of Residential Care Facilities (ORCF)~~ to manage risk in an ever-changing residential healthcare industry, ensure that the General Insurance Fund remains stable, and continue to support owners and operators of residential care facilities around the country.

~~Since 2000, HUD has seen an increase in the number of applications for financing of multiple projects under the same ownership and/or operating structures. This grouping of projects also referred to as portfolios, with common Borrowers and related or non-related operators, effectively concentrate a large amount of credit risk on a single parent entity. The risk profile of portfolios requires that HUD develop comprehensive measures to identify and mitigate the potential adverse impact of this risk.~~

HUD has seen an increase in the number of residential care facilities loan applications with common owners and related or non-related operators. Related entities with many insured loans ultimately creates concentrated risk for these common ownership/operating structures . Historically, ORCF has looked at each portfolio tier in the same way, based on a fixed dollar amount. However, based on the experience of doing the corporate credit reviews on these applications and the experience during the loan terms thereafter, ORCF has determined that different circumstances demand different treatment. For example, in certain circumstances a non-operator owner may present less risk than a related owner-operator. **ORCF's approach to risk analysis for portfolios is now based on a combination of: (1) the relative size of the portfolio compared to the overall Section 232 portfolio's unpaid principal balance (UPB), and (2) owner/operator relationship.**

Finally, owners and operators that maintain high concentrations of UPB compared to the UPB of

40 the entire Section 232 portfolio have not had ongoing enterprise-level updates with ORCF if they
41 are not actively borrowing new funds. This lack of communication with such companies over the
42 term of their loans can sometimes cause HUD to be caught off guard when market conditions shift
43 causing bankruptcy filings, receiverships and other asset management crises. In instances where
44 HUD has required periodic enterprise-level updates as part of the global underwriting, such
45 information has proven beneficial for all parties.

46
47 In 2001 with Notice H 01-03, HUD prescribed a corporate credit review for midsize and large
48 portfolio projects ~~in order~~ to assess the credit risk of the parent corporate or holding entity. HUD
49 has always required that the lender submit a separate mortgage insurance application for each
50 facility and that each project must individually meet HUD's underwriting requirements. HUD
51 has also determined that for portfolios the overall financial, operational, regulatory and legal
52 condition must also be evaluated to ensure that both the owners and operators have the
53 experience and the financial strength to successfully operate a portfolio of residential healthcare
54 facilities.

55
56 Portfolio ~~corporate credit reviews~~ Corporate Credit Reviews (CCR) and master leases (see
57 Production, Chapter 13) are the primary tools ORCF uses to identify and mitigate concentration
58 risk associated with portfolio projects.

59 ~~Ongoing Asset Management of Portfolios Post-Endorsement~~

60 ~~Lenders for portfolio projects should be advised that they now have a continuing obligation to~~
61 ~~monitor the performance of both individual portfolio projects as well as the financial condition of~~
62 ~~parent entities that own and/or operate portfolio projects after loan closing and until the loan is~~
63 ~~repaid. ORCF will continue to develop its oversight and monitoring asset management system~~
64 ~~for parent entities as a means to monitor project owners and operators, identify potential~~
65 ~~problems and work with lenders in a preemptive manner with needed risk mitigation efforts.~~

68 **17.2 Terms and Concepts**

69
70 **Portfolio:** Two or more borrower entities that are under common ownership and/or common
71 control.

72
73 **Common Control:** Is exhibited by any individual(s) or entity(ies) that controls the Borrower
74 and/or operator regardless of the percentage of ownership interest, so long as the individual(s) or
75 entity(ies) comprise each Borrower and/or operator. Affiliated residential care facilities and/or
76 healthcare operating entities will be grouped into a portfolio if they share common control as
77 defined here. The type of corporate credit review will depend in part on the size of the combined
78 mortgage amount of the portfolio (see Section 17.4 below).

79
80 **Single Asset Entity:** For each individual project, the mortgaged property shall be the only asset
81 of the Borrower and, except as otherwise permitted by HUD, the Operator (please see Production,
82 Chapter 2.5.B and 2.5.C for SAE requirements).

84 **Affiliates/Affiliated:** Any person or business concern that directly or indirectly controls the policy
85 of a principal or has the power to do so.

86
87 **Portfolio Names:** Portfolio names are added to the name of the project for workload tracking in
88 HUD systems so that the individual projects in the portfolio may be tracked together. Identifying
89 a portfolio name allows for more efficient processing of Production applications, as portfolio
90 groups can be readily identified and assigned to the same reviewer. Even if a single application
91 is submitted at a time, if it meets the definition of a portfolio outlined in the Handbook, a
92 portfolio name should be referenced in the FHA Number Request. Portfolio names also assist
93 Asset Management in their overall risk management of the ORCF portfolio by indicating the
94 relationship of individual projects and more effectively assigning the projects to the same
95 Account Executive for oversight.
96

17.3

Criteria for Portfolio Corporate Credit Review

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98 A portfolio ~~corporate credit review~~CCR is required for all ~~midsize and large portfolios~~Large
99 Portfolios (See Section 17.4 below). Portfolio ~~corporate credit review~~CCR procedures apply to
100 owners and operators of residential care facilities and their affiliates in the following
101 circumstances:

- 102
- 103 1. An application for mortgage insurance for purchase or refinance of an existing facility,
104 pursuant to Section 223(f);
 - 105 2. An application for mortgage insurance involving new construction or substantial
106 rehabilitation pursuant to Section 232 NC/SR;
 - 107 ~~3. A transfer of physical assets (TPA); or~~
 - 108 4.3.AA Change in ownership and/or a change of control of facility operators. This will
109 generally be a change in the lessee of a facility, a change in the operating license holder,
110 and/or a change in the entity that contracts directly with residents. In some circumstances,
111 a management agent may fill one or more of those roles and could trigger a change of
112 control review if the management agent assumes healthcare operational responsibility.

113
114 Portfolio reviews are not required for applications under Section 223(a)(7).
115
116

17.4

Portfolio Size Classifications

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118 Portfolio size classification is based on threshold dollar amounts as compared to HUD's total
119 UPB of the Section 232 portfolio of active loans.
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121

	<u>Definitions^{1 2 3}</u>	<u>Corporate Credit Review</u>
<u>Small Portfolios</u>	<u>Up to 1% of UPB for common control Borrower only</u> <u>Up to 0.6% UPB for common control Operator only or Identity-of-Interest Borrower/Operator.</u>	<u>Not Required</u>
<u>Large Portfolios</u>	<u>1%-5% of UPB for common control Borrower only</u> <u>0.6%-5% of UPB for common control Operator only or Identity-of-Interest Borrower/Operator.</u>	<u>Required</u>

Portfolio Portfolios are classified based on the combination of number of facilities and total mortgage amount reflected in the applications for mortgage insurance submitted within any rolling 18-month timeframe that begins when the first application is assigned to an ORCF underwriter. In the case of a TPA or change in control of facility operations, portfolio size classification will be based on the number of FHA-insured individual mortgages (and their aggregate unpaid principal balance) and the 18-month window will begin when the ORCF asset manager begins processing.

The submission of an application creates an open window for portfolio consideration. The window remains open for 18 months following the start of processing of the most recent application. Thus for multiple submissions, the cumulative open window may be longer than 18 months from the first application to the last.

This 18-month timeframe may be expanded, at the discretion of ORCF where necessary, to accomplish the intent of a complete portfolio review and to fully evaluate the risk to the General Insurance Fund. If the management of an accepted portfolio wishes to increase the number of projects and/or the total approved mortgage amount after the 18-month window, then ORCF will conduct an updated corporate credit review. Further, if 18 months or more passes after the issuance of a portfolio acceptance letter without any individual applications being submitted, and if management then decides it wants to begin submitting applications, ORCF will conduct an

¹ UPB utilized for purposes of threshold will be set annually, in conjunction with HUD's FY.

² The changes to portfolio classification does not replace other risk mitigation requirements such as a Debt Service Reserve, Mortgage Reserve Fund, or other risk mitigation.

³ Change of Participants (CHOPs) are subject to revised limits

143 ~~updated corporate credit review.~~

144
145 ~~Portfolios shall be classified as follows:~~

146
147 **~~A. Small Portfolio*:~~**

- 148
- 149 ~~1. Up to 49 facilities and aggregate mortgage amount less than or equal to \$90,000,000.~~
- 150
- 151 ~~2. A portfolio corporate credit review is not required.~~
- 152 ~~CCR and the~~
- 153 ~~3. The Certification of Multiple Projects is required.~~
- 154

155 ~~*The portfolio corporate credit review is not~~ are required for ~~small portfolios~~ all Large Portfolios.
156 CCR will not be required for Small Portfolios; however, the projects in the ~~small portfolio~~ Small
157 Portfolio will be required to enter into a master lease covering each ownership and operating entity
158 for all projects included in the portfolio.

159
160 **~~B. Midsize Portfolio:~~**

- 161
- 162 ~~1. Up to 49 facilities and total mortgage amount greater than \$90,000,000 and less than~~
- 163 ~~or equal to \$250,000,000.~~
- 164
- 165 ~~2. Portfolio corporate credit review and the Certification of Multiple Projects is~~
- 166 ~~required.~~
- 167

168 **~~C. Large Portfolio:~~**

- 169
- 170 ~~1. 50 or more facilities and/or an aggregate mortgage amount greater than \$250,000,000~~
- 171 ~~and less than 5% of the current unpaid principal balance of the entire portfolio of~~
- 172 ~~active Section 232 loans.~~

173 CCR Kickoff: Before undergoing full due diligence of a CCR, the lender must schedule a call with
174 ORCF to discuss the proposed portfolio. This call should identify key issues impacting the
175 required due diligence for the CCR and the timing of the review. Further, the lender and ORCF
176 may elect to have an in-person meeting to discuss the portfolio. It is highly encouraged to have
177 regular calls with ORCF, during both the CCR and underwriting.

- 178
- 179 ~~2. Portfolio corporate credit review and the Certification of Multiple Projects is~~
- 180 ~~required.~~
- 181

182 **~~Portfolio Classifications~~**

#of Facilities / Total Mortgage	Up to 49	50+
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\$0 < x ≤ \$90M	SMALL
\$90M < x ≤ \$250M	MIDSIZE
\$250M < x < 5% of UPB	LARGE

~~ORCF will not approve portfolios with an aggregate mortgage amount in excess of 5% of the current unpaid principal balance (UPB) of the entire portfolio of active Section 232 loans. The current UPB amount may be obtained upon request from the Director of the ORCF.~~

17.5 Certification of Multiple Projects

The lender will obtain a Certification of Multiple Projects, found as part of both the form Consolidated Certification—Borrower, and form Consolidated Certification—Principal of the Borrower. The Certification of Multiple Projects must include all HUD projects that the borrower and/or principal participates or proposes to participate in an application for Section 232 mortgage insurance, a ~~TPA, new Borrower or Operator entity or a change in ownership or control of facility operations~~controlling entity that makes up the Borrower or Operator. The purpose of this Certification is to ensure that HUD is fully aware of all residential care and/or healthcare projects that may be submitted as part of a portfolio application and/or any other FHA-insured residential care facilities with common principals to the current application. It is essential that HUD have this information to ensure that applications are processed properly and for accurate classification in the asset management system.

The Certification of Multiple Projects shall provide the following information:

1. The number, location, and estimated mortgage amount of all facilities that are or will be included in applications for FHA mortgage insurance ~~that will be submitted within the 18 month open window as specified in Section 17.4;~~
2. Each certifying borrower's, principal's, or affiliate's roles in the proposed project(s);
3. All current FHA-insured or HUD-held loans (include name and FHA number) for which the certifier is a ~~Borrower~~borrower, operator, or other principal as defined in Production 6.1, except that certifications submitted with ~~an a 223(a)(7) application~~ do not need to be included; and
4. Provide on the signature page of the Certification of Multiple Projects that the information on the certificate is accurate and include the following: "~~HUD will prosecute Anyone who knowingly submits a false claims and statements. Convictions may result in claim or makes a false statement is subject to~~ criminal and/or civil penalties, including confinement for up to 30 years, fines, and civil

and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §§ 3729, 3802; 24 CFR 200.62).”-).

5. Provide on the signature page of the Certification the following: This Certification has been made, presented and delivered for the purpose of influencing an official action of the FHA, and of the Commissioner, and may be relied upon by the Commissioner as a true statement of the facts contained therein.

For ~~midsize and large portfolios~~Large Portfolios, submit the Consolidated Certification of ~~Multiple Projects~~ in the portfolio corporate credit review package. For ~~small portfolios~~Small Portfolios, submit the Consolidated Certification ~~of Multiple Projects~~ with each individual mortgage insurance application.

All applications for financing, refinancing, ~~TPA~~, or change in facility ~~operators~~owner and/or operators of two or more Section 232 projects, or one project where the proposed principals already participate in other properties with mortgage insurance under Section 232, must include the certifications in their submission.

17.6

Portfolio Corporate Credit Review Description

To assist ORCF in reviewing ~~midsize and large portfolio~~Large Portfolio qualifications, the lender must submit the information required for a portfolio corporate credit review. Lenders shall consult with the ~~Director of~~ORCF Credit Risk Officer regarding the financial, legal and organizational structure of a proposed portfolio submission at the beginning of the process of defining the scope of the portfolio corporate credit review. This communication with ORCF is necessary to ensure that the corporate credit review addresses the relevant information and risk factors. ORCF will determine the subject of the portfolio corporate credit review as the entity (both ownership and operational) that may potentially create a material risk to the projects and to the General Insurance Fund. ORCF will review all materials submitted in the portfolio ~~corporate credit review~~CCR and determine whether the portfolio is an acceptable risk to the General Insurance Fund based on operation and ownership experience, financial strength, quality indicators, and any pending legal issues including the jurisdictional regulatory environments. The Office of Risk Management (ORM) and the Office of General Counsel (OGC) are also participants in this review process.

ORCF will require a mortgage reserve fund for all ~~midsize and large portfolios~~Large Portfolios and may impose additional requirements and/or limitations on the portfolio as well as other risk mitigants. These additional requirements may include, for example, ~~reserves~~ for capital improvements, a higher mortgage reserve fund, lower loan to value requirements, professional liability insurance reserve funds, third party risk management programs for facility operations and quality of care, and limitations on cash distributions until certain sustained cash flow multiples are met.

265 The lender may ~~not submit individual applications as part of a midsize or large portfolio~~
266 ~~to ORCF for processing until the~~ appropriate Large Portfolio threshold prior to issuance of
267 a portfolio acceptance letter, signed by the Office of Healthcare Programs (OHP) Deputy
268 Assistant Secretary, has been issued. Such applications must include a mortgage reserve
269 fund and any other risk mitigants which the lender can reasonably be expected to be
270 required during the portfolio corporate credit review process.

271
272 ~~The~~An initial baseline portfolio ~~corporate credit review materials-CCR~~ must contain the
273 information identified in ~~Section 17.7~~the checklist and be presented following the list in Section
274 17.8 below. There are scenarios where the list of submission materials may be modified based on
275 the nature of the transaction. Refer to Section 17.9 for a description of some common modified
276 scenarios. The complete package must be submitted electronically. If separate hard copies are
277 delivered to HUD, all materials must be labeled and tabbed according to the outline.

278
279 The information in this package must be compiled by the borrower or the lender; however, the
280 lender or borrower may engage a public accountant or other consulting firm with appropriate
281 expertise to assist with the compilation of the information. The lender must notify HUD of what
282 entity or entities prepared or substantially assisted in the preparation of the corporate credit
283 review and any relationship that ~~exit~~exists between the lender and the other parties preparing the
284 documentation or involved in the transaction. ORCF may provide templates for inputting the
285 portfolio ~~corporate credit review~~CCR contents as listed in ~~Section 17.7 below~~the checklist.

286
287 The professional liability insurance (PLI) review and the accounts receivable (ARA/R) financing
288 review (if applicable) will occur in conjunction with the portfolio ~~corporate credit review-CCR.~~

289
290 The principal subject(s) must have a minimum of ten years relevant industry experience owning
291 and/or operating residential care facilities to qualify for consideration of accumulating an
292 aggregate HUD-insured mortgage portfolio above the threshold for a Large Portfolio (defined in
293 Section 17.4).

294
295 Any owner or operator of a healthcare facility or their affiliate or renamed or
296 reformulated company that has *filed for, is in, or has emerged from* bankruptcy within
297 five years period preceding the date that such lender submits information to HUD as part
298 of the mortgage insurance process *is not eligible to participate* in any manner in a
299 facility which seeks to have its mortgage loan insured through the Section 232 program.

300
301 A project in bankruptcy that is acquired by a non-identity-of-interest owner in good
302 standing may be eligible for mortgage insurance, subject to HUD review. HUD will
303 review updated financial information (post-bankruptcy) and the new senior management
304 team.

17.7

Portfolio Corporate Credit Review Contents

~~A. Description of the Company (Reviewed Entity):~~

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310
311 A. Corporate Credit Review Checklists: Checklists for the CCR are provided on the Section 232
312 Program website. It is necessary to differentiate checklists between owners, owner/operators,
313 and operators. Therefore, it may be necessary to complete multiple CCRs based upon the
314 structure of a portfolio.
315

- 316 1. ~~Portfolio Executive Summary: The Lender Narrative description of operations and~~
317 ~~products;~~
- 318
- 319 2. ~~The management policies (including requires a detailed statement with the mission,~~
320 ~~vision, and financial policies);~~
- 321
- 322 3. ~~The legal structure of the company (including an organizational chart);~~
- 323
- 324 4. ~~An explanation of the management structure (including a management organization~~
325 ~~chart);~~
- 326
- 327 5. ~~The strength of management (as measured by their biographies and industry~~
328 ~~experience);~~
- 329
- 330 6. ~~A list of officers and directors or trustees of the company including names, Social~~
331 ~~Security Numbers or Employer Identification Numbers, addresses and titles of~~
332 ~~positions;~~
- 333
- 334 7. ~~Current resumes on the company and principals and operating officers of the~~
335 ~~company;~~
- 336
- 337 8. ~~Credit reports on the company and its operating officers (as provided by outside~~
338 ~~research firms);~~
- 339
- 340 9. ~~Discussion of outstanding Federal or State litigation involving criminal actions,~~
341 ~~alleged fraud or abuse, any administrative or court complaints alleging fair lending or~~
342 ~~fair housing discrimination, and/or other actions that may have an adverse financial or~~
343 ~~regulatory effect on the facility(ies) and~~
- 344
- 345 10. ~~If available, a report, including rating, prepared by a rating agency (such as Standard~~
346 ~~& Poor's or Fitch);~~

347
348 A.B. Notify HUD if the owners summary of the proposed facilities to be financed have in the
349 past two years been in negotiations to sell the portfolio entity or are contemplating a sale of
350 the facilities or the company within the next three years portfolio. ORCF has a sample
351 Lender Narrative template available, if desired. This will ensure a seamless transition to the
352 underwriting of individual applications.

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C. Previous Participation Assessment: Evaluation of deal participants is an important part of ORCF’s credit process. Portfolios will be required to complete this assessment as part of the CCR process.

D. Individual Person or Persons Accumulating Aggregate Insured Balances Greater than Thresholds Defined in Chapter 17.4: The following information on individuals is required in addition to the items in the CCR checklists:

1. ~~The List of All Facilities Owned by the Borrower and Operated by the Operator (including those facilities that~~ most recent 3 years, completion of the form HUD-92417-ORCF (Personal Financial and Credit Statement)
2. Personal Credit Report
3. Detailed Schedule of Real Estate Owned, including:
 - a. Percent ownership in the borrower and/or operator entity
 - b. Indicate whether or not the individual is a managing member or controlling participant of the borrower and/or owner entity.
 - c. For any senior living asset, include the type of facility, number of units/beds, trailing twelve months (TTM) revenue, TTM expense and TTM occupancy, current debt service and TTM debt service coverage ratio, star rating, and operator.
4. Identify all interests in HUD-insured assets.

~~B. Documentation of Source of Liquidity: While it is understood that successful facility operations are not part of the portfolio):~~

- ~~1. Legal names of the real estate and operating entities;~~
- ~~2. Location of each facility by city and state;~~
- ~~3. Number of beds and/or units;~~
- ~~4. Current debt attributed to each facility and the basis for allocation;~~
- ~~5. Trailing 12 months revenue for each facility;~~
- ~~6. Trailing 12 months Earnings Before Interest, Taxes, Depreciation, Amortization and Rent (EBITDAR) for each facility;~~
- ~~7. Trailing 12 months occupancy/census data and payor mix for each facility; and~~
- ~~8. Identification of the facilities to be included in the FHA financing.~~

395 **C. Financial Summary:**

- 396
- 397 1. ~~Provide the most recent three years of audited consolidated essential to maintaining~~
398 ~~cash flow to make mortgage payments, the CCR must contain~~ financial statements
399 ~~including income statements, balance sheets, and cash flow statements for the parent~~
400 ~~entity (ownership and/or operating from the individual or entity) that is under review.~~
401 ~~If audited financial statements are not available, the lender may substitute owner~~
402 ~~certified financial statements. The financial statements and any summaries must~~
403 ~~include all associated facilities, corporate overhead and other revenues and expenses~~
404 ~~as well as all notes to the financial statements;~~
- 405
- 406 2. ~~Interim financial statements (through the reporting date) including trailing 12 months;~~
- 407
- 408 3. ~~Operating and financial forecasts and plans, including corporate strategy and~~
409 ~~acquisition/disposition/new development strategy (as prepared by management);~~
- 410
- 411 4. ~~Financial analysis and cash flow proformas that that can provide EBITDAR margins,~~
412 ~~leverage ratios and cash flows, and base case and worse case running scenarios on~~
413 ~~future cash flows (as prepared by management and compared to industry benchmarks~~
414 ~~of performance);~~
- 415
- 416 5. ~~Projected cash flow analysis after the FHA refinancing including the anticipated debt~~
417 ~~service payment for the FHA mortgage. The mortgage payment should include the~~
418 ~~projected interest rate including the mortgage insurance premium and the correct term~~
419 ~~of the loan. The cash flow projections should have sensitivity analysis showing~~
420 ~~effects of reduced occupancy, lower government receivables, and higher than~~
421 ~~anticipated expenses.~~
- 422
- 423 6. ~~Corporate debt structure including terms, rates, conditions and payment dates of all~~
424 ~~long and short term debts and current debt obligations and standby credit instruments~~
425 ~~and violations of loan covenants that occurred in the past two years;~~
- 426
- 427 7. ~~List of derivatives obligations including termination dates, maximum risk exposure,~~
428 ~~and interim payment requirements for swaps, credit derivatives and other derivative~~
429 ~~obligations. Include current market values and prepayment penalties if any; and~~
- 430
- 431 8. ~~Capital/equity structure of the firm.~~

432

433

434

435 **D. Operations:**

- 436
- 437 1. ~~Summary of three years of consolidated census data including beds/units available,~~
438 ~~beds/units occupied, and payor and quality mix;~~
- 439
- 440 2. ~~Summary of three years of average daily rate reimbursement by payor type;~~

- 441
442 3. ~~Description, breakdown and amount of ancillary revenue;~~
443
444 4. ~~Management fee as a percent of revenue (if applicable); and~~
445
446 5. ~~Provide information on therapy services provided by a non-related third party, if~~
447 ~~applicable.~~
448

449 **~~E. Professional Liability Insurance and Risk Management:~~**

- 450
451 1. ~~Evidence of PLI coverage and supporting documentation in compliance with~~
452 ~~Production, Appendix 14.1;~~
453
454 2. ~~Six year loss history and calculation of dollar amount of claims per bed per year for~~
455 ~~all properties, including the non HUD properties that will not be included in the~~
456 ~~portfolio;~~
457
458 3. ~~Narrative of company's risk management and loss prevention policies;~~
459
460 4. ~~Summary of State licensing surveys [inspection reports] for the past three years that~~
461 ~~address:~~
462 a. ~~Quality of care issues;~~
463 b. ~~Average citations for each facility showing both G and above and as~~
464 ~~compared to the state average in each state.~~
465 c. ~~Citations of any previous uncorrected findings (rare); and~~
466 d. ~~Civil money penalties imposed on the site.~~
467
468 5. ~~Parent or captive actuarial statements if available;~~
469
470 6. ~~Audited financial statements of the captive (last three years), if applicable;~~
471
472 7. ~~Provide information on all ongoing or anticipated Qui Tam suits and/or State/Federal~~
473 ~~investigations on Medicare fraud or serious quality of care issues and any other~~
474 ~~material legal litigation;~~
475
476 8. ~~CMS Star Ratings and CMS provider numbers for each skilled nursing facility; and~~
477
478 9. ~~A list of any facilities on the CMS Special Focus Facilities list under the PLI.~~
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481 **~~F. Accounts Receivable Financing (if applicable):~~**

- 482
483 1. ~~Evidence that any existing or proposed AR financing is in compliance with HUD~~
484 ~~requirements, including separate AR lines for FHA and non FHA insured facilities;~~
485
486 2. ~~Name of AR lender; and~~

487
488 ~~Terms and limits of the loan liquidity to cover any~~ =

489
490 ~~G. Other Lines of Business~~

491 ~~B.E. The lender will review and analyze the financial condition of all other properties,~~
492 ~~business entities (for example, company-owned rehabilitation services), and lines of~~
493 ~~business under common control by the parent entity but are not being financed with FHA~~
494 ~~mortgage insurance. The review will include details of the financial relationships between~~
495 ~~the business entities and the proposed FHA portfolio projects, as well as an analysis of net~~
496 ~~cash flows, debt service coverage, and credit worthiness of the entity and its owner. The~~
497 ~~review is to determine event risk of the non-FHA pool of assets and its potential adverse~~
498 ~~impact on the FHA pool of assets. interruption in operations.~~

500
501 ~~If a public accountant, consulting firm, and/or lender identifies issues that may create financial~~
502 ~~or operational risk and could materially impact the FHA insured assets, then the lender or his~~
503 ~~designee will perform a more in depth analysis. The portfolio corporate credit review~~
504 ~~submission will provide this information to HUD along with the lender's analysis of all~~
505 ~~relevant information and recommendations.~~

506
507 ~~H. Certification of No Investigation, Judicial or Administrative Action~~

508
509 ~~The Borrower and Operator must certify to HUD that the subject of the corporate~~
510 ~~credit review, a parent, affiliate, or subsidiary thereof, and/or the operator is not the~~
511 ~~subject of an ongoing investigation or judicial or administrative action involving any~~
512 ~~Federal, State, municipal and/or other regulatory authority, which may have a~~
513 ~~detrimental impact on the financial condition or jeopardizes any facility's license~~
514 ~~and/or the provider agreements. Further, the lender will be required to certify at the~~
515 ~~time of closing that from the date of the portfolio acceptance letter through the date of~~
516 ~~final closing there have been no material adverse change in the financial or~~
517 ~~operational position of the portfolio subject owner and/or operator. OGC will~~
518 ~~evaluate any active investigations or litigation to determine whether or not they pose~~
519 ~~a serious risk to the portfolio such that processing should be discontinued or placed~~
520 ~~on hold.~~

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17.8

**HUD Documentation to be Submitted for a
Portfolio Corporate Credit Review**

523
524 For those portfolios requiring a portfolio corporate credit review, the submission package must
525 contain the following items in addition to the information required in Section 17.7 above. Please
526 ensure that all hardcopy materials are labeled, tabbed, and following this format. Submit this

527 package to the Director of ORCF.

- 528
- 529 1. The relevant Consolidated Certifications ~~of Multiple Projects as described in Section~~
- 530 ~~17.5.~~
- 531 2. Portfolio corporate credit review and all supporting documentation as described in
- 532 Section 17.7.
- 533 ~~3. Previous Participation Certification. Please reference Housing Notice H-2016-15 (or~~
- 534 ~~successors thereto) for additional information on the Previous Participation requirements.~~
- 535 4.3. Explanation of any intent to reallocate base rent (Owner may reallocate base rent
- 536 allocated to each real property covered by a master lease so long as the total aggregate
- 537 amount of base rent for all the leased premises is not increased).
- 538 5.4. Master lease submission for facilities in a portfolio transaction (if available). The current
- 539 master lease provisions are described in Production, Chapter 13.
- 540 6.5. Information demonstrating compliance with liability and property insurance
- 541 requirements. PLI must be in compliance with Production, Appendix 14.1 (the PLI
- 542 review occurs with the portfolio corporate credit review).
- 543 7.6. Information demonstrating that ARA/R financing complies with HUD requirements.
- 544 (The ARA/R financing review occurs with the portfolio corporate credit review.)
- 545 8.7. Certification that all proposed projects shall meet the Single Asset Borrower Entity
- 546 standard.
- 547 9.8. Financial Statement Certification.

548

549 9. Certification of No Investigation, Judicial or Administrative Action:

550

551 The Borrower and Operator must certify to HUD that the subject of the corporate

552 credit review, a parent, affiliate, or subsidiary thereof, and/or the operator is not the

553 subject of an ongoing investigation or judicial or administrative action involving any

554 Federal, State, municipal and/or other regulatory authority, which may have a

555 detrimental impact on the financial condition or jeopardizes any facility's license

556 and/or the provider agreements. Further, the lender will be required to certify at the

557 time of closing that from the date of the portfolio acceptance letter through the date of

558 final closing there have been no material adverse change in the financial or

559 operational position of the portfolio subject owner and/or operator. OGC will

560 evaluate any active investigations or litigation to determine whether or not they pose

561 a serious risk to the portfolio such that processing should be discontinued or placed

562 on hold.

563 The submission must clearly identify all proposed portfolio projects, including project name,

564 location, FHA number and mortgage amount to be requested, if known. ORCF understands that

565 such a list may be preliminary and subject to change. Also, for ORCF planning purposes, the

566 lender should provide a preliminary schedule and timing of individual application submissions.

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570 **17.9**

Modified Corporate Credit Review Contents

A. Requests for Additional Capacity After an Initial Baseline Corporate Credit Review

571
572 1. Less Than or Equal to \$50M Total Additional
573 Provided that an existing HUD-insured Large Portfolio of loans is in good
574 standing, additional individual applications not to exceed \$50M per 18-month
575 period following the last loan closing may be submitted to the queue for
576 underwriting consideration with notice to HUD that they will be added to an
577 existing Large Portfolio.

578
579 2. Greater Than \$50M Total Within Eighteen Months
580 The lender must submit updates to the checklist materials for the interim period
581 since the previous CCR including: parent financials, description of significant
582 events or changes to business (e.g. acquisitions, dispositions, regulatory or legal
583 actions, changes in executive management, etc.) and an updated schedule of all
584 facilities owned and/or operated.

585
586 ORCF will analyze the operator financial statements submitted through the portal
587 and quality of care indicators for each existing HUD-insured facility, Asset
588 Management history, including any late mortgage payments, regulatory
589 agreement violations, DEC referrals, troubled status, etc. and Annual Update Call
590 meeting minutes (see Section 17.10).

591 592 **B. Single Large Loan**

593
594 A CCR is not required for a single large loan, however ORCF Credit Risk Officer will
595 review the application package submitted by the lender, and a site visit is required by the
596 ORCF Credit Risk Officer, Production Director, Production Assistant Director and/or
597 Production Workload Manager.

598 599 **C. CHOP**

600 Follow checklist for submission of items related only to the individual(s) and/or entities in the
601 organizational structure that are changing.

602 603 **D. Other Scenarios**

604 Submission materials may vary depending on the nature of the transaction and will be
605 determined by ORCF. Contact ORCF Credit Risk Officer for guidance.

606 607 608 **17.10**

Asset Management of Portfolios

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610 Ongoing monitoring of Large Portfolios is critical to the success of the General Insurance Fund.
611 Portfolios meeting the above requirements (currently in the Section 232 portfolio and future
612 portfolios) will be subject to the following:

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A. Annual Update Call⁴. The call will include certain members of ORCF Leadership and Asset Management and should be attended by the key management team members from the entity subject to the CCR approval. The agenda for the call will, at a minimum, cover the items included on the Corporate Credit Review checklist posted on the Section 232 website. The ongoing nature of these calls will allow ORCF to maintain current information on the portfolio and will avoid the need for updated CCRs based on an 18-month passage of time between applications.

The Annual Update Calls are also required for all portfolios that received a portfolio acceptance letter prior to the effective date of this Handbook.

B. Participant Change Risk Mitigation. CHOPs that result in a change in Operator (or in the case of an owner-operated Facility, the owner) will require a more in-depth underwriting review of the proposed participants. The Lender Narrative templates (Form HUD-92266A-ORCF and Form HUD-92266-ORCF) are available on the Section 232 website. Consistent with the Lender Narrative, the lender’s ORCF-approved underwriter will be required to complete an analysis of the proposed participants and ensure that they are an appropriate replacement for the existing operator. Any CHOP of multiple projects with aggregate mortgage amount greater than \$15M requires ORCF’s Loan Committee approval. And any CHOP greater than \$35M (or \$50M in the New York City metro area) also requires approval from the Office of Risk Management.

⁴ Annual update call to be completed within 60 days of anniversary date of CCR approval or other date approved by HUD.