
Chapter 15 Oversight of MAP Program Requirements

15.1 Oversight of MAP Lenders

A. This chapter of the MAP Guide implements 24 CFR Part 200, Subpart Y which provides the authority for enforcing MAP program requirements and imposing MAP sanctions.

B. By permitting a MAP Lender to prepare much of the documentation for an application submission for mortgage insurance, HUD places confidence in and relies on the Lender's integrity and competence. HUD and its MAP Lenders have a mutual interest in ensuring the expertise of any Lenders which are authorized to represent the MAP program, and their compliance with the MAP Guide and other relevant guidance and handbooks. If, in the process of performing its work, a MAP Lender places HUD at undue risk, HUD will issue a Letter of Caution, a Warning Letter or will sanction the Lender.

C. Every HUD multifamily staff member plays an important role in the MAP Quality Assurance (QA) effort. This chapter provides QA and enforcement guidance to HUD production offices and the Office of Multifamily Production (OMP). Such QA and enforcement tools are: 1) Letters of Caution; 2) Warning Letters, which may include the imposition of Targeted Enforcement Measures; 3) Probation; 4) Suspension; 5) Termination; 6) suspension, debarment or Limited Denial of Participation ("LDP") of individuals or firms participating in the MAP program; and 7) referral to the MAP Lender Review Board, the Mortgagee Review Board, the Departmental Enforcement Center (DEC) or the Office of Inspector General. An LDP is a sanction applied to persons and participants in loan transactions, other than to MAP Lenders themselves, under procedures set forth in 24 CFR Part 2424 Subpart J. The purpose and authority of the MAP Lender Review Board is set forth in this chapter. The purpose and authority of the Mortgagee Review Board is set forth in 24 CFR Part 25.

D. If a MAP Lender, or an authorized employee or Agent of the Lender acting under the control and supervision of the Lender, violates any program requirement including, but not limited to, committing fraud, misrepresentation or any violation described at 24 C.F.R. §§ 25.6 or 30.35(a), HUD reserves its rights to initiate all actions available to it under the law including, without limitation, action against the Lender under the contract of mortgage insurance and the Mortgagee Review Board authorities.

15.2 Multifamily Counterparty Oversight Branch

15.2.1 Functions

A. The Multifamily Counterparty Oversight Branch (MCOB or COB) within the Multifamily Asset and Counterparty Oversight Division (MACOD) and the Office of Asset Management and Portfolio Oversight (OAMPO) is the lead representative of the MAP program for Quality Assurance counterparty monitoring of MAP lenders and their key MAP personnel. The MACOD division also performs asset management oversight of the FHA insured multifamily portfolio, which is not addressed in this Guide. OAMPO works closely with the multifamily Loan Servicers to obtain data on, monitor, and asset manage loans in the insured portfolio, including coordination on loan delinquency and default servicing, and on special

servicing of troubled projects. COB monitors Loan Servicers through OAMPO's activities and through the Government National Mortgage Association (GNMA), which conducts regular monitoring of Loan Servicers as part of its counterparty compliance reviews.

B. COB performs the following counterparty oversight functions on behalf of the MAP program:

1. Lender Administration:
 - a. Review new Lender applications and applications for reinstatement of suspended or terminated Lenders.
 - b. Review Lender change of control, sale, merger, or license transfer requests.
 - c. Review changes in a Lender's key MAP personnel; approve new MAP Underwriters and MAP Chief Underwriters.
 - d. Review Identity of Interest determinations and waiver requests.
2. Oversight and Monitoring:
 - a. Review new, and changes to existing, Quality Control plans.
 - b. Audit Lender compliance with their Quality Control plans.
 - c. Audit Lender compliance with MAP Quality Assurance and program requirements.
 - d. Review loan transaction files.
 - e. ~~Conduct Borrower concentration risk reviews and review 2530 flags.~~ [Conduct Borrower/Lender concentrated risk reviews](#) in conjunction with Multifamily Production.
3. Enforcement:
 - a. Issue, or recommend issuance of, sanctions including Letters of Caution, Warning Letters, Probation, Suspension or Termination.
 - b. Make referrals to the MAP Lender Review Board, the Mortgagee Review Board, the Departmental Enforcement Center or the Office of the Inspector General, as appropriate.
 - c. Recommend suspension, debarment, or Limited Denial of Participation actions on a nationwide or a geographically restricted basis.

15.2.2 Data and Reports

A. To perform its Quality Assurance functions, COB will coordinate the sharing of data, reports and financial analyses on MAP Lenders which are available from other divisions within HUD, including:

1. Office of Lender Activities and Compliance, Lender Approval and Recertification Division, for the Lender's annual audited financial and net worth and liquidity reviews.
2. Office of Asset Management and Portfolio Oversight, for the Lender's loan portfolio and loan performance data.
3. Office of Multifamily Production, for the Lender's loan production data and post-closing transaction reviews.

4. Office of Risk Management, for analysis of the performance of the multifamily insured portfolio and risk issues.
5. GNMA for reviews and analyses of MAP Lenders, which are also Issuers, and FHA multifamily Loan Servicers.

15.2.3 Timing of MAP Lender Reviews

A. COB will conduct a full MAP Lender review and QC plan audit once every three years for all active MAP Lenders with three or more years of MAP experience, or more frequently for any MAP Lender which COB determines requires enhanced monitoring. Summary or limited reviews and updates may be performed on Lenders during intervening years. For any MAP Lender with less than three years of MAP experience, COB will conduct full or limited Lender reviews every year, although COB will not review a new MAP Lender until after its first Firm Commitment has been issued. Further details on the scope and content of a full or limited Lender review will be included in the COB Handbook.

B. COB may conduct periodic on-site reviews at the Lender's office. It may also require the Lender to retain, at the Lender's expense, a third-party firm to investigate and analyze any loans that have defaulted, are seriously troubled or that raise other serious concerns. COB reserves the right to review any loan transaction without limitation at any time, for any purpose and for any reason.

C. At the start of each Fiscal Year, COB should notify each MAP Lender that will be subject to a full or limited review during that year. The schedule will be based on the timing for reviews described in this section and on a determination by the Deputy Assistant Secretary (DAS) for Multifamily Housing of COB's priorities, staffing and capacity for that Fiscal Year.

15.3 Authority to Issue MAP Sanctions

15.3.1 General

A. At any time a Production Director, a Regional Director, the Director of OMP, the Director of COB or the DAS for Multifamily Housing may initiate discussions with a MAP Lender, or may take certain actions as detailed below, regarding any concerns they have with respect to any of the Lender's actions, submissions, personnel or changes the Lender should make in using its MAP authority.

B. HUD multifamily staff members must refer any possible instances of fraud, material misrepresentation or other criminal violations which they may observe to COB and the Office of the Inspector General.

C. A Production Director may recommend to the Regional Director that s/he recommend to the Director of OMP:

1. The issuance of a Letter of Caution, Warning Letter, Probation, Suspension or Termination of a MAP Lender; or,
2. That a referral be made to the DEC for a possible suspension, debarment or an LDP of an individual or a firm on a geographically restricted or nationwide basis, pursuant to [Section 15.17.4](#), below.

D. A Regional Director may recommend to the Director of OMP:

1. The issuance of a Letter of Caution, Warning Letter, Probation, Suspension or Termination of a MAP Lender; or
 2. That a referral be made to the DEC for a possible suspension, debarment or an LDP of an individual or a firm on a geographically restricted or nationwide basis, pursuant to [Section 15.17.4](#), below.
- E.** Only the Director of OMP may recommend to the Director of COB or to the DAS for Multifamily Housing:
1. The issuance of a Letter of Caution, Warning Letter, Probation, Suspension or Termination of a MAP Lender; or
 2. That a referral be made to the DEC for a possible suspension, debarment or an LDP of an individual or a firm on a geographically restricted or nationwide basis, pursuant to [Section 15.17.4](#), below.
- F.** Only the Director of COB may issue a Letter of Caution or a Warning Letter. The Director of COB or the DAS for Multifamily Housing may: 1) refer a MAP Lender to the MAP Lender Review Board for Probation, Suspension or Termination; 2) refer a MAP Lender to the Office of Fair Housing and Equal Opportunity (FHEO) for investigation of noncompliance with 24 CFR 200.30 regarding nondiscrimination and equal opportunity or, 3) refer a MAP Lender to the Mortgagee Review Board or the Office of Inspector General. Only the DAS for Multifamily Housing may refer an individual or a firm to the DEC for possible suspension, debarment, or issuance of an LDP on a geographically restricted or nationwide basis, pursuant to [Section 15.17.4](#), below.
- G.** A MAP Lender may be referred to the MAP Lender Review Board or to the Mortgagee Review Board without COB first issuing a Warning Letter or without COB first referring the Lender to the MAP Lender Review Board.
- H.** All sanction recommendations authorized in this section shall be in writing and shall state the reasons for the recommendations and the supporting facts, together with copies of all supporting documents.

15.4 Administrative Record

- A.** When any enforcement action is taken with respect to a MAP Lender, an administrative record must be prepared that includes all materials that may have influenced the decision and not merely those relied upon in the final enforcement decision. Although not intended to be an exhaustive listing, the following are examples of material that should be included in the administrative record:
1. Correspondence between the Lender and HUD or the Lender and any third-party contractors.
 2. E-mails or facsimiles if considered or relied on in the decision-making process.
 3. Application and underwriting submissions.
 4. Copies of appropriate sections of notices, guides including FAQs posted on the MAP web site, handbooks, regulations, and statutes.
 5. Notes from meetings and telephone conversations; and
 6. Work product and recommendations from HUD staff, together with copies of all supporting documents.

B. The term “enforcement action” includes the issuance of a Letter of Caution or a Warning Letter but does not include any referral, recommendation for action or presentation to the Directors of OMP or COB that does not result in an enforcement action. In matters before the Directors of OMP or COB, the administrative record ordinarily will consist of the referral and the materials accompanying the referral, any written materials submitted by the MAP Lender and any written materials submitted by the Directors of OMP or COB in response to those materials, the transcript of the informal meeting when that transcript is a part of the record, and the final decision of the Director of COB.

C. Intra-agency memoranda and other such internal records should be included unless they are privileged or would not otherwise be subject to release under a FOIA request. The administrative record in its final form as described in this section relates to and supports HUD’s final action and is not to be released to any person outside of HUD until it has been reviewed by the Office of General Counsel. All evidentiary material supporting any recommendation to the MAP Lender Review Board or the Mortgagee Review Board must be delivered to the MAP Lender as provided in [Section 15.13.1.A](#) and must be included in the administrative record.

15.5 Settlement Agreements

A. The Director of COB may negotiate settlement agreements with MAP Lenders to resolve enforcement actions. Settlement negotiations may occur before or after the issuance of a Warning Letter or any other sanction. Before COB has recommended a MAP Lender to the MAP Lender Review Board for possible probation, suspension or termination, the DAS for Multifamily Housing or his/her designee may approve a settlement agreement. After COB has recommended a MAP Lender to the MAP Lender Review Board for possible probation, suspension, or termination, only the Review Board may approve a settlement agreement.

B. Settlement agreements may be appropriate for the following situations:

1. Cessation of any violation.
2. Correction or mitigation of the effects of any violation.
3. Removal of Lender staff from positions involving MAP loan origination, underwriting and/or construction loan administration.
4. Actions to collect monies wrongfully paid by the MAP Lender to a third party.
5. Implementation or revision of a Quality Control Plan or other corrective measure acceptable to COB or the DAS for Multifamily Housing; and/or,
6. Modification of the duration or provisions of any administrative sanctions COB or the DAS for Multifamily Housing deems appropriate.

C. A MAP Lender’s compliance with a settlement agreement will be evidenced by the Lender certifying its compliance with the conditions of the agreement and by COB determining that the Lender is in compliance with the conditions. A false statement that the Lender is in compliance constitutes a false certification and may constitute a violation of 18 U.S.C. § 1001.

D. Failure by a MAP Lender to comply with a settlement agreement may result in referral to the MAP Lender Review Board or the Mortgagee Review Board for probation, suspension, or termination.

15.6 Letters of Caution, Warning Letters or Sanctions

A. A MAP Lender's improper, inaccurate, inadequate, or negligent underwriting and/or construction loan administration may lead to the issuance of a Letter of Caution or a Warning Letter or other sanction. The issuance of a Letter of Caution or a Warning Letter is not a prerequisite to the Probation, Suspension or Termination of a Lender's MAP privileges. See [Appendix 15](#) for an explanation of the MAP Lender Deficiency Taxonomy and a list of Lender deficiencies or noncompliance that may be the basis for the issuance or either letter.

B. A Letter of Caution may be issued for relatively minor violations which are of low severity that do not rise to the level of a Warning Letter and do not require the imposition of Lender sanctions or Targeted Enforcement Measures. Violations that may result in issuance of a Letter of Caution are usually due to the Lender's failure to comply with its administrative or reporting obligations to HUD or with MAP loan application processing requirements, which the letter will direct the Lender to address. Only the Director of COB may issue a Letter of Caution but, since the letter will only address corrective actions to be taken and since Lender sanctions will not be imposed, there is no appeal.

15.7 Warning Letters and Targeted Enforcement Measures

A. Only the Director of COB may issue a Warning Letter to or impose targeted enforcement measures (discussed below) on a MAP Lender. A Warning Letter issued by COB may be appealed to the DAS for Multifamily Housing, whose determination will be final. A Warning Letter will be referred by COB, with the concurrence of the DAS for Multifamily Housing, to the Mortgagee Review Board for issuance of a Notice of Violation if the Lender does not respond and resolve the Warning Letter to COB's satisfaction within 30 calendar days of its issuance.

15.7.1 Warning letter

A. The Warning Letter:

1. Shall specify the violation(s) for which it has been issued.
2. May direct the MAP Lender to take corrective actions.
3. May impose targeted enforcement measures.
4. Must state that it is a Warning Letter issued pursuant to this Chapter and be mailed and emailed to the MAP Lender's contact person as listed on the MAP website and be distributed to all HUD production offices.
5. May require a meeting in the HUD official's office with the principal owners and/or officers of the MAP Lender to discuss the basis for the Warning Letter and possible corrective actions.

6. Must state that the Lender may appeal a Warning Letter to the DAS for Multifamily Housing.
- B.** If the Warning Letter explains or interprets a section of the MAP Guide, the text of the letter (after deleting any information that may identify the MAP Lender concerned) shall be posted on the MAP web site as a FAQ after the appeal time has lapsed or an appeal determination has been made.
- C.** A Warning Letter does not suspend a Lender's MAP privileges but may impose a higher level of review of the Lender's application submissions and underwriting by the HUD production office and/or Headquarters, or it may impose targeted enforcement measures under Section 15.7.2 that affect the Lender's processing of MAP applications.

15.7.2 Targeted Enforcement Measures

- A.** Along with issuance of a Warning Letter, the Director of COB may determine that the MAP Lender's actions, failures, or omissions that were the basis for issuing the Warning Letter have or may increase the risk to the FHA insurance fund. If that determination is made, in addition to issuing a Warning Letter, COB may impose targeted enforcement measures until such time as it determines that the MAP Lender has adopted corrective actions and the targeted measures are no longer required. Although the Lender may continue to participate in all MAP programs, the targeted enforcement measures imposed will suspend or limit certain of the flexibilities and delegated authorities that have otherwise been granted MAP Lenders under the MAP Guide. Many of the measures described below are the same as are imposed on new MAP Lenders during their initial application review period, as described in MAP Guide [Chapter 2](#). The targeted enforcement measure(s) imposed will be in response to the specific MAP program violation that was the basis for the Warning Letter.
- B.** Targeted enforcement measures that may be imposed by COB in conjunction with issuance of a Warning Letter include the following:
 1. For the MAP program in general:
 - a. Require a Concept Meeting for all new applications.
 - b. Require HUD HQ review and approval of the Lender's loan applications before a Firm Commitment may be issued.
 - c. Limit the Lender's ability to process MAP loans over a certain dollar amount or for properties over a certain number of units.
 - d. Require a post-closing review of the Lender's most recent applications and/or Firm Commitments before any new applications can be submitted.
 - e. Require that HUD technical staff review and approve the appraisal and any market study for all new applications.
 2. For the 223(f) and 223 (a)(7) refinancing programs:
 - a. Suspend the Lender's authority to manage critical and non-critical repair escrow releases without a site inspection and approval of escrow disbursements by HUD staff.
 - b. Suspend the Lender's authority to process 223(f) loans that require greater than Level I repair.
 - c. Require that HUD staff inspect a property if a CNA is found to be deficient.

- d. Require quarterly reporting on the Lender's administration of a non-critical repair escrow.
 3. For the 221d(4) and 220 new construction programs:
 - a. Require two-step processing and prohibit direct-to-Firm applications.
 - b. Submission of full schematics and working drawings may be required during the pre-application process.
 4. For the Low-Income Housing Tax Credit pilot:
 - a. Suspend the Lender from Fast Track processing of tax credit loan applications and require standard application processing.
 - b. Require submission of enhanced documentation to justify the reduced MIP for affordable and broadly affordable housing properties or for green energy improvements.
 - c. Suspend the authority to act as both equity investor/syndicator and MAP Lender on tax credit transactions.
- C: [Targeted Enforcement Measures \(New section – #5 Non-Compliance\) - A MAP Lender that fails to comply with imposed restrictive measures as outlined by the issuance of a Warning Letter shall be subject to additional corrective or enforcement actions required by COB, the MAP Lender Review Board or the Mortgagee Review Board.](#)

15.8 MAP Probation

A. Only the MAP Lender Review Board may place a Lender on probation. Probation may be imposed for all MAP programs or only for specific programs, depending on the Lender's offense that was the basis for the probation sanction. Probation is intended to be remedial and not punitive, and to be in effect only until the required corrective action(s) has been implemented by the Lender. Release from probation will usually be conditioned on the Lender taking an action to address or remedy the problems or deficiencies that led to the sanction or on meeting specific requirements, such as replacing a staff member or closing a branch office, to HUD's satisfaction and in its sole discretion.

B. During the probation period, a MAP Lender may not submit, and a HUD production office may not accept, materials after the close of business on the date of the probation letter, for a new pre-application or Firm Commitment application for all MAP programs or for just the programs that were the subject of the probation action. If either a new pre-application or Firm Commitment application is received after the date of the probation Notice of Action, it must be returned to the MAP Lender.

C. During the probation period, a Lender may continue to process any pre-application or Firm Commitment application that was submitted to a HUD production office before the date of the probation Notice of Action, unless one or more active applications are specifically suspended as noted in the Notice of Action.

D. Probation continues until all corrective actions required by COB or the MAP Lender Review Board have been taken by the MAP Lender and the Lender has notified COB of the actions' implementation. Once COB is satisfied that the corrective action(s) have occurred and are effective, the probation period shall end. A false statement that corrective action has been taken constitutes a false certification and may constitute a

violation of 18 U.S.C. § 1001. A Lender's failure to continue or maintain the corrective action(s) after Probation has ended may be the basis for Suspension or Termination.

E. Probation will be in effect nationwide and the Lender's name shall be removed from the MAP-Approved Lender list for all MAP programs or for just the programs that were the subject of the probation Notice of Action. When probation has ended, the Lender's name shall be re-posted to the list.

F. In accordance with the sanction and notice procedures of this chapter, the Notice of Action placing a Lender on probation will be:

1. Sent electronically and by overnight delivery.
2. Addressed to the MAP Lender's contact person as listed on the MAP website; and
3. Signed for by an employee of the MAP Lender upon receipt.

15.9 MAP Suspension

A. Only the MAP Lender Review Board may suspend a Lender's MAP eligibility, which suspension will not exceed 12 months except when special conditions are imposed. If both a time limit and special conditions are imposed, suspension will terminate only when the later of the time limit, or the resolution of the special conditions, has occurred. The MAP Lender must submit a certification of compliance with the conditions to the Board and the Board must notify the Lender that it is satisfied that the corrective actions have occurred. A MAP Lender may be suspended from all MAP programs or only from specific programs, depending on the offense that was the basis for the suspension sanction, in HUD's sole discretion.

B. During the suspension period, a MAP Lender may not submit, and a HUD production office may not accept, materials after the close of business on the date of the suspension letter, for a new pre-application or Firm Commitment application for all MAP programs or for just the programs that were the subject of the suspension action. If either a new pre-application or Firm Commitment application is received after the date of the suspension letter, it must be returned to the MAP Lender.

C. During the suspension period, a Lender may continue to process any pre-application or Firm Commitment application that was submitted to a HUD production office before the date of the suspension letter, unless one or more active applications are specifically suspended as noted in the Notice of Action.

D. Suspension will be in effect nationwide and the Lender's name shall be removed from the MAP-Approved Lender list for all MAP programs or for just the programs that were the subject of the suspension action. When suspension has ended, the Lender's name shall be re-posted to the list.

E. In accordance with the sanction and notice procedures of this chapter, the Notice of Action placing a Lender on suspension will be:

1. Sent electronically and by overnight delivery.
2. Addressed to the MAP Lender's contact person as listed on the MAP website.
3. Signed for by an employee of the MAP Lender upon receipt.

15.10 MAP Termination

A. MAP Lenders which fail to maintain a minimum level of MAP activity, defined as failing to submit either a MAP or Section 232 LEAN pre-application package or a Firm Commitment application at least once every 12 months, may be terminated from the MAP program, in accordance with 24 CFR 200.1520(b). Otherwise, only the MAP Lender Review Board may terminate a Lender's eligibility for MAP. Termination applies to all MAP programs.

B. A terminated MAP Lender may not submit, and a HUD production office may not accept, materials after the close of business on the date of the termination letter, for a new pre-application or Firm Commitment application.

C. A MAP pre-application or Firm Commitment application already in process may no longer be processed by the terminated Lender. The Lender must immediately transfer the transaction to a new MAP Lender which must completely reprocess all stages of the application. Alternatively, the terminated Lender may cancel the application and return to the Borrower its information, application submissions and any deposits. At no time may the new or a subsequent MAP Lender assign the pre-application, the Firm Commitment application, the mortgage insurance commitment, or the insured construction loan to the terminated Lender.

D. HUD will endorse a MAP loan processed by a terminated Lender only if the Firm Commitment was issued before the date of the termination letter and only if it is first transferred to a new MAP Lender. At no time may the new or a subsequent MAP Lender assign the pre-application, the Firm Commitment application, the mortgage insurance commitment, or the insured construction loan to the terminated Lender. For construction loans that have been initially endorsed at the date of termination, the terminated MAP Lender may not continue to administer the construction loan and HUD will assume all construction loan administration duties.

E. The terminated MAP Lender may not service a loan it has transferred after Final Endorsement.

F. Termination will be in effect nationwide and the Lender's name shall be removed from the MAP-Approved Lender list.

G. In accordance with the sanction and notice procedures of this chapter, the Notice of Action terminating a Lender will be:

1. Sent electronically and by overnight delivery.
2. Addressed to the MAP Lender's contact person as listed on the MAP website.
3. Signed for by an employee of the MAP Lender upon receipt.

H. An application for reinstatement of MAP lending authority may not be submitted to COB until 12 months after the date of termination. The requirements for reinstatement will be the same as for initial qualification as a new MAP Lender under MAP Guide [Chapter 2](#) and the applicant must satisfy COB that the issues or problems that led to its termination have been resolved.

15.11 MAP Lender Review Board

A. The MAP Lender Review Board is appointed by the DAS for Multifamily Housing. The Board is authorized to impose probation, suspension, or termination sanctions or to take other actions in response to any MAP Lender that violates, or is not in compliance with, the requirements of the MAP program.

B. The Review Board will consist of three Office of Multifamily Housing officials designated by the DAS for Multifamily Housing.

1. Members of the Board:

- a. Will be selected from among HUD production office Directors or Multifamily Housing senior staff.
- b. May serve on a continuing basis or may be chosen for a specific review, as the DAS for Multifamily Housing determines.
- c. Shall have no prior business affiliation or other conflicts of interest with the Lender under review.
- d. Shall select one of their members to act as Chairperson of the Review Board.
- e. Must have knowledge of MAP origination, underwriting and construction loan administration procedures.

2. The following persons are prohibited from serving on the Board:

- a. The HUD production office Director who made the Lender sanction recommendation.
- b. Staff from the HUD production office that is making the recommendation.
- c. The Directors of OMP or of COB.
- d. Staff from OMP or COB.

C. A designee from the Office of General Counsel will be a non-voting advisor to the Board.

D. The Directors of OMP or of COB, or his/her designee(s), will present cases to the Review Board.

E. Functions, Duties, and Powers of the Board will include:

1. The MAP Lender Review Board is authorized to impose appropriate sanctions on a MAP Lender after:
 - a. Conducting an impartial review of all information and documentation submitted to the Board.
 - b. Making factual determinations that there has been a violation of MAP requirements.
2. In determining what action is appropriate, the Board will consider among other factors:
 - a. The seriousness and extent of the violation(s).
 - b. Any history of prior offenses.
 - c. Deterrence of future violations.
 - d. Any inappropriate benefits received by the MAP Lender.
 - e. Potential inappropriate benefit to other persons.
 - f. Any mitigating or aggravating factors.

- g. Any policy issues that may be raised for the MAP program by the Board's decision.
- 3. The Board may refer:
 - a. A MAP Lender to:
 - 1) The Mortgagee Review Board.
 - 2) The Departmental Enforcement Center.
 - 3) The Office of Inspector General.
 - b. An individual or firm involved in a "covered transaction," as defined in 2 CFR 2424.220, to the DAS for Multifamily Housing for imposition of a suspension, debarment or LDP which may be imposed on a nationwide or on a more geographically restricted basis.

15.12 MAP Lender Review Board: Staff Responsibilities

A. The Chairperson of the MAP Lender Review Board will provide support staff who will:

- 1. Coordinate the Board's activities with other HUD offices and government agencies, as appropriate.
- 2. Develop the agenda and identify the policy issues for Board meetings.
- 3. Notify a MAP Lender when the Board is to consider sanctions.
- 4. Notify a MAP Lender of any sanction imposed by the Board.
- 5. Maintain and prepare the Board's administrative record, including the official minutes and the case files for all Board actions.
- 6. Draft all notices, orders, letters, and directives on behalf of the Board.
- 7. Perform other duties as assigned by the Chairperson or as directed by the Board.

B. The Directors of OMP or of COB, or his/her designee(s), will:

- 1. Present sanction cases to the Board.
- 2. Collect, analyze, prepare, and submit to the Board the charges and supporting documentation against the MAP Lender, together with possible sanction options or recommendations.

C. The Departmental Enforcement Center or the Office of Inspector General will:

- 1. Refer MAP Lenders to the Board for consideration of sanctions as a result of its audits or investigations.
- 2. Upon receiving a request from the Board, and subject to agreement, perform audits or investigations of MAP Lenders.

D. The Office of General Counsel will:

- 1. Advise the Board as to the legal sufficiency of actions it proposes to take.
- 2. Assist the Board in the drafting of its decisions and orders.
- 3. Assist the Director of COB in settlement negotiations undertaken pursuant to [Section 15.5](#), above.

4. Provide other legal advice as may be requested by the Board.

15.13 MAP Lender Review Board: Procedures

A. Referral. The Director of COB or the DAS for Multifamily Housing may refer a MAP Lender to the MAP Lender Review Board for consideration of probation, suspension, or termination sanctions.

1. The referral must be in a written report that includes:
 - a. A full description of the violations and their factual basis.
 - b. Specific citations of the Department's requirements that have been violated.
 - c. All available supporting documentation that bears upon the violations.
2. The Lender will be notified of the referral once the Review Board has been constituted by issuance of a Notice of Violation pursuant to [Section 15.14](#), below.

B. Board Appointment. When the Director of COB determines that he/she intends to make a referral to the Review Board, the Director will request that the DAS for Multifamily Housing appoint a Board, in accordance with [Section 15.11](#), above.

C. Internal Conference. When the MAP Lender Review Board receives a referral, its members may confer by email, conference call or in person. Confidential communications between and among Board members at this stage are privileged from disclosure and will not be part of the administrative record.

D. Informal Conference. Before the MAP Lender Review Board begins formal proceedings on the referral, the Lender may request an informal conference with the Board, which the Board will schedule.

1. After notifying the Lender of the referral and the proposed sanction by issuance of a Notice of Violation, and permitting the Lender an opportunity to respond, the Board will meet informally with the Lender or its designees and with the Director of OMP and COB to review the referral and documentary evidence and the presentations by both sides.
2. A transcript of the informal conference will not be kept, unless the Lender elects to have a transcript made by a certified court reporter at its own expense. If the Lender elects to have a transcript made, it must provide 3 copies of the transcript to HUD within 5 business days of the conference. The transcript will not become a part of the record unless it is submitted within the 5-day limit. The Board may consider voluntary admissions by the Lender or its representatives on any element of the violation charged. Any additional documents, evidence, or written arguments which the Lender wishes the Board to consider must be presented within 5 business days after the informal conference.

E. Action by the MAP Lender Review Board. Upon consideration of evidence submitted by the Director of OMP, COB and the MAP Lender, the MAP Lender Review Board will formally confer and make a final decision.

1. Any final decision by the Review Board placing a Lender on probation, suspension or terminating a Lender shall be in writing and shall state the reasons for the decision and the facts supporting its decision (*see* Notice of Action in [Section 15.15](#), below).

2. The Review Board is not bound by the recommendations from other HUD officials, except that the Board may not impose any sanction or take any action against a Lender that is more severe than the action recommended by the Director of OMP or COB. In any case where the action taken by the Board differs from the sanction recommendation it received the difference shall be explained in writing.

F. Effective Date of Action. Unless the Review Board determines that a later date should apply, any sanction shall become effective on the date of the Notice of Action to the Lender, issued pursuant to [Section 15.15](#), below.

G. Appeal. The Lender may appeal the Board's decision and Notice of Action to the Appeal Official, as described in [Section 15.16](#), below.

15.14 Notice of Violation

A. Before the MAP Lender Review Board considers imposing a sanction on a MAP Lender, the Board's Chairperson will issue a written Notice of Violation and of the proposed sanction to the Lender's contact person as listed on the MAP web site. The Notice will be sent electronically and by overnight delivery and must be signed by an employee of the MAP Lender upon receipt. The Notice of Violation will:

1. Inform the Lender that the Board is considering a specific violation and sanction.
2. State the alleged factual violations with a citation to the Department's requirements that have been violated.
3. Include as attachments copies of all documents evidencing the violation that the Board will consider in reaching a decision.
4. Provide the Lender with the opportunity, within 15 business days from the date of the issuance of the Notice, to:
 - a. Meet informally with the Board in person or by video conference; and/or
 - b. Present written evidence and any other relevant information.
5. Offer the MAP Lender the opportunity to reply in writing to the Board within 15 business days from the date of the issuance of the Notice. Failure to reply within the 15-business day period may result in a determination by the Board without consideration of any comments that were submitted after the deadline.

15.15 Notice of Action

A. The Review Board's final decision will be communicated in a Notice of Action within 10 business days of the receipt of the Lender's information and/or the informal conference. The Notice of Action will be sent electronically and by overnight delivery to the MAP Lender's contact person as listed on the MAP web site.

B. The Notice of Action will:

1. State the nature and duration of the sanction.

2. State the violations and any factual findings.
 3. Inform the MAP Lender of its right to an appeal conference; and
 4. May add to or modify the reasons for the decision that were stated in the Notice of Violation.
- C.** A copy of the administrative record will be sent to the Lender by overnight delivery within one business day after the issuance of the Review Board's Notice of Action.
- D.** The Review Board may issue a Notice of Action to immediately place a Lender on probation or suspension, or to terminate a Lender, without first issuing a Notice of Violation when there is an imminent need to protect the financial interests of HUD and the U.S. Government. No such action shall be taken except upon the written recommendation of the Director of COB with the approval of the DAS for Multifamily Housing, and upon a determination by the Review Board that immediate action is necessary. In such a case, the Lender shall be promptly notified of the Board's decision and the reasons for it in accordance with [Section 15.15.A](#) and [Section 15.15.B](#), above, and shall have the right to submit materials to the Board and appear before the Board to seek a prompt reconsideration of the Board's action.

15.16 Appeal Conference and Procedures

- A.** Whenever the MAP Lender Review Board imposes a sanction of probation, suspension or termination against a MAP Lender, the Lender may, within 10 business days of receiving the Notice of Action, request in writing an appeal conference before an Appeal Official designated by the Review Board. Requesting an appeal conference does not suspend the sanctions imposed by the Notice of Action, unless the MAP Lender Review Board has determined that a latter effective date will apply. The Appeal Official must be an individual who has not previously been involved with the Lender's case, proceedings, or settlement discussions. Failure of the Lender to request an appeal conference within 10 business days of receiving the Board's Notice of Action will be considered a waiver of their right to appeal. While the appeal conference is pending, the Notice of Action and the Lender sanction will remain in effect.
- B.** The appeal conference will be held within 10 business days of the MAP Lender Review Board receiving the MAP Lender's appeal request unless the Lender requests that the conference be held more than 10 but fewer than 30 business days after the date of their appeal request.
- C.** COB or the Director of OMP will provide the MAP Lender Review Board's administrative record to the Appeal Official and will describe the basis on which the Board's decision was made. The Lender may provide oral arguments in support of its position and on the evidence previously submitted. No new evidence may be submitted to the Appeal Official that was not included in the Review Board's administrative record.
- D.** An appeal conference is an informal meeting and a transcript will not be kept, unless the Lender elects to have a transcript made by a certified court reporter at its own expense. If the Lender elects to have a transcript made, it must provide 3 copies of the transcript to HUD within 5 business days of the appeal conference. The transcript will not become a part of the record if it is not received within the 5-business day limit.
- E.** Oral statements made by any participant at the appeal conference will not be considered as evidence on any matter under consideration, except that the Appeal Official may consider voluntary admissions by

the Lender on any element of the violation charged. Any additional written arguments that the Lender wishes to present to the Appeal Official must be presented within 5 business days after the date of the appeal conference.

F. Within 10 business days after the date of the appeal conference, or the expiration of the period allowed for the submission of written arguments, whichever is later, the Appeal Official will make a written determination and may confirm, modify, or overturn the Review Board's decision, and will state the reasons for its determination.

G. If the Appeal Official overturns the MAP Lender Review Board's decision, the Lender shall immediately return to active status as a MAP Lender, which will be posted on the MAP website.

15.17 Suspension, Debarment or LDP

A. The standards and procedures that apply to suspensions, debarments, and Limited Denial of Participation (LDP) can be found in 2 CFR Part 180, 2 CFR Part 2424 and 24 CFR Part 24. The regulatory authority for imposing exclusionary sanctions are described in 2 CFR 180.700 for suspensions, 2 CFR 180.800 for debarments, and 2 CFR Part 2424, Subpart J for LDPs. When conflicts exist between this section and the foregoing authorities, those authorities control. The procedures described in this section for issuance of suspensions, debarments and LDPs may change as a result of updated delegations of authority by the Secretary of HUD to the DAS for Multifamily Housing.

15.17.1 Parties subject to a suspension, debarment or LDP

A. A suspension, debarment or LDP may be imposed on any participant or contractor and their affiliates in a MAP transaction, except that HUD-FHA-approved mortgagees are not subject to LDPs. 2 CFR 180.630 and 2 CFR 2424.1145 authorize HUD to impute conduct of one person to another individual or organization, or from one organization to another, in a suspension, debarment or LDP proceeding.

B. Examples of participants who may be sanctioned include (but are not limited to):

1. MAP Lenders (for suspension or debarment only).
2. MAP Underwriters, Chief Underwriters, or loan analysts.
3. Borrowers and Sponsors.
4. Independent fee appraisers.
5. Third party cost analysts.
6. Physical needs assessors.
7. Environmental analysts and engineers.
8. General Contractors.

9. Architects.

9.10. Construction Loan Administrators.

C. Once issued, a suspension, debarment or LDP may extend from an individual to an organization or to the individual's or organization's affiliates. For example, a specific appraiser or an entire appraisal firm may be issued a suspension, debarment or LDP, which may also apply to all its affiliates.

15.17.2 Limited Denial of Participation

A. Only the Departmental Enforcement Center (DEC) may issue an LDP. An LDP may be issued for reasons that include (but are not limited to):

1. Causing unacceptable risk to HUD.
2. Irregularities in the performance of professional duties.
3. Material failure to maintain prerequisites, such as required licenses and professional certifications.
4. Material failure to honor contracts or contract violations.
5. False certifications or false statements made to HUD.
6. Construction, or construction administration and oversight, deficiencies.
7. Unlawful activities, pending criminal charges or indictment.

B. The specific bases for which an LDP may be issued can be found at 2 CFR 2424.1110. An LDP will be effective on a geographically restricted or a nationwide basis and will remain in effect for a period of up to 12 months. The scope and duration of an LDP are described at 2 CFR 2424.1140. An LDP may be appealed within 30 days of receiving notice of its issuance under the procedures in 2 CFR 2424.1130.

15.17.3 Suspension and debarment

A. The Director of the DEC is HUD's Debarring/Suspending official and its Compliance Division processes referrals of suspensions and debarments from the DAS for Multifamily Housing. The standards for issuing a suspension or debarment can be found in the above-cited regulations, along with the procedures for due process appeals and reviews of suspension or debarment actions.

B. Suspensions will remain in effect for periods described in 2 CFR 180.760, but usually will not exceed 12 months or until the conclusion of a legal or debarment proceeding that triggered the suspension, but no longer than 18 months without initiating such proceedings. Debarments will be imposed for periods described in 2 CFR 180.865, depending on the seriousness of the underlying cause for debarment, and generally will not exceed three years but may be longer if circumstances warrant it.

15.17.4 Procedures to refer a suspension, debarment or LDP

A. A Production Director, a Regional Director or the Director of OMP may recommend a suspension, debarment or a geographically restricted or nationwide LDP, in accordance with the procedures in [Section 15.3](#), above, and must forward all pertinent information, along with the formal recommendation, to COB for review on behalf of the DAS for Multifamily Housing.

B. The recommendation to COB must include:

1. All related application processing documentation that is the basis for the recommended action.

2. A narrative summary detailing the description and nature of the alleged offense(s) committed.
 3. A summary of the participant's history and performance in dealings with the Department.
 4. A recommended course of action including why the sanction should be applied on a geographically restricted or nationwide basis.
- C. After COB's review and recommendation, the DAS for Multifamily Housing will determine whether to make a referral to the Director of the DEC for issuance of a suspension, debarment or a geographically restricted or nationwide LDP.

15.18 Referral to Mortgagee Review Board or OIG

A. If the Director of COB or the DAS for Multifamily Housing determines there is adequate evidence of serious violations of HUD requirements by a MAP Lender, then the Director of COB or the DAS for Multifamily Housing may refer the Lender to the Mortgagee Review Board for possible sanctions, including possible termination of the Lender's authority as an FHA-approved mortgagee, without first issuing a Warning Letter or other sanction, or first referring the MAP Lender to the MAP Lender Review Board. If a HUD production Director determines there is adequate evidence of serious violations of HUD requirements by a MAP Lender, the Director may refer the Lender to COB or to the DAS for Multifamily Housing, who will determine if the matter should be referred to the Mortgagee Review Board. See Section 2-4, Requests for Mortgagee Review Board Action, HUD Handbook 4060.2 REV 2, Mortgagee Review Board, and HUD Regulations at 24 CFR 25.

B. If the Lender issue involves possible fraud, material misrepresentation or other criminal violations, then the matter should be referred to the Office of Inspector General (OIG). See Section 3-1, Responsibilities of Departmental Management and Employees, OIG Handbook 2000.3 REV-4, Office of Inspector General Activities.

15.19 Other Enforcement Actions

A. Notwithstanding any provisions contained in this Chapter or elsewhere in the MAP Guide, HUD reserves the right to pursue remedies for any false claims or false statements, as authorized by the False Claims Act, 31 U.S.C. §§ 3729-3731, the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, and/or Civil Money Penalties under 12 U.S.C. § 1735f-14.