

## § 1730.4

### § 1730.4 Submission of disclosures.

Unless otherwise required by OFHEO, the Enterprises shall provide to OFHEO on a concurrent basis copies of all disclosures filed with the SEC pursuant to §1730.3.

## PART 1731—MORTGAGE FRAUD REPORTING

Sec.

- 1731.1 Purpose and scope.
- 1731.2 Definitions.
- 1731.3 Unsafe and unsound conduct.
- 1731.4 Procedures for reporting.
- 1731.5 Internal controls, procedures, and training.
- 1731.6 Supervisory action.

AUTHORITY: 12 U.S.C. 4513(a) and 4513(b)(1), (2), and (7).

SOURCE: 70 FR 43627, July 28, 2005, unless otherwise noted.

### § 1731.1 Purpose and scope.

The purpose of this section is to set forth safety and soundness requirements with respect to the reporting of mortgage fraud in furtherance of the supervisory responsibilities of OFHEO under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*).

### § 1731.2 Definitions.

For purposes of this part—

(a) *Director* means the Director of OFHEO, or his or her designee.

(b) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(c) *Mortgage fraud* means a material misstatement, misrepresentation, or omission relied upon by an Enterprise to fund or purchase—or not to fund or purchase—a mortgage, including a mortgage associated with a mortgage-backed security or similar financial instrument issued or guaranteed by an Enterprise. Such mortgage fraud includes, but is not limited to, a material misstatement, misrepresentation, or omission in identification and employment documents, mortgagee or mortgagor identity, and appraisals that are fraudulent.

(d) *OFHEO* means the Office of Federal Housing Enterprise Oversight.

## 12 CFR Ch. XVII (1–1–08 Edition)

(e) *Possible mortgage fraud* means that an Enterprise has a reasonable belief, based upon a review of information available to the Enterprise, that mortgage fraud may be occurring or has occurred.

### § 1731.3 Unsafe and unsound conduct.

An Enterprise may not require the repurchase of or may not decline to purchase a mortgage, mortgage backed security, or similar financial instrument because of possible mortgage fraud without promptly reporting to the Director under §1731.4. An Enterprise may decline such purchase or require such repurchase if it is reporting mortgage fraud or possible mortgage fraud in accordance with §1731.4.

### § 1731.4 Procedures for reporting.

(a) *Procedures for reporting*—(1) *Prompt report*. An Enterprise shall report promptly mortgage fraud or possible mortgage fraud in writing to the Director in such format and under such notification procedures as prescribed by OFHEO. The report shall describe the mortgage fraud or possible mortgage fraud in detail sufficient under OFHEO guidance. The Enterprise, at the sole discretion of the Director, may be required to provide additional or continuing information in connection with such mortgage fraud.

(2) *Immediate report*. In addition to reporting in writing under paragraph (a)(1) of this section, in any situation requiring immediate attention by OFHEO, an Enterprise shall report the mortgage fraud or possible mortgage fraud to the Director by telephone or electronic communication.

(b) *Retention of records*. An Enterprise shall maintain a copy of any report submitted to the Director and the original or business record equivalent of any supporting documentation for a period of five years from the date of submission.

(c) *Nondisclosure*. An Enterprise may not disclose, without the prior written approval of the Director, to the party or parties connected with the mortgage fraud or possible mortgage fraud that it has reported such fraud under this part. This restriction does not prohibit an Enterprise from—

## Federal Housing Enterprise Oversight

## § 1732.2

(1) Disclosing or reporting such fraud pursuant to legal requirements, including reporting to appropriate law enforcement or other governmental authorities; or

(2) Taking any legal or business action it may deem appropriate, including any action involving the party or parties connected with the mortgage fraud or possible mortgage fraud.

(d) *Acceptance of other forms.* The Director may, upon written notice to each Enterprise, accept reports of mortgage fraud or possible mortgage fraud in formats promulgated by any Federal agency that has jurisdiction over the reporting of mortgage fraud or possible mortgage fraud by the Enterprises.

(e) *No waiver of privilege.* An Enterprise does not waive any privilege it may claim under law by reporting mortgage fraud or possible mortgage fraud under this part.

### § 1731.5 Internal controls, procedures, and training.

An Enterprise shall establish adequate and efficient internal controls and procedures and an operational training program to assure an effective system to detect and report mortgage fraud or possible mortgage fraud under this part.

### § 1731.6 Supervisory action.

Failure by an Enterprise to comply with §§ 1731.3, 1731.4, and 1731.5 may subject the Enterprise or the board members, officers, or employees thereof to supervisory action by OFHEO under the Federal Housing Enterprises Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), including but not limited to, cease-and-desist proceedings and civil money penalties.

## PART 1732—RECORD RETENTION

### Subpart A—General

Sec.

1732.1 Purpose and scope.

1732.2 Definitions.

1732.3–4 [Reserved]

### Subpart B—Record Retention Program

1732.5 Establishment and evaluation of record retention program.

1732.6 Minimum requirements of record retention program.

1732.7 Record hold.

1732.8–1732.9 [Reserved]

### Subpart C—Supervisory Action

1732.10 Supervisory action.

AUTHORITY: 12 U.S.C. 4513(a), 4513(b)(1), 4513(b)(5), 4514, 4631, 4632, and 4632.

SOURCE: 71 FR 62884, Oct. 27, 2006, unless otherwise noted.

## Subpart A—General

### § 1732.1 Purpose and scope.

In furtherance of the safety and soundness authorities of OFHEO, this part sets forth minimum requirements in connection with the record retention program of each Enterprise. The requirements are intended to ensure that complete and accurate records of an Enterprise are readily accessible by OFHEO for examination and other supervisory purposes. Such access shall be by reasonable means, consistent with the nature and availability of the records and existing information technology.

### § 1732.2 Definitions.

For purposes of this part, the term:

(a) *Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Title XIII of the Housing and Community Development Act of 1992, Public Law 102-550, section 1301, Oct. 28, 1992, 106 Stat. 3672, 3941 through 4012 (1993) (12 U.S.C. 4501 *et seq.*).

(b) *Active record* means a record that is necessary to conduct the current business of an office or business unit of an Enterprise and, therefore, is readily available for consultation and reference.

(c) *Director* means the Director of OFHEO, or his or her designee.

(d) *Electronic record* means a record created, generated, communicated, or stored by electronic means.

(e) *Employee* means any officer or employee of an Enterprise or any conservator appointed by OFHEO.

(f) *Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and the term “Enterprises”