

ATTACHMENT A

1. Since at least January 2006, with a limited exception, Freedom Mortgage Corporation (“FMC”) has been approved by the Federal Housing Administration (“FHA”) and U.S. Department of Housing and Urban Development (“HUD”) as a Direct Endorsement lender with Lender Insurance status. FMC has been authorized by HUD to originate and underwrite mortgage loans on HUD’s behalf, including determining a borrower’s creditworthiness and whether the proposed loan met all applicable HUD requirements, without any pre-endorsement review of the mortgage application by HUD.¹

2. HUD required Direct Endorsement lenders, such as FMC, to follow applicable HUD regulations and underwriting requirements in originating and underwriting mortgage loans for FHA insurance, including those requirements set out in HUD’s Handbooks and Mortgagee Letters.²

3. HUD required Direct Endorsement lenders, such as FMC, to submit certain proposed FHA originations through a HUD-approved Automated Underwriting System (“AUS”) in conjunction with a tool known as Technology Open to Approved Lenders (“TOTAL”). According to the FHA’s TOTAL Mortgage Scorecard User Guide, TOTAL evaluated the overall creditworthiness of the applicants based on a number of credit variables. After a proposed loan was submitted, TOTAL would either: (1) approve the mortgage subject to certain eligibility criteria or other conditions, including conditions that the lender validate the information that formed the basis for TOTAL’s determination; or (2) refer the mortgage application for manual underwriting by the

¹ For the period of time when FMC did not have Lender Insurance status, HUD performed a limited review of loans FMC submitted for FHA insurance pursuant to the requirements of 24 C.F.R. § 203.255(c).

² The requirements referenced in paragraphs two through eleven of this document reflect standard HUD-FHA program requirements for Direct Endorsement lenders as provided in HUD’s Handbooks and Mortgagee Letters.

lender in accordance with HUD requirements. FMC understood that TOTAL's determination was based on the integrity of the data supplied by the lender. HUD has promulgated requirements for calculating data used by TOTAL.

4. HUD also required Direct Endorsement lenders, such as FMC, to implement and maintain a quality control program in accordance with HUD Handbook requirements for FHA loans, including: (1) having a quality control function independent of FHA mortgage origination and underwriting functions; (2) reviewing a sample of loans based on the number of FHA loans originated and/or underwritten per year. HUD Handbook 4060.1 REV-2, § 7-6.C; (3) reviewing each FHA mortgage loan that became 60 days delinquent within the first six payments, which HUD defined as "early payment defaults" or EPDs. *Id.*; (4) as part of these quality control reviews, reviewing the mortgage loan file, re-verifying certain information, reviewing the soundness of underwriting judgments, documenting the review and any findings in a quality control report, and reporting the findings to senior management within one month. HUD requires that the loans forming the lender's monthly sample "must be reviewed within 90 days from the end of the month in which the loan closed." HUD Handbook 4060.1, Rev-2, Section 7-6.A.

5. HUD required Direct Endorsement lenders, such as FMC, to self-report to HUD all findings related to FHA mortgage loans that constituted "material violations of FHA or mortgagee requirements and represent[ed] an unacceptable level of risk" and all findings of "fraud or other serious violations." HUD Handbook 4060.1 REV-2, §§ 7-3.J & 7-4.D. Direct Endorsement lenders, such as FMC, were also required to take "prompt action to deal appropriately with any material findings." *Id.* § 7-3.I.

6. In order to obtain Direct Endorsement status, HUD required Direct Endorsement lenders, such as FMC, to certify as follows:

I certify that, upon the submission of this application, and with its submission of each loan for insurance or request for insurance benefits, [FMC] has and will comply with the requirements of the Secretary of Housing and Urban Development, which include, but are not limited to, the National Housing Act (12 U.S.C. § 1702 *et seq.*) and HUD's regulations, FHA handbooks, mortgagee letters, and Title I letters and policies with regard to using and maintaining its FHA lender approval.

7. Additionally, HUD required a Direct Endorsement lender, such as FMC, to submit an Annual Certification stating:

I know, or am in a position to know, whether the operations of [FMC] conform to HUD-FHA regulations, handbooks, and policies. I certify that to the best of my knowledge, [FMC] conforms to all HUD-FHA regulations necessary to maintain its HUD-FHA approval, and that [FMC] is fully responsible for all actions of its employees including those of its HUD-FHA approved branch offices.

Alternatively, HUD required a Direct Endorsement lender, such as FMC, to submit a statement to HUD that it was unable to so certify and to explain why it could not execute the certification.

8. To qualify as a Direct Endorsement underwriter an underwriter must satisfy several requirements. The Direct Endorsement underwriter “must have a minimum of three years full-time recent experience (or equivalent experience) reviewing both credit applications and property appraisals.” HUD Handbook 4000.4, REV-1, CHG-2, ch. 2-4.A.3; *see also* HUD Handbook 4155.2 ch. 2.A.4.a. The underwriter must also be a “reliable and responsible professional skilled in mortgage evaluation” and “must be able to demonstrate his or her knowledge and experience regarding the principles of

mortgage underwriting.” HUD Handbook 4000.4, REV-1, CHG-2, ch. 2-4.A.1; *see also* HUD Handbook 4155.2 ch. 2.A.4.a.

9. HUD considers the Direct Endorsement underwriter to be “the focal point of the Direct Endorsement program.” HUD Handbook 4000.4, REV-1, CHG-2, ch. 2-4.C. The Direct Endorsement underwriter must assume the following responsibilities: (1) compliance with HUD instructions, the coordination of all phases of underwriting, and the quality of decisions made under the program; (2) the review of appraisal reports, compliance inspections and credit analyses performed by fee and staff personnel to ensure reasonable conclusions, sound reports and compliance with HUD requirements; (3) the decisions relating to the acceptability of the appraisal, the inspections, the buyer’s capacity to repay the mortgage, and the overall acceptability of the mortgage loan for HUD insurance; (4) the monitoring and evaluating of the performance of fee and staff personnel used for the Direct Endorsement program; (5) ensuring that underwriting decisions are performed with due diligence in a prudent manner; and (6) awareness of the warning signs that may indicate irregularities, and an ability to detect fraud.

10. With respect to each mortgage loan submitted or endorsed by FMC for FHA insurance, either an FMC mortgagee representative or an FMC Direct Endorsement underwriter was required to certify that the mortgage “is eligible for HUD mortgage insurance under the Direct Endorsement program.” For each loan that was approved using AUS, an FMC mortgagee representative was required to certify to the “integrity of the data supplied by [FMC] used to determine the quality of the loan [and] that a Direct Endorsement Underwriter reviewed the appraisal.” For each FHA loan that FMC approved using manual underwriting, an FMC Direct Endorsement underwriter was

required to certify that he or she “personally reviewed the appraisal report (if applicable), credit application, and all associated documents and ha[s] used due diligence in underwriting the[e] mortgage.”

11. For every mortgage loan approved by FMC, whether through manual underwriting or the use of an AUS, an FMC employee was required to certify that:

I, the undersigned, as authorized representative of FMC at this time of closing of this mortgage loan, certify that I have personally reviewed the mortgage loan documents, closing statements, application for insurance endorsement, and all accompanying documents. I hereby make all certifications required for this mortgage as set forth in HUD Handbook 4000.4.

12. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a Direct Endorsement lender, such as FMC, the lender, or if the mortgage or servicing rights were transferred after closing, the mortgage holder or servicer, has the option of submitting a claim to HUD to compensate the lender for any loss sustained as a result of the default. As such, once a mortgage loan is endorsed for FHA insurance, HUD bears the risk of the borrower defaulting on that mortgage, which is realized if an insurance claim is submitted.

13. The Department of Justice has investigated FMC with regard to its origination, underwriting, quality control, and endorsement practices, as well as its submissions of certifications, related to certain FHA-insured single-family residential mortgage loans originated between January 1, 2006 and December 31, 2011, and for which claims for FHA insurance benefits were submitted by June 15, 2015 (the “Released Loans”). The following statements apply to the Released Loans only.

14. Between January 1, 2006 and December 31, 2011, FMC certified for FHA mortgage insurance, pursuant to the Direct Endorsement Program, certain Released

Loans that did not meet all HUD requirements, and therefore were not eligible for FHA mortgage insurance under the Direct Endorsement Program. Certain Released Loans that FMC certified for FHA mortgage insurance, but were in fact ineligible for FHA mortgage insurance, defaulted and were submitted to HUD for mortgage insurance benefits, and claims were paid out of the Mutual Mortgage Insurance Fund.

15. Between 2006 and 2008, FMC did not share its EPD QC reviews with production and underwriting management, nor did FMC require responses to its EPD QC findings from the production or underwriting staff member responsible for the identified loan defect.

16. FMC identified preliminary critical errors in more than 30 percent of the EPD loans it reviewed between 2008 and 2010. Critical errors, according to FMC, included origination or underwriting defects that could cause the loan to be ineligible or warrant repurchase, or a loan containing a document that required correction or completion from an external source. In 2008, FMC significantly increased the volume of its FHA originations, but did not make corresponding increases to its QC staff. As a result of inadequate staffing levels in its QC department, for a two month period, FMC did not perform QC reviews of 347 EPD loans that FMC was required to review as part of HUD's QC requirements. Additionally, FMC did not always issue a final monthly QC report within the required timeframes.

17. FMC did not adhere to HUD's self-reporting requirements even though FMC's QC plan recognized its duty to make such self-reports.

a. Between January 1, 2006 and December 31, 2011, FMC did not report a single loan to HUD. FMC's practice during this period was to report only widespread, systemic fraud.

b. In 2012, FMC began a project to review FMC's past QC findings in order to determine if any FHA loans underwritten between 2007 and 2012 "possibly should have been self-reported to HUD" and to "identify a potential exposure risk on what [FMC had] not reported in the past."

c. As a result of this review, FMC identified hundreds of loans that "possibly should have been self-reported to HUD." FMC only reported 1 loan to HUD that it identified during this review.

d. Certain loans that FMC classified as "possibly should have been" reported to HUD, but were nevertheless not reported to HUD, defaulted and were submitted to HUD for mortgage insurance benefits, and claims were paid out of the Mutual Mortgage Insurance Fund.

18. As a result of FMC's conduct and omissions, HUD insured hundreds of loans approved by FMC that were not eligible for FHA mortgage insurance under the Direct Endorsement Program, and that HUD would not otherwise have insured. HUD subsequently incurred substantial losses when it paid insurance claims on those Released Loans.

19. The statements herein apply only to certain mortgages which are the subject of the release in this Agreement. This document is not an admission as to any conduct related to any mortgage not released in this Agreement, nor is it an admission of

any legal liability. FMC reserves the right to contest the use or application of this document in any future litigation.