

## ATTACHMENT A

1. Between January 2006 and December 2011, U.S. Bank National Association (U.S. Bank) was a Direct Endorsement Lender approved by the Federal Housing Administration (FHA) and U.S. Department of Housing and Urban Development (HUD). As a Direct Endorsement Lender, U.S. Bank was 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. As a Direct Endorsement Lender, U.S. Bank was authorized to endorse mortgage loans for HUD insurance without any review of the mortgage application by HUD.

2. In originating, underwriting, and endorsing mortgage loans for FHA insurance, Direct Endorsement Lenders such as U.S. Bank were required to follow applicable HUD requirements, including those set out in HUD's Handbooks and Mortgagee Letters.<sup>1</sup> With respect to creditworthiness of proposed borrowers, Direct Endorsement Lenders such as U.S. Bank were required to follow HUD Handbook 4155.1. At a general level, HUD Handbook 4155.1 required Direct Endorsement Lenders such as U.S. Bank to: (1) evaluate the borrower's credit history; (2) analyze the borrower's liabilities; (3) not accept or use certain documentation transmitted by interested parties; (4) determine the authenticity of faxed documents and portions of certain printouts downloaded from the internet; (5) in some situations, document reasons for approving a mortgage when the borrower has collections accounts or judgments,

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<sup>1</sup> 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.

determine the purpose of recent debts, and/or require sufficient written explanation from the borrower for major indications of derogatory credit; (6) verify certain employment history of the borrower(s); (7) determine the income stability of the borrower(s) and whether the borrowers' income level can be reasonably expected to continue for a certain period of time; (8) verify that the borrower has funds to cover the required minimum down payment; (9) document the source of funds used for the required minimum down payment, as well as any closing costs and fees; and (10) if applicable, calculate certain debt and income ratios and compare those ratios to the fixed ratios set by HUD including, as necessary, any compensating factors that might permit deviation from the fixed ratios.

3. Direct Endorsement Lenders such as U.S. Bank were required 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 FHA's TOTAL Mortgage Scorecard User Guide, TOTAL evaluated the overall creditworthiness of the applicants based on a number of credit variables. TOTAL also either: (1) approved the mortgage subject to certain conditions, including the condition that the lender validate the information that formed the basis for TOTAL's determination; or (2) referred the mortgage back to the lender for manual underwriting in accordance with HUD requirements. TOTAL's determination was based on the integrity of the data supplied by the lender. HUD has issued directives regarding how to calculate each data point used by TOTAL.

4. To maintain Direct Endorsement Lender status, lenders such as U.S. Bank were required to implement and maintain a quality control program in accordance with HUD Handbook requirements for FHA loans. The FHA quality control function of a

Direct Endorsement Lender was required to be independent of its FHA mortgage origination and underwriting functions. Pursuant to HUD Handbook 4060.1 REV-2, in carrying out quality control programs, a Direct Endorsement Lender, such as U.S. Bank, that originated more than 3,500 FHA loans per year “may review 10% of its loans or a statistical random sampling that provides a 95% confidence level with 2% precision.”

Direct Endorsement Lenders such as U.S. Bank were also required to review each “early payment default” (EPD), which HUD defines as an FHA mortgage loan that went into default within the first six payments. In performing these quality control reviews, Direct Endorsement Lenders such as U.S. Bank were required to review the mortgage loan file, re-verify certain information, review the soundness of underwriting judgments, document its review and any findings in a quality control review report, and retain the quality control review report for two years.

5. After these quality control reviews were completed, Direct Endorsement Lenders such as U.S. Bank were required to report review findings to senior management within one month of completion of the initial report. Management of Direct Endorsement Lenders such as U.S. Bank were required to take prompt action to deal appropriately with any material findings. Final reports or addenda to quality control reviews of Direct Endorsement Lenders such as U.S. Bank were required to identify any corrective actions being taken, the timetable for their completion, and any planned follow-up activities.

6. Direct Endorsement Lenders such as U.S. Bank were required 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.” Direct Endorsement Lenders

such as U.S. Bank were also required to take “prompt action to deal appropriately with any material findings.”

7. In the forms HUD-92001-A, Application for FHA Lender Approval, Direct Endorsement Lenders such as U.S. Bank were required 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, [U.S. Bank] 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.

8. Additionally, Direct Endorsement Lenders such as U.S. Bank were required to submit an Annual Certification stating:

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

or submit a statement to HUD that it was unable to so certify.

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

10. For every mortgage loan U.S. Bank endorsed for FHA insurance, whether through manual underwriting or the use of an AUS, a U.S. Bank direct endorsement underwriter was required to certify that:

“I, the undersigned, as authorized representative of [U.S. Bank] 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.”

11. Additionally, for each mortgage loan endorsed, a U.S. Bank direct endorsement underwriter was required to certify, to the best of his or her knowledge, that the information in the loan application was true and correct, that the conditions listed in HUD Form 92900-A or appearing in any outstanding commitment issued under the loan’s case number have been satisfied, that the information used to validate the borrower’s employment, income, and assets was transmitted directly to the lender and did not pass through any third party, and that the proposed loan met the applicable HUD requirements.

12. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a Direct Endorsement Lender such as U.S. Bank, that Direct Endorsement Lender (or, if the Direct Endorsement Lender transferred the mortgage or servicing rights after closing, the mortgage holder or servicer) has the option of submitting a claim to HUD to compensate the lender for any loss the lender 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 U.S. Bank with regard to its origination, underwriting, quality control and endorsement practices, as well as its submission of annual and loan-level certifications, related to certain FHA-insured mortgage loans secured by single-family residential properties originated between January 1, 2006 and December 31, 2011, and for which claims for FHA insurance benefits had been submitted by March 28, 2014 (the “Released Loans”).

14. Between January 1, 2006 and December 31, 2011, U.S. Bank repeatedly endorsed loans for FHA mortgage insurance pursuant to the Direct Endorsement Lender Program that did not meet underwriting requirements contained in HUD’s handbooks and mortgagee letters, and therefore were not eligible for FHA mortgage insurance under the Direct Endorsement Lender Program. The following are examples of such loans:

- a) FHA Case Number 137-4541200 relates to a property in Naperville, Illinois. U.S. Bank manually underwrote the mortgage for this property. Contrary to U.S. Bank’s certifications, U.S. Bank did not comply with HUD rules in reviewing and approving this mortgage for FHA insurance and did not exercise the required due diligence in underwriting the mortgage. U.S. Bank failed to verify either rent or a twelve-month payment history for either the borrower or the co-borrower. U.S. Bank also failed to document the co-borrower’s employment and income as required by HUD, despite relying on the co-borrower’s employment and income to qualify the loan. U.S. Bank

failed to sufficiently explain the co-borrower's derogatory credit, including four accounts in collections, one of which was opened fewer than nine months before the loan closed. Because U.S. Bank violated HUD requirements, FHA Case Number 137-4541200 was not eligible for U.S. Bank to endorse for FHA insurance.

b) FHA Case Number 412-5463545 relates to a property in Irondale, Ohio. U.S. Bank manually underwrote the mortgage for this property. Contrary to U.S. Bank's certifications, U.S. Bank did not comply with HUD rules in reviewing and approving this mortgage for FHA insurance and did not exercise the required due diligence in underwriting the mortgage. U.S. Bank failed to verify that the borrower had the funds necessary to close the loan, failed to verify the borrower's reserves despite using them as a compensating factor to justify approval of the loan, and failed to verify the borrower's rental income despite using it to qualify the loan. Because U.S. Bank violated HUD requirements, FHA Case Number 412-5463545 was not eligible for U.S. Bank to endorse for FHA insurance.

c) FHA Case Number 023-2712369 relates to a property in Glendale, Arizona. U.S. Bank underwrote the mortgage for this property using an AUS. Contrary to U.S. Bank's certifications, U.S. Bank did not comply with HUD rules in reviewing and approving this mortgage for FHA insurance and failed to ensure that all of the information it entered into the AUS to obtain approval had integrity. In underwriting

this loan, U.S. Bank failed to verify the assets available to the borrowers, and failed to resubmit the loan to the AUS after the credit report showed an obligation over \$100 per month was not considered by the AUS. U.S. Bank also closed the loan without resubmitting it to the AUS, despite an increase in the interest rate of the mortgage. Because U.S. Bank violated HUD requirements, FHA Case Number 023-2712369 was not eligible for U.S. Bank to endorse for FHA insurance.

- d) U.S. Bank improperly endorsed for FHA insurance many other loans containing similar violations of HUD requirements.

15. Between January 1, 2006 and December 31, 2011, U.S. Bank failed to implement and maintain a quality control program in accordance with HUD Handbook requirements for FHA loans.

- a) U.S. Bank never reviewed a sample consisting only of FHA-insured loans, and never reviewed either 10 percent of its FHA-insured loans or a statistical sample of its FHA-insured loans that provided a 95 percent confidence level with 2 percent precision. Instead, it conducted a monthly quality assurance review of a statistical sampling of all loans originated or purchased by U.S. Bank, including but not limited to FHA-insured loans. As a result, U.S. Bank reviewed substantially fewer FHA-insured loans than if it had reviewed 10% of its FHA loans or a statistical sampling of

its FHA-insured loans that provided a 95% confidence level with 2% precision.

- b) U.S. Bank used a computerized system of questions to conduct quality assurance reviews of its loans, including FHA-insured loans. These questions were developed by U.S. Bank's quality assurance managers, and were not developed by or reviewed by a Direct Endorsement qualified underwriter, and failed to capture certain material deficiencies within the FHA-insured loan files being reviewed.
- c) Because of the deficiencies in its quality control process, U.S. Bank failed to identify the material deficiencies in many of its FHA-insured loans, in violation of HUD requirements. Even as to the deficiencies it did identify, U.S. Bank repeatedly failed to take the corrective action HUD required for deficiencies found in its internal loan file reviews.
- d) Because of the deficiencies in its quality control process, U.S. Bank failed to self-report many materially deficient loans, and even for the materially deficient loans it did report, it failed to report all deficiencies. In addition, while U.S. Bank self-reported a number of EPDs, it did not internally review all of these loans, as required by HUD.

16. As a result of U.S. Bank's conduct, HUD-FHA insured thousands of loans endorsed by U.S. Bank that were not eligible for FHA mortgage insurance and that HUD-

FHA would not otherwise have insured. HUD subsequently incurred substantial losses when it paid insurance claims on these Released Loans.

17. The statements herein apply only to 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. U.S. Bank reserves the right to contest the use and/or application of this document in any future litigation.