



MORTGAGE BANKERS ASSOCIATION

August 26, 2024

The Honorable Julia Gordon
Assistant Secretary for Housing & Federal Housing Commissioner
Federal Housing Administration
Department of Housing and Urban Development
451 7th Street S.W.
Washington, DC 20410

RE: Appendix 8.0 FHA Defect Taxonomy for Servicing Loan Reviews

Dear Commissioner Gordon,

The Mortgage Bankers Association¹ (MBA) appreciates the opportunity to comment on the Federal Housing Administration's (FHA) proposed Appendix 8.0 FHA Defect Taxonomy for Servicing Loan Reviews. A Defect Taxonomy addresses loan-level defects or noncompliance with FHA's Single-Family Housing policies. FHA's framework must consistently categorize defects and apply the appropriate remedy to become a predictable and effective tool. Today, we emphasize our previous position that FHA should implement a Servicing Defect Taxonomy that removes unnecessary ambiguities or uncertainties – including the subjective definition of a "Material Finding" – that lead to an inconsistent interpretation and application of FHA's complex mortgage servicing policy by HUD's Homeownership Centers.²

First, we welcome several notable improvements to the Servicing Defect Taxonomy since FHA's original proposal in 2021. These improvements provided greater specificity regarding defect severity tiers and remedies and were a necessary step toward achieving vital policy objectives. In that same vein, we believe further revisions should be made to enhance the certainty and stability required for the framework's application.

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

² [industry-letter-on-servicing-defect-taxonomy-for-publication.pdf \(mba.org\)](#)

Specifically, we urge FHA to revise the subjective definition of a Material Finding. Materiality is the cornerstone of the analysis set forth by the Taxonomy and determining factor between whether an error requires corrective action. As drafted, FHA's proposed Servicing Defect Taxonomy does not provide a concrete definition of Materiality. Instead, the Taxonomy only states that materiality "generally" aligns with the existing FHA definition of a Material Finding provided in HUD's Handbook.³

The Taxonomy only functions if it can be consistently applied by different groups or individuals within FHA and achieves the same result in substantially all instances. As drafted, the "generally aligns" languages introduce subjectivity into the analysis, which can lead to different outcomes for the same facts. As a result, an unqualified materiality standard permits FHA to qualify potential defects without necessarily demonstrating a "material" harm to FHA (the Insurance Fund) or the property (the insured mortgage collateral). For example, a relatively minor or inconsequential error – one that results in a claim overstated by \$10 - could have a material consequence on Mortgagees and HUD by way of the administrative burden of the Tier 2 remedy framework requiring corrective action. Because of FHA's undefined materiality standard, the abstract Taxonomy is not one servicers can rely on.⁴

Accordingly, FHA must address this issue by objectively defining a Material Finding and recognizing the administrative costs to servicers of curing otherwise immaterial infractions. FHA should implement a de minimis standard that quantifies the threshold for harm to FHA or the property, such as \$100. While servicers strive to perfect their processes and conduct strong quality control, servicers must be able to assess the potential risk of errors or noncompliance properly. An appropriately defined threshold accomplishes this goal.

We strongly encourage FHA to finalize a Servicing Defect Taxonomy that appropriately balances ongoing risks specific to the FHA program. FHA must consider the complicated process and evolving risks within its Insurance Program as a borrower continues their relationship with a mortgage servicer over the 30-year loan life cycle. In so doing, FHA will establish confidence in the relationship between the Servicing Taxonomy and FHA's larger enforcement construct.

Please accept detailed recommendations collected from our members in response to the Draft in the attached Feedback Response Worksheet. We appreciate FHA's consideration of these comments. Should you have questions or wish to discuss these issues further, please contact Brendan Kelleher at bkelleher@mba.org.

Sincerely,

³ A Material Finding is defined in the context of mortgage servicing in HUD's 4000.1 Single-Family Housing Policy Handbook, Section V.A.2.d.i(B) as one that has an adverse impact on the Property and/or FHA.

⁴ Another related challenge is FHA's broad authority to qualify a defect as Tier 2. Specifically, the Taxonomy states that a Tier 2 is used for servicing Findings that require "corrective servicing action, financial remediation, and/or other remedy." FHA should eliminate reference to "and/or other remedy" to improve reliance on the Taxonomy.

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A handwritten signature in black ink, appearing to read "Pete Mills", is positioned to the left of a vertical line.

Pete Mills

Senior Vice President

Residential Policy and Strategic Industry Engagement

Mortgage Bankers Association