HUD Mortgagee Letter and Direct (Non-Federal Register) Notices – Standards for OIRA Significance Determinations under EO 12866

Standard for Submission to OMB-OIRA for a Determination of Significant Policy Action under EO-12866	Description and Examples
Category 1: A Mortgagee Letter or Notice that is a rule and is based on statutory authority to issue a rule through the format of a mortgagee letter or notice.	Examples: Reverse Mortgage Stabilization Act of 2013 (Public Law 113-29, 127 Stat. 509, approved August 9, 2013) and the Housing and Economic Recovery act of 2008 (Public Law 110-289, 122 Stat 2654, approved July 30, 2008) (HERA).
Category 2: A Mortgagee Letter or Notice that is a rule and is based on existing statutory authority, not exercised to date, in order to address an urgent situation (and is followed by traditional rulemaking).	Example: HUD's exercising its statutory authority to insure the refinance of a hospital's debt, without conditioning such insurance on a hospital undertaking substantial rehabilitation (a condition placed by HUD administratively). In 2009, hospital associations and many members of Congress asked the Administration to act on this authority, because hospitals were adversely affected by the reduction of credit following the housing crisis. See Housing Notice 09-05. This notice was followed by traditional proposed and final rulemaking which revised the existing codified regulations at 24 CFR part 242.
Category 3: A Mortgagee Letter or Notice that implements a program in response to an Administration priority or other urgent need.	Examples: Making Home Affordable, ML 2009-23, FHA Refinance of Borrowers in Negative Equity Positions, ML 2010-23

Addendum:

1. Urgent actions shall have significance determinations, and HUD retains the right to request special review processes. Should any staff-level disagreement arise about review processes (i.e., review would not be worthwhile), HUD policy officials will call OIRA policy officials to request a waiver from Executive 12866 review.

2. Economically significant mortgagee letters that announce pricing increases or decreases fall under these significance determination standards; however, for all such mortgagee letters, OIRA affirmatively defers to the OMB Resource Management Offices for any review. Pricing increases and decreases generally pertain to mortgage insurance premium changes and principal limit factor adjustments. If mortgagee letters involve other significant changes to core underwriting standards, such as changing program scope or eligibility, and imposing substantial compliance requirements, and such changes are not based on the statutory authority of category one MLs, then the ML would be designated significant and review would be led by OIRA.