

CLARIFICATION REGARDING CERTIFICATES OF EXEMPTION AND COMPLIANCE

There is confusion as to whether a certificate of compliance or a certificate of exemption is required when a loan is closed. The deciding factor is the identity of the originator. The identity of the end lender is irrelevant. If a mortgage banking licensee originates a residential mortgage loan in the APLD program area, data entry is required, the counseling requirements apply, and a certificate of compliance must issue even if the end lender is an exempt entity. A certificate of exemption is appropriate when the loan is originated by an exempt entity, even if the end lender is a mortgage banking licensee. There have been a significant number of instances where a certificate of exemption was issued because the end lender was an exempt entity, such as a bank, when the loan was originated by a licensee and required a certificate of compliance.

To address this problem, Closing/Escrow Instructions should clearly state the requirement to issue a certificate of compliance or exemption, as the case may be.