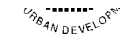


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000



ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

June 11, 2010

MORTGAGEE LETTER 2010-20

TO: ALL APPROVED MORTGAGEES

SUBJECT: Implementation of Final Rule FR 5356-F-02, "Federal Housing Administration: Continuation of FHA Reform—Strengthening Risk Management through Responsible FHA-Approved Lenders"

This Mortgagee Letter provides an overview of key provisions of HUD's recently issued final rule referenced above, and guidance to mortgagees on HUD's implementation of this final rule.¹ This rule increased the net worth requirements for FHA-approved mortgagees, eliminated FHA approval of loan correspondents, codified requirements of the Helping Families Save Their Homes Act of 2009 (Public Law 111-22), and made minor modifications to other aspects of FHA's regulations governing lender activities. Changes to applicable HUD Handbooks are forthcoming.

Increased Net Worth Requirements

As stated in the final rule referenced above, FHA is implementing increases to its net worth requirements, and is providing additional accommodations for existing FHA-approved small business lenders and mortgagees. The increases will be carried out in two phases as described below.

PHASE ONE

Effective **May 20, 2010**, **all new applicants** for FHA approval as a lender or mortgagee, irrespective of size, must possess a net worth of at least \$1,000,000, of which no less than 20 percent must be liquid assets consisting of cash or its equivalent acceptable to the Secretary. In addition, all new applicants must use the new HUD Form 92001-A, FHA Lender Approval Application that is available at: <http://www.hud.gov/offices/adm/hudclips/> and replaces the HUD Form 11701.

Effective **May 20, 2011**, each lender or mortgagee with FHA approval as of May 20, 2010, that exceeds the size standards for a small business as defined by the Small Business Administration at 13 CFR 121.201, Sector 52 (Finance and Insurance), Subsector 522 (Credit Intermediation and Related Activities)², must possess a net worth of at least \$1,000,000, of which no less than 20 percent must be liquid assets consisting of cash or its equivalent acceptable to the Secretary.

¹ The final rule was published on April 20, 2010 at 75 Fed. Reg., 20718, and a technical correction was published on May 4, 2010 at 75 Fed. Reg. 23582.

² SBA's current requirements for classification as a small business as set forth in this Subsector are less than \$7 million in annual receipts for non-depository institutions and less than \$175 million in assets for depository institutions.

Effective **May 20, 2011**, each lender or mortgagee with FHA approval as of May 20, 2010, that meets the size standards for a small business as defined by the Small Business Administration at 13 CFR 121.201, Sector 52 (Finance and Insurance), Subsector 522 (Credit Intermediation and Related Activities), must possess a net worth of at least \$500,000, of which no less than 20 percent must be liquid assets consisting of cash or its equivalent acceptable to the Secretary.

PHASE TWO

Effective **May 20, 2013**:

- Participation in Single Family Programs. The final rule provides that, irrespective of size, all applicants for approval and lenders and mortgagees with FHA approval as of or after May 20, 2010, that wish to participate in FHA single family programs must possess a minimum net worth of not less than \$1,000,000 plus an additional net worth of one percent of the total volume in excess of \$25 million of FHA **single family** insured mortgages originated, underwritten, purchased, or serviced during the prior fiscal year, up to a maximum required net worth of \$2.5 million. Not less than 20 percent of a mortgagee's required net worth must be liquid assets consisting of cash or its equivalent acceptable to the Secretary.
- Participation in Multifamily Programs with Engagement in Mortgage Servicing. The final rule provides that, irrespective of size, all applicants for approval and lenders and mortgagees with FHA approval as of or after May 20, 2010, that wish to participate in FHA **multifamily** programs, and that **engage in mortgage servicing**, must possess a minimum net worth of not less than \$1,000,000 plus an additional net worth of *one percent* of the total volume in excess of \$25 million of FHA multifamily insured mortgages originated, underwritten, purchased, or serviced during the prior fiscal year, up to a maximum required net worth of \$2.5 million. Not less than 20 percent of a mortgagee's required net worth must be liquid assets consisting of cash or its equivalent acceptable to the Secretary.
- Participation in Multifamily Programs without Engagement in Mortgage Servicing. The final rule provides that all applicants for approval and lenders and mortgagees with FHA approval as of or after May 20, 2010, that wish to participate in FHA **multifamily** programs, and that **do not engage in mortgage servicing**, must possess a minimum net worth of not less than \$1,000,000 plus an additional net worth of *one half of one percent* of the total volume in excess of \$25 million of FHA multifamily insured mortgages originated, underwritten, or purchased during the prior fiscal year, up to a maximum required net worth of \$2.5 million. Not less than 20 percent of a mortgagee's required net worth must be liquid assets consisting of cash or its equivalent acceptable to the Secretary.
- Participation in Single Family and Multifamily Programs. All applicants for approval and lenders and mortgagees with FHA approval as of or after May 20, 2010, that wish to participate in both FHA single family and multifamily programs must meet the higher net worth requirements for single family mortgagees.

All applicants for FHA lender approval or renewal, except for government mortgagees, are required to submit audited financial statements as a condition of their approval or renewal. Previously, this requirement only applied for non-supervised lender approval and renewal. However, applicants for approval or renewal as supervised or investing mortgagees, in addition to non-supervised mortgagees, are now required to submit audited financial statements.

Elimination of Loan Correspondent Approval for Single Family Programs

Loan Correspondent Approval Expiration

Loan correspondents approved and in good standing will be permitted to retain their approval through December 31, 2010. All loan correspondents that were required to renew their FHA approval on or after March 31, 2010, and prior to May 20, 2010, and that have not yet renewed their approval, must complete their online annual certification and submit their renewal fee via FHA Connection. Failure to complete these items in accordance with existing FHA requirements (i.e., within 90 days of a loan correspondent's fiscal year end) will result in administrative action.

Loan correspondents with fiscal years ending prior to December 31, 2009, that failed to comply with HUD/FHA annual recertification requirements (i.e. submission of annual certification fee, annual online certification or audited financial statements) will be subject to administrative action. For loan correspondents with fiscal years ending on or after December 31, 2009, and that were required to renew their FHA approval prior to May 20, 2010, FHA will rely on the submission of the **prior year's audited financial statements for the renewal of loan correspondent approval**. These loan correspondents must submit the online annual certification and the annual renewal fee or be subject to administrative action leading to the possible withdrawal of their FHA approval as detailed in Mortgagee Letter 2009-01 which is available at: <http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/index.cfm>.

After December 31, 2010, loan correspondents (also referred to as sponsored third party originators) will be permitted to continue participation in FHA programs by establishing a sponsorship relationship with an FHA-approved mortgagee, as explained in the rule. Effective January 1, 2011, formerly approved loan correspondents will no longer have access to non-public FHA systems, including FHA Connection. Only FHA-approved mortgagees will be permitted to order FHA case numbers from FHA Connection. HUD will provide further guidance with respect to the processing of case numbers ordered prior to the January 1, 2011 sunset date in a subsequent Mortgagee Letter.

Effective **May 20, 2010**, FHA no longer accepts any new applications for loan correspondent approval. FHA will complete the processing of loan correspondent applications received prior to May 20, 2010. For those entities that submitted an application for loan correspondent approval on or after May 20, 2010, the application and fee will be returned to the applicant.

Mortgage Origination Activities

As provided in the final rule, a loan correspondent already approved by FHA and in good standing as of May 20, 2010, will maintain its approval through December 31, 2010, and may therefore continue to originate mortgage loans insured by FHA through the end of the calendar year. Non-approved originators, including previously approved loan correspondents whose approval has expired, will be permitted to participate in FHA programs through sponsorship by an FHA-approved Direct Endorsement mortgagee. An FHA-approved mortgagee may permit its sponsored third party originator to perform all origination and processing tasks related to an FHA loan transaction, except for those tasks executed directly in FHA Connection. Sponsoring FHA-approved mortgagees will determine the exact origination and processing duties their sponsored third party originators may perform. Additionally, an approved mortgagee may permit a sponsored third party originator to originate Home Equity Conversion Mortgages (HECMs), provided that the sponsored third party originator adheres to all other HECM origination requirements.

In order to be able to properly account for the source of FHA loan originations, FHA will need to make modifications to its data systems. Until these systems modifications are complete, sponsoring mortgagees will need to enter their 5 digit FHA ID in FHA Connection as the loan originator for loans originated by a sponsored third party originator. Accordingly, until systems updates are completed, all loan originations from sponsored third party originators will appear in FHA's systems as a retail origination of the sponsoring mortgagee. It is expected that FHA system modifications will be completed by September 30, 2010. FHA will issue a Mortgagee Letter to explain the new data submission requirements.

Underwriting and loan approval must be performed by a FHA-approved mortgagee for all loans originated by sponsored third party originator. Once approved by the sponsoring FHA-approved mortgagee, a loan must close in the name of the sponsoring underwriting mortgagee. The sponsoring mortgagee may submit the loan to HUD for insurance endorsement, or insure the loan if it is a mortgagee with Lender Insurance authority.

During the public comment period for the November 30, 2009, proposed rule, HUD received a number of comments regarding the prohibition against loans closing in the name of non-approved sponsored third party originators. HUD understands and appreciates that this prohibition may require some sponsored third party originators to make changes to aspects of their operations. While HUD has determined that it is most prudent to proceed with this prohibition as proposed, FHA will continue to evaluate the potential effects of this provision and possible solutions that will permit sponsored third party originators to close loans in their own names in the future.

HUD will hold FHA-approved mortgagees responsible for compliance with FHA requirements in all aspects of an FHA loan transaction, whether performed by the approved mortgagee or by its sponsored third party originator, unless applicable law or regulation governing the violations in question require specific knowledge on the part of the party to be held responsible. HUD expects that FHA-approved mortgagees will pursue sponsoring relationships with responsible originators, and that approved mortgagees will diligently monitor and evaluate the activities and performance of those they sponsor. The Department will continue to carefully review and evaluate FHA-approved mortgagees' activities and performance, and will take appropriate action to enforce

its requirements when violations occur.

Loan Performance

As stated in the final rule, FHA will provide loan performance data in Neighborhood Watch for all loans originated via a sponsored third party originator relationship. This data will be made available only to FHA-approved mortgagees for the purpose of evaluating sponsored third party loan origination trends and performance. FHA-approved mortgagees will be able to access aggregate comparative data for all sponsored third party originators and loan level performance data for the loans in which they acted as a sponsor for a sponsored third party originator.

Employment Requirements

FHA's employment requirements for approved mortgagees and lenders are outlined in Chapter 2 of Handbook 4060.1, Rev. 2. FHA-approved mortgagees shall ensure that sponsored third party originators involved in FHA loan transactions adhere to all applicable federal, state, and local requirements governing their FHA loan origination and processing activities. As a reminder to currently approved mortgagees and lenders, HUD prohibits HECM mortgage originators from also engaging in the sale or solicitation of other financial or insurance products. FHA-approved mortgagees must carefully evaluate the specific guidelines governing the programs and activities in which they wish to participate, as well as relevant state and local laws and regulations governing such activities.

Principal-Authorized Agent Relationships

The final rule also made changes to FHA's requirements governing Principal-Authorized Agent relationships. Principal-Authorized Agent relationships can now only be entered into by two FHA-approved mortgagees, both of which possess unconditional Direct Endorsement approval.

- For Forward mortgages, the principal can have either unconditional DE or unconditional HECM approval. The authorized agent must have unconditional DE approval.
- For HECM mortgages, the principal can have either unconditional DE or unconditional HECM approval. The authorized agent must have unconditional HECM approval.

The Principal in these relationships must originate the loan and the Authorized Agent must underwrite the loan. The loan may close in either the name of the Principal or the Authorized Agent, and either party may submit the loan for insurance endorsement. The relationship, and the respective roles of the parties involved, must be documented accurately and accordingly in FHA Connection. Additional time is needed to support such documentation in FHA Connection. Due to impending system changes necessary to support and validate principal-authorized agent transactions, FHA is issuing a regulatory waiver that will delay implementation of this provision until January 1, 2011.

Areas Approved for Business

When conducting retail and direct lending originations, FHA-approved mortgagees must

continue to comply with the existing Single Family Origination Lending Areas (Areas Approved for Business or AAFBs) as outlined in HUD Handbook 4155.2, Section 12.E.2. FHA-approved mortgagees also must continue to be licensed to perform loan originations in each state in which they desire to originate FHA loans. FHA-approved mortgagees may underwrite sponsored third party originated loans in any state in which they are permitted by the state to do so, and in which sponsored third party originators are permitted to conduct mortgage origination activities. Hence, an FHA-approved mortgagee's wholesale AAFB consists of all states in which it sponsors a mortgage originator that meets the applicable requirements for loan origination of that state and in which the mortgagee is permitted by the state to underwrite mortgage loans and sponsor mortgage originators. To facilitate sponsored third party originations as described above, mortgagees will be permitted to order case numbers for any state in which they are approved to underwrite an FHA loan. Until system modifications are made, mortgagees will need to enter their 5 digit ID in the Sponsor field in FHA Connection's case number assignment screen.

Again, HUD will provide more detailed requirements for the submission of sponsored third party originator loans in a subsequent Mortgagee Letter. That Mortgagee Letter will include instructions for data submission and the process for ordering and transferring FHA case numbers for loans originated by sponsored third party originators.

If you have questions regarding this mortgagee letter, please call the FHA Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

David H. Stevens
Assistant Secretary for Housing-
Federal Housing Commissioner

Paperwork Reduction Act

Paperwork reduction information collection requirements contained in this document are pending by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). The OMB approval number when assigned will be announced. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.