from the DESK OF DAVID H. STEVENS

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Your Door to FHA HOMEOWNERSHIP

LINKS

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Happy New Year! I hope each of you had a great holiday. As an industry we can begin the New Year with optimism for continued economic recovery and a more stable housing finance system.

As I mentioned in the last edition, there continues to be change coming from FHA, and I want to reiterate how much we appreciate your partnership as you work to implement these changes.

Recently, we provided guidance on short sales, delayed implementation of some of our new appraisal policies, and clarified HUD's new Real Estate Settlement Procedures Act (RESPA) procedures as they relate to FHA originations.

I would like to address those topics and recent news with you today, to give you a better understanding of these changes and answer questions we have received. We are here to support you as we work together to serve the nation's home buyers and renters.

Q: Yesterday, HUD's Office of Inspector General announced it is launching a probe into the underwriting practices of 15 lenders with excessive default rates in their FHA portfolios. What role do you see for FHA in this effort?

A: *It's important to note that FHA has been taking actions against poorly performing lenders since the day I took this job six months ago. This cooperative effort with the OIG is another indication that we will not tolerate lending practices that pose a risk to the FHA fund, and we have pledged to assist the Inspector General's Office in any way we can. The Inspector General's initiative will help us determine whether there is fraud at these companies and better manage risk in the long run.*

(Click here to view the full text of press release HUD OIG 2010-01)

Q: What guidance was recently published by FHA about short sales? What changes will you be making and when will they be introduced?

A: *FHA issued new guidance to help responsible borrowers who did not fully payoff their mortgage due to extenuating circumstances gain access to FHA financing.*

On December 16, we released a Mortgagee Letter (09-52) to lenders and underwriters regarding borrower eligibility for a new FHA mortgage after pursuing a short sale (when a previously owned property is sold for less than what is owed) or a short payoff, when there is a principal write down of *indebtedness that cannot be refinanced into a new mortgage.*

In the letter, which took effect immediately, we stated that borrowers are considered eligible for a new FHA-insured mortgage if: 1) they were current on their previous mortgage and other debts at the time of the short sale and 2) if the proceeds from the short sale serve as payment in full.

We also stated that borrowers are not eligible for a new FHA mortgage if they pursued a short sale agreement to take advantage of declining market conditions, or to purchase another property at a reduced price.

Additionally, borrowers who execute a short sale while in default on their mortgage are not eligible for a FHA-insured mortgage for three years from the date of the sale. Lenders, however, can make exceptions if the default was due to circumstances beyond the borrower's control, such as the death of the primary wage earner.

(Click here to view the full text of Mortgagee Letter 2009-52)

Q: Why did you delay implementation of some of the changes to appraisal policies that were to become effective on January 1?

A: *We are committed to enhancing the accuracy and independence of the appraisal process. The effective date of the policy changes outlined in Mortgagee Letters 09-29 and 09-51 is for all case numbers assigned on or after February 15, 2010. This extension will provide FHA and lenders additional time to adjust systems to accommodate the changes.*

In an upcoming Mortgagee Letter, FHA will be publishing additional guidance on procedures for how to order case numbers when appraisers have not yet been identified and supplemental information will be provided on appraisal updates.

(Click here to view the full text of Mortgagee Letters 2009-28 and 2009-51)

Q: What guidance did FHA just issue about implementation of the new RESPA requirements and lender origination fees?

A: *As many of you know, HUD made comprehensive changes to its Real Estate Settlement Procedures Act (RESPA) requirements that took effect January 1, 2010. Basically, these regulatory changes strive for greater transparency for the consumer in the settlement process, requiring expanded disclosures about borrower fees by all participants in the mortgage settlement process, including lenders.*

There is now a new Good Faith Estimate and HUD-1 Settlement Statement for all mortgages originated after January 1. Mortgagee Letter 2009-53 (RESPA and FHA Related Policies), issued December 30, 2009, clarifies how fees and charges for FHA loans must be disclosed on the Good Faith estimate and HUD-1 form.

The new forms contain many changes in how a lender discloses fees to the borrowers. Lenders have strict guidelines requiring them to show what fees they are charging and for what purpose. Due to the enhanced information available to the borrower, we believe that a cap on origination fees was no longer required. Now, FHA will no longer limit the origination fee to one percent of the mortgage amount for its standard mortgage insurance programs (HECM and 203k loans retain their statutory origination caps).

However, FHA expects that lenders will continue to charge fair and reasonable fees for all origination services. We will continue to monitor and ensure that FHA borrowers are not overcharged. And it should be noted that the FHA Commissioner retains the authority to set limits of any fees that lenders charge borrowers for obtaining an FHA loan.

(Click here to view the full text of Mortgagee Letter 2009-53)

We have provided links to the Mortgagee Letters referenced above so you can easily access them for more complete guidance on the policies discussed.

I look forward to continued communication with you about the enhancements we are undergoing here at FHA. As industry partners, we must work together to rebuild a strong housing finance system. At FHA, we continue to work diligently to introduce change in a manner that provides the industry with timely notification and thoughtful implementation time lines.