



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

January 21, 2010

MORTGAGEE LETTER 2010-03

TO: ALL APPROVED MORTGAGEES

SUBJECT: Mortgagee Approval for Single Family Programs – Extended Procedures for Terminating Underwriting Authority

This Mortgagee Letter is being issued to advise that the Department of Housing and Urban Development (HUD) will be using its regulatory authority to terminate a mortgagee's authorization to underwrite single family loans in geographic areas where the lender has a high rate of early defaults and claims.

HUD has the authority to address deficiencies in the mortgagee's performance as provided in the HUD mortgagee approval regulations at 24 CFR 202.3. The latest revisions to these regulations were published as a proposed rule on April 1, 2003, at 68 CFR 15906 (which contains the text of the amendments) and were published as an interim rule on December 17, 2004 effective January 18, 2005. The final rule took effect on March 1, 2006. At present, HUD exercises its authority to terminate only the loan origination approval authority of a mortgagee. Effective with this Mortgagee Letter, HUD will systematically review all Direct Endorsement (DE) underwriting mortgagees' defaults (loans 90 or more days' delinquent) and claim rates on loans during the initial 24 months from the date of the commencement of the amortization. HUD, at its option, will exercise its authority to terminate the underwriting authority (Authority) of DE mortgagees with excessive default and claim rates.

TERMINATION OF UNDERWRITING APPROVAL AUTHORITY

Approval of a DE mortgagee by HUD authorizes the mortgagee to underwrite single family mortgage loans and submit them to FHA for insurance endorsement. HUD may terminate a DE underwriting mortgagee's approval to underwrite FHA-insured loans in an area where the mortgagee's default and claim rate exceeds the established Credit Watch Termination thresholds. The termination of a DE mortgagee's authority is separate and apart from any action taken by HUD's Mortgagee Review Board under HUD's regulations at 24 CFR Part 25.

- **Frequency and Scope of Reviews:** Every three months, HUD will review the rate of defaults and claims on all FHA-insured single family loans. The review will analyze the performance of every participating mortgagee in each geographic area served by a HUD field office. The review will be limited to loans with an amortization commencement date within the preceding 24 months.
- **Unacceptable Results:** Regulations permit HUD to terminate the Authority of any mortgagee having a default and claim rate for loans underwritten with an amortization date within the preceding 24 months that exceeds 200% of the default and claim rate within the geographic area served by a HUD field office, and also exceeds the national default and claim rate.

Initially, HUD will focus its attention on those mortgagees showing particularly high default and claim rates. Below is an initial timetable for the reduction in the credit watch threshold.

24 Month Period Ending Date	Termination Threshold
December 31, 2009	300%
June 30, 2010	250%
December 31, 2010	200%

For the first review period, HUD may terminate the Authority of any mortgagee whose default and claim rate exceeds both the national rate and 300 percent of the field office rate. HUD will notify the mortgagee, before terminating its Authority.

For evaluations after December 31, 2010, the threshold will remain constant at 200 percent of the field office default and claim rate. If there is a change in the termination threshold, a notice will be issued in advance of the effective date of the change.

- Mitigating Factors Evaluated Initially: HUD will analyze loans in terms of underserved versus served census tracts as explained below. The mortgagee's loan performance will be compared to the field office average for similar loans.
- Appeal Process: HUD regulations at 24 CFR 202.3(c)(2)(iv) permit a mortgagee to request an informal conference with the Deputy Assistant Secretary (DAS) for Single Family Housing, or his or her designee prior to the termination of its Authority. A mortgagee desiring an informal conference must submit a written request to the Docket Clerk, Departmental Enforcement Center, Legal Division, Room B-133/VALA, U. S. Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410 within **30 calendar days of the date of receipt of the proposed termination notice.**

An informal conference is an oral and/or written presentation, by the mortgagee or its representative, of information and argument in opposition to the termination. Whether the presentation is written, oral, or both is at the option of the mortgagee. A written submission may accompany the request for an informal conference or sent separately; however it must be sent to the Docket Clerk within 30 calendar days from the date of receipt of the proposed termination notice. **Written submissions should not exceed 15 pages.** Oral presentations may be held in person in Washington, DC or telephonically, and will be held as quickly as possible but no later than 60 calendar days after the date of the proposed termination notice. All presentations, whether written or oral, must specifically address relevant reasons and factors that were beyond the mortgagee's control that contributed to its excessive early default and claim rates or any other facts and circumstances which would explain the poor performance of the mortgagee's loans. After consideration of the material presented, the DAS or the designee will issue a decision in writing. HUD will determine whether termination should be sustained or withdrawn. If sustained, the termination will not take effect until a final notice of determination is issued.

If a mortgagee does not request an informal conference within 30 days of receiving the proposed termination notice, the right to confer (by oral or written presentation) will be deemed to have been waived by the mortgagee and its Authority will be terminated 60 days from the date of the proposed termination notice without further notification from HUD.

- Effect: Termination of the Authority precludes the mortgagee from underwriting FHA-insured single family loans within the area of the HUD field office(s) listed in the notice. Mortgagees authorized to purchase, hold, or service FHA insured loans may continue to do so.

Loans that closed or were approved before the Termination became effective may be submitted for insurance endorsement. Approved loans are those already underwritten and approved by a Direct Endorsement underwriter, and cases covered by a firm commitment issued by HUD. Cases at earlier stages of processing cannot be submitted for insurance by the terminated mortgagee; however, the cases may be transferred for completion of processing and underwriting to another mortgagee authorized to underwrite FHA insured loans in that area.

- Publishing Actions: The Department will publish a list of mortgagees which have had their Authority terminated in the Federal Register and on HUD's Web Site, together with a general explanation of the cause and effect of the termination.

LOAN CORRESPONDENT'S

Consistent with HUD Handbook 4060.1, REV-2, Chapter 6, for those loan correspondents who may only have one sponsor in a particular area, HUD will allow a 30 day period to establish a new relationship with another FHA-approved mortgagee before terminating the loan correspondent's FHA Approval.

CONSIDERATIONS

- Volume: HUD is aware that defaults may stem from changes in the mortgagors' circumstances, rather than imprudent underwriting. To lessen the effect of a small number of loans, HUD will establish a minimum number of defaults and claims. HUD will perform analyses only for mortgagees that have defaults and claims above the de minimis amount but with the following caveat. If HUD finds a mortgagee that underwrites few loans but continually has a default and claim rate that exceeds the termination threshold, HUD reserves the right to take appropriate action and to terminate the mortgagee.
- Underserved Areas: For termination action, HUD is defining underserved census tracts as those identified by OMB as meeting the definition found at 24 CFR 81.2. Underserved census tracts are: 1) tracts in metropolitan areas a) having a median income of no more than 90 percent of the MSA as a whole or b) having a median income of no more than 120 percent and minorities comprise at least 30 percent of the tract's population; 2) all tracts in any non-metropolitan county which a) have a median income of no more than 95 percent of the nonmetropolitan part of the State or the Nation, whichever is greater, or b) have a median income of no more than 120 percent and minorities comprise at least 30 percent of the county's population.

REINSTATEMENT

HUD's regulations, 24 CFR 202.3(e), provide that a terminated mortgagee's right to apply for a new Authority is not affected if the mortgagee continues to be an approved mortgagee meeting the general standards of 24 CFR 202.5 and the specific requirements of Sections 202.6, 202.7, 202.8, or 202.10 and 202.12, if there has been no Authority for at least six months, and if the Secretary determines that the underlying causes for termination have been remedied. A terminated mortgagee may request to have its Authority reinstated no earlier than 6 months after the effective date of the termination.

To ascertain whether the underlying causes for the termination have been remedied, a mortgagee applying for a new Authority must obtain an independent review of the terminated areas operation as well as

its mortgage underwriting, specifically including the FHA-insured loans cited in its termination notice. This independent analysis shall identify the underlying cause for the mortgagee's high default and claim rate. The review must be conducted and issued by an independent Certified Public Accountant (CPA) qualified to perform audits under Government Auditing Standards as set forth by the General Accounting Office. The mortgagee must submit a written corrective action plan to address each of the issues identified in the CPA's report, along with evidence that the plan has been implemented. HUD reserves the right to impose additional requirements for reinstatement.

The application for a new Authority should be in the form of a letter, accompanied by the CPA's report and the corrective action plan. The request should be sent to the Director, Office of Lender Activities and Program Compliance, 451 Seventh Street, S.W., Room B133-P3214, Washington, DC 20410 or by courier to 490 L'Enfant Plaza East, S.W., Suite 3214, Washington, DC 20024

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