




Lenders Compliance Group

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Friday, August 5, 2011

HUD: Administrative Actions - Avoiding the Mortgagee Review Board

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Jonathan Foxx is the President and Managing Director of Lenders Compliance Group.

The Department of Housing and Urban Development (HUD) has published the [Administrative Actions](#) taken by the Mortgagee Review Board (MRB) against certain FHA mortgagees. The period covered in the issuance is October 23, 2009 to February 7, 2011.

The MRB has the authority to issue Settlement Agreements, Civil Money Penalties, Withdrawals of Federal Housing Administration (FHA) Approval, Suspensions, Probations, Reprimands, and Administrative Payments.

Or to put this in more modern parlance, the MRB is empowered to enforce administrative sanctions, including reprimand, probation, suspension or withdrawal of approval, cease-and-desist orders, and civil money penalties

Trust me - you don't want to go there!

What May Yet Happen

In representing clients before the MRB, I can vouch for the exhaustive due diligence that is virtually mandated, the considerable costs involved, the experienced legal counsel and requisite regulatory compliance expertise that is needed, and the significant adverse impact on an FHA lender's ability to conduct or even continue in business.

It's easy to get lulled into a sense of false confidence by thinking that some violations are minor. But if the MRB gets involved, those minor violations will become a part of the causes for administrative action, and even in some instances the proximate cause of the administrative action.

Nothing should be considered a "minor" violation, when originating HUD/FHA mortgage loans.

So it is instructive to take note of the causes for administrative action against a HUD-approved mortgagee. Ignorance is a futile defense, when it comes to the causes that can affirmatively contribute to disciplinary action.

It should also be noted that the MRB withdrew FHA approval from 123 mortgagees because those lenders were not in compliance with HUD's annual recertification requirements.

Below is a list of 50 causes upon which the MRB has taken administrative action. In many cases, the civil monetary penalties were very large.

50 Causes of Administrative Actions A Very Partial List


- 1) Failed to maintain and implement a Quality Control Plan.
- 2) Failed to implement and follow HUD/FHA's Home Equity Conversion Mortgage (HECM) program requirements.
- 3) Charged borrowers excessive and duplicative fees.
- 4) Failed to disclose all charges to borrowers on the Good Faith Estimates.
- 5) Submitted a false certification to HUD on its Title II annual Verification Report.
- 6) Failed to timely notify HUD that one of its officers had been indicted for an offense that reflected upon AMC's responsibility and integrity and its ability to participate in HUD programs.
- 7) Failed to timely notify HUD that a state banking department suspended the mortgagee's

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7) Failed to timely notify HUD that a state banking department suspended the mortgagee's mortgage origination license.

8) Failed to provide a disclosure of a Controlled Business Arrangement when a settlement service provider was involved in the loan transaction with whom the lender had an ownership or other beneficial interest.

9) Failed to report serious violations identified during a QC review.

10) Failed to ensure that HUD/FHA's Construction-Permanent Mortgage Program requirements were met.

11) Failed to ensure that maximum mortgage amounts were properly calculated, resulting in over-insured mortgages.

12) Failed to ensure that there were no discrepancies between disbursements and/or sales prices on HUD-1 settlement statements or documents used to calculate loan amounts.

13) Failed to ensure that appraisal report findings were consistent or otherwise acceptable; and failed to ensure that properties located in Special Flood Hazard Areas were properly covered with flood insurance.

14) Approved loans with debt-to-income ratios that exceeded HUD/FHA standards without significant compensating factors.

15) Failed to properly calculate and/or document the income used to qualify borrowers.

16) Improperly omitted recurring liabilities from underwriting analyses.

17) Failed to properly document the source of gift funds or assets; failed to ensure that the maximum insured mortgage amount was properly calculated, resulting in an over-insured mortgage.

18) Charged unallowable fees to mortgagors and collected processing fees from borrowers which it then paid directly to a contract processing company.

19) Failed to include mandatory elements in its adopted QC Plan.

20) Failed to conduct mandatory QC servicing reviews.

21) Failed to timely notify HUD of changes in the mortgagor and/or servicer of FHA-insured loans.

22) Failed to timely notify HUD and terminate insurance after FHA-insured loans were paid in full.

23) Failed to properly report loan statuses and reasons for default into HUD's Single Family Default Monitoring System.

24) Failed to notify HUD within ten days of its entrance into two consent orders with a state banking department.

25) Failed to notify HUD within ten days of changes affecting its standing as an approved institution.

26) Submitted false certifications to HUD in connection with transactions in which the mortgagee allowed non-employees to originate FHA loans.

27) Violated HUD/FHA minimum staffing requirements by allowing one of its branch offices to operate without a branch manager.

28) Implemented a written employee policy and executed contractual agreements that violated HUD/FHA requirements.

29) Processed a HECM loan prior to the borrower's receipt of HECM counseling.

30) Failed to file Home Mortgage Disclosure Act and Regulation C-compliant reports for calendar certain years.

31) Failed to ensure that loan applications were processed by authorized employees who worked exclusively for the mortgagee.

32) Distributed an advertisement that misrepresented HUD/FHA's HECM program requirements in a mailer envelope that simulated a government form.

33) Failed to notify HUD that the mortgagee had ceased its business operations.

34) Approved a loan that exceeded HUD's maximum mortgage amount.

35) Failed to comply with a condition of the mortgagee's FHA approval and submitted false and misleading information to HUD in connection with the mortgagee's application for FHA approval.

36) Failed to adequately document the income used to qualify the borrower.

37) Used conflicting information in originating and obtaining HUD/FHA mortgage insurance.

38) Failed to document the source of funds used for the down payment and/or closing costs.

39) Omitted liabilities from the underwriting analysis without adequate documentation.

40) Failed to analyze borrowers for loss mitigation in a timely manner.

41) Failed to perform management/foreclosure reviews.

42) Failed to input accurate codes into HUD/FHA's Single Family Default Monitoring System.

43) Failed to foreclose on properties in accordance with HUD/FHA guidelines.

44) Failed to ensure QC reviews were completed for early payment defaults.

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- 45) Engaged in a prohibited branch arrangement by allowing a separate mortgage company to function as a branch office.
- 46) Failed to uphold its agreement with HUD to only originate direct mortgages through its direct lending branch.
- 47) Failed to register a branch office.
- 48) Posted the HUD seal on a website maintained by a loan officer.
- 49) Failed to notify HUD of reportable business changes.
- 50) Failed to ensure that documents were not signed in blank.

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Department of Housing and Urban Development
Mortgage Review Board: Administrative Actions

Federal Register: 76/146

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