

HUD REVAMPS FHA LENDING REQUIREMENTS

October 14, 2011

On September 23, 2011, HUD issued Mortgagee Letter 2011-34 (the "Letter"). The provisions of the Letter, which became effective immediately upon the Letter's release, dramatically revamp requirements for FHA-approved lenders. Most significantly, HUD has expanded the single family origination lending area of each home office and registered branch office to include all HUD field office jurisdictions. Previously, a specific office could only make loans in a particular geographic lending area. Under the rules set forth in the Letter, an FHA single-family lender may make loans on a nationwide basis out of any home or registered branch office, provided that the lender independently meets the loan origination requirements of each state in which the loans are made. This represents a major expansion of the ability of FHA lenders to make loans nationally, and for those lenders able to meet the net worth and other requirements of the FHA now and in the future, will facilitate nationwide FHA lending activities.

The Letter also amends HUD's requirements regarding office facilities. The Letter states that an FHA-approved lender may conduct loan origination and/or servicing activities from its home office, branch office, and/or direct lending branch office, as long as the office facilities fully comply with all state licensing requirements in the jurisdiction where the office is located. In addition, while HUD reiterated that a mortgagee's home office must comply with the requirements set forth in paragraph 2-11.A of Handbook 4060.1 (i.e., have adequate office space and equipment, be in a location conducive to mortgage lending, be in a commercial space that is separate and apart from any other entity, display a fair housing poster and be clearly identified to the public, including a permanently affixed business sign), HUD rescinded these same requirements for traditional branch offices as well as the requirement that the traditional branch office provide privacy for conducting interviews, rescinded the requirements that non-traditional branch offices meet branch office staffing requirements, have adequate office

space and equipment, conform to local governmental use requirements and display a fair housing poster if the public is ever received, and rescinded the requirements that a direct lending branch office meet the office facilities and staff requirements of a branch office and have a separate manager. Furthermore, applicants are no longer required to submit evidence of acceptable home office facilities as part of the mortgagee approval process, which means that applicants need no longer submit photographs and a floor plan for the facilities, or a certification that the facilities comply with FHA requirements; Instead, HUD will verify compliance with these requirements through any on-site visits to the home office.

The Letter also reiterates HUD's position on net branching arrangements. Typically, net branching is a practice whereby a party other than the FHA-approved lender (often the branch manager) pays some or all of the branch office's expenses (including through escrow arrangements), is responsible for losses of the branch office, or may be a lessor or sublessor of the branch office or branch office equipment. HUD disallows these arrangements, and requires FHA-approved lenders to pay all operating expenses of each of their home, branch and direct lending offices. Apparently some lenders are still engaging in prohibited net branching arrangements, as HUD reaffirmed in the Letter that FHA-approved lenders may not engage in prohibited net branching activities.

The Letter made a number of additional technical changes with respect to applications for FHA approval, including the manner in which officers and owners of the applicant are to be identified, and the background information that must be submitted for officers.

For further information on these new requirements, please contact [David Sands](#) at (213) 617-5536 or [Sherwin Root](#) at (213) 617-5465.