For this edition, I would like to update you about some recent changes we have made to our condominium approval process and a new initiative relating to electronic signatures. I also want to give you a "heads up" about some upcoming changes for net worth requirements for FHA-approved lenders and broker participation in FHA programs.

CONDO APPROVAL PROCESS

We continue to receive questions about changes FHA made to the condominium approval process which took effect December 7, 2009. Briefly, we:

- Modified the 50% owner occupancy requirement to allow the exclusion of vacant and tenant-occupied REOs from the calculation
- Reduced the pre-sale requirement from 50% to 30% of the total units
- Increased the FHA concentration limit from 30% to 50%
- Relating to site condos, condominium project approval is not required

Detailed information is contained in Mortgagee Letters 2009-46A and 2009-46B.

(Click here to view the full text of Mortgagee Letters 2009-46A and 2009-46B)

Also, in response to industry concerns, we recently posted a waiver to a part of Mortgagee Letter 2009-46B that requires HO-6 insurance coverage for individual condominium units when the project's Master Policy does not include interior unit coverage.

(Click here to view the waiver)

HO-6 coverage is a "walls-in" policy that protects interior improvements and also repairs made due to such events as fire, explosions, or theft.

For example, if the roof of the condominium project leaks, the master building policy would cover the roof repair, but not any individual units that might have been damaged.

After we published ML 2009-46B, many lenders advised us of the challenges this requirement presents with their IT infrastructure, including processing and underwriting systems that currently do not accommodate for the collection and management of this data. The lenders told us that any attempts to solve this problem immediately using a manual process could pose significant risks, due to the multiple failure points that can occur in manual processing.

LINKS

HUD.gov/fha

HUD press releases

To avoid these problems, we issued a waiver lifting the HO-6 insurance coverage for a period of one year, which should give lenders enough time for their IT staff to update their systems.

Frequently Asked Questions

Q: *How will the 30% FHA concentration requirement affect first time homebuyers?*

A: With the publication of Mortgagee Letter 2009-46 A, the FHA concentration will be increased temporarily to 50 percent. These standards are identified in Mortgagee Letter 2009- 46 A. This temporary increase will have a positive impact on first time homebuyers providing more affordable housing opportunities. Mortgagee Letters 2009-46 A and ML 2009-46 B applies to all projects, existing, proposed and new construction without distinction of homebuyers.

Q: *How can a lender obtain the information relative to FHA 30% concentration within a project?*

A: FHA will display the concentration information for each approved condominium development on the approved condominium listing, which can be found on both FHA Connection and the Condominium Project Maintenance Screen and I want to let you know that we have a very useful link on our website that allows you to search for FHA condo project approvals.

(Click here to search for FHA condo project approvals)

Q: *What is the definition of "site" condo?*

A: The FHA definition of a site condominium is: a single family totally detached dwelling (no shared garages or any other attached buildings) encumbered by a declaration of condominium covenants or condominium form of ownership.

ELECTRONIC SIGNATURES

FHA will begin accepting electronic signatures on third party documents originated and signed outside of the lender's control, such as real estate contracts. A Mortgagee Letter detailing FHA's new streamlined process is posted on the HUD website.

This is just the beginning of our commitment to use more electronic signatures. Over time, we will be expanding the number and types of documents with electronic signatures which will be acceptable to FHA.

We know many of our industry partners will like this change. Vicki Cox Golder, National Association of Realtors president, said, "We applaud FHA's refreshing attitude toward modernization and making electronic signature capabilities acceptable for its mortgage transactions."

We do expect FHA lenders to employ the same level of care and due diligence with electronically signed documents as for paper documents with "wet" or ink signatures. The electronic signature and date should be clearly visible in the document, and electronic documents will be subject to the same document retention requirements as paper documents.

This policy is in accordance with the Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA), as applicable. It is effective immediately for FHA forward mortgages as well as Home Equity Conversion Mortgages (HECM/reverse mortgages).

Frequently Asked Questions

Q: You said that over time you will be expanding the types with electronic signatures that would be acceptable. Can you give me an idea of what these documents would be, and when those changes would be made?

A: Lender Originated Documents such as the URLA (Uniform Residential Loan Application), and loan disclosures that are signed by borrowers are the next steps and we anticipate having guidance issued this fall if not sooner. The last step would be for Lender originated documents to be signed by the lender's representative, such as the underwriter certification.

CHANGES TO NET WORTH REQUIREMENTS AND LOAN CORRESPONDENTS

HUD will soon issue a Mortgagee Letter which provides specific information regarding the implementation of its recently released final rule entitled, "Federal Housing Administration: Continuation of FHA Reform—Strengthening Risk Management Through Responsible FHA-Approved Lenders". In advance of the publication of that Mortgagee Letter, however, the following is a brief preview of HUD's planned enactment of the primary provisions of that rule:

- **Increased net worth requirements for FHA-approved mortgagees**– The increased net worth requirements will be phased in, beginning with an increase effective May 20, 2010, for applicants for FHA approval as a mortgagee. Existing approved mortgagees will be required to meet the first-phase increase by May 20, 2011. Additional accommodations were made to allow an even more gradual increase in net worth for approved small business mortgagees. The second phase of the increase is effective May 20, 2013.

- **The elimination of explicit FHA approval of loan correspondents/brokers for participation in FHA lending programs**– As of May 20, FHA will no longer approve loan correspondents for participation in FHA programs. Existing FHA-approved loan correspondents that satisfy the requirements to renew their approval for 2010 will maintain that approval through the end of calendar year

2010. Underwriting mortgagees will now be held responsible for the performance of all the loans they underwrite. Additional operational changes regarding the operations of non-FHA-approved sponsored originators and their sponsoring FHA-approved mortgagees will be detailed in the forthcoming Mortgagee Letter.

- **Modifications to the Principal-Authorized Agent relationship–** The roles and responsibilities will be fixed for participants in these relationships. Additionally, the authorized agent, as the underwriting entity, will be held responsible for the performance of a loan originated through a Principal-Authorized Agent Relationship and its compliance with FHA guidelines.

Frequently Asked Questions

Q: ***How do I know if I qualify as a "small business" for purposes of FHA's new net worth requirements?***

A: FHA is using the Small Business Administration's (SBA) size standards to determine if a lender can be classified as a small business. SBA's current requirements for classification as a small business for businesses in the mortgage lending industry are less than $7 million in annual receipts for non-depository institutions and less than $175 million in assets for depository institutions.

(Click here to search for information on SBA's size standards)

Q: ***Will brokers still be able to originate FHA loans?***

A: Yes. The rule permits non-FHA-approved mortgage brokers to originate single family FHA-insured loans through sponsorship by an FHA-approved mortgagee. Sponsored brokers may originate, process, and fund loans, as permitted by their sponsor. However, only FHA-approved sponsoring mortgagees may close broker-originated loans and submit them for insurance endorsement.

I hope you find these updates useful, as FHA continues its efforts to better inform our industry partners and keep the lines of communication open.

###

Waiver of Requirement of Mortgagee Letter 2009-46 B Concerning Condominium Unit Insurance Requirements for HO-6 Coverage

Pursuant to §7(q) of the Department of Housing and Urban Development Act (42 USC 3535(q)) and 24 CFR 5.110, I hereby make the following Findings and Determinations.

FINDINGS

1. In response to the enactment of the "Housing and Economic Recovery Act of 2008" (HERA), the Department announced new guidance for the condominium project approval process in Mortgagee Letter (ML) 2009-46 B. This new guidance requires HO-6 insurance coverage for individual condominium units when the project Master Policy does not include interior unit coverage.

2. HO-6 coverage is a "walls-in" policy that protects the interior improvements and betterments in the event of perils such as bad weather, fire, explosion, and theft. For example, if the roof of a condominium is damaged and water leaks into the unit, the master building policy would cover the roof repair, but not individual unit repairs. HO-6 policies also generally cover improvements made, including private balconies or entrances, special fixtures or other additions to the property not covered by the Master Policy.

3. FHA-approved lenders are seeking a waiver to the HO-6 insurance requirements because their information technology (IT) infrastructure, including processing and underwriting systems do not currently accommodate for collection and management of this data. The system challenges for implementing HO-6 coverage requirements are:

   - Systems do not disclose the requirement or cost of such insurance and does not capture the monthly insurance premium. There is currently no field that captures this information.
   - The monthly insurance premium is not captured in the Debt-to-Income (DTI) calculation, thus affecting data integrity and accurate reporting.
   - Systems do not currently consider the monthly premium with monthly impounds (escrow accounts) and cash-to-close calculations, and do not include these amounts in closing instructions. This affects disclosures required by the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA).
   - Critical insurance policy data such as carrier, premium, coverage amount, policy number, and expiration is not captured in lenders' existing systems.
   - Because the critical insurance information is not captured in the front-end origination system, lenders do not have the ability to pass this information to their servicing systems to impound the monthly premium.
   - Lenders do not have the ability to track the HO-6 insurance remaining in force.

4. Lenders have advised the Department that any attempts to solve this problem immediately would pose significant risks that could ultimately lead to unsalable or uninsurable loans to FHA. With any type of manual process, there are multiple

failure points where incorrect or incomplete data could generate incorrect disclosures or TILA calculations.

5. Lenders are working with their IT staff on a technology build that would automate this process, with a target completion date of September 30, 2010.

6. Lenders currently process over 1,000 FHA Condo loan applications per month.

7. Without a waiver, lenders will have to discontinue this program. This will affect purchasers who intend to purchase a condominium unit and will diminish affordable housing opportunities. The sale of condominium units is vital to the recovery of the housing market.

DETERMINATIONS

1. A temporary waiver to the HO-6 insurance coverage required by ML 2009-46 B is recommended for lenders to continue to make FHA-insured loans on condominiums.

2. The waiver poses a low risk to the Mutual Mortgage Insurance (MMI) fund because lenders bear the responsibility and cost of restoring the property to its original condition before conveyance to FHA.

3. A waiver of the HO-6 coverage required by ML 2009-46 B will not violate any statutory requirements.

4. The above-findings constitute good cause for the waiver, as required by 24 CFR §5.110.

The waiver will expire one year from today's date. However, if FHA discovers that there is a significant increase in claim losses that are attributable to insured mortgages in condominium units without HO-6 coverage, the Commissioner may, at his discretion, withdraw this waiver immediately.

WAIVER

The requirement for HO-6 insurance coverage for condominium units under ML 2009-46 B is hereby waived for a period of one year from today's date, as established by the above determinations and condition.

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

APR 29 2010

Issued________________, 2010