

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Parts 25 and 203

[Docket No. FR-4722-P-01]

RIN 2502-AH78

### FHA Single Family Mortgage Insurance; Lender Accountability for Appraisals

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule clarifies and strengthens HUD's regulations concerning the responsibilities of lenders approved by the Federal Housing Administration (FHA) in the selection of appraisers to perform appraisals on properties that will be the security for FHA insured mortgages. First, the proposed rule provides that lenders are to be held strictly accountable for the quality of appraisals on properties securing FHA insured mortgages. Further, the proposed rule specifically provides that lenders who submit appraisals to HUD that do not meet FHA requirements are subject to the imposition of sanctions by the HUD Mortgagee Review Board. The proposed rule would apply to both sponsor lenders, who underwrite loans, and loan correspondent lenders, who originate loans on behalf of their sponsors. HUD believes these proposed changes will help protect the FHA Insurance Fund, ensure better compliance with appraisal standards, and help to ensure that homebuyers receive an accurate statement of appraised value.

**DATES:** *Comments Due Date:* March 14, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the office of the Department's Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708-

2121 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. FHA Appraisals

The success of the Federal Housing Administration (FHA) single family mortgage insurance program, and HUD's ability to protect the FHA Insurance Fund, begins with the quality of appraisals on properties that secure FHA mortgages. Section 203(b)(1) of the National Housing Act (12 U.S.C. 1709(b)(10)) provides the method for calculating the maximum mortgage amount that FHA can insure. The calculations required by the statute are based on the appraised value of the property that is security for the mortgage. If a mortgagor defaults and the lender<sup>1</sup> conveys property title to HUD in exchange for payment of mortgage insurance benefits, FHA then must manage and sell the property in order to recoup its insurance loss. If the appraisal was accurate, FHA's loss will be minimal. However, if the appraisal was inaccurate or the appraiser neglected to report readily observable defects, FHA's losses could be increased.

HUD has implemented several policies to help ensure the accuracy and completeness of appraisals on properties securing FHA insured mortgages. For example, HUD has established the FHA Appraiser Roster (Appraiser Roster), which lists those appraisers who are eligible to perform FHA single family appraisals. To be eligible for placement on the Appraiser Roster, an appraiser must be state licensed or certified and pass a test on FHA appraisal methods. Further, the appraiser must not be listed on the General Services Administration's Suspension and Debarment List, HUD's Limited Denial of Participation List, or HUD's Credit Alert Interactive Voice Response System. HUD maintains the Appraiser Roster to provide a means by which HUD can ensure the competency of appraisers performing FHA appraisals. Placement on the Appraiser Roster means that an appraiser is qualified to perform FHA appraisals; it does not mean that the appraiser is approved by FHA, nor does it provide a guarantee or warranty that the appraiser's work will meet FHA standards. The FHA Appraiser Roster

<sup>1</sup> This proposed rule uses the terms "lender" and "mortgagee" interchangeably.

regulations are located at 24 CFR part 200, subpart G.

The FHA single family mortgage insurance regulations at 24 CFR 203.5(e)(1) provide that "[a] mortgagee shall have the property appraised in accordance with such standards as the Secretary may prescribe." These standards are contained in HUD Handbook 4150.2, entitled "Valuation Analysis for Home Mortgage Insurance," which each appraiser receives upon applying to be placed on the FHA Appraiser Roster. All appraisers on the Appraiser Roster are required to read and comply with the handbook in performing appraisals of properties that will be security for FHA insured mortgage loans (*see* § 200.206 of the Appraiser Roster regulations). A copy of Handbook 4150.2 may be downloaded from HUD's Client Information and Policy System (HUDCLIPS) internet homepage at <http://www.hudclips.org>.

###### B. Lender Responsibilities Concerning FHA Appraisals

Almost all FHA insured mortgage loans are originated under the Direct Endorsement process. Under this process, a lender selects an appraiser from the Appraiser Roster. The appraiser appraises the property and then submits an appraisal report and accompanying documentation to the lender. The lender's Direct Endorsement underwriter (or, in the case of a loan correspondent, its sponsor's Direct Endorsement underwriter) reviews the appraisal documentation. Under § 203.255(b)(5), when a mortgage is submitted to FHA under the Direct Endorsement process, the application must contain, among other things, "[a]n underwriter certification, on a form prescribed by the Secretary, stating that the underwriter has personally reviewed the appraisal report ... and that the proposed mortgage complies with HUD underwriting requirements." Consequently, a lender is required, through its underwriter, to review the appraisal documentation to assure that the documentation meets the FHA requirements contained in HUD Handbook 4150.2 and amendatory issuances.

HUD's regulation at § 203.255(b) explicitly authorizes the Secretary to determine if there is any information indicating that any required certification (including the appraisal certification) "is false, misleading or constitutes fraud or misrepresentation on the part of any party, or that the mortgage fails to meet any statutory or regulatory requirement." Further, the Mortgagee Review Board regulations at 24 CFR 25.9 authorize the imposition of