



This document is scheduled to be published in the Federal Register on 12/14/2016 and available online at <https://federalregister.gov/d/2016-29757>, and on [FDsys.gov](https://fdsys.gov) Billing Code: 4210-67

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5658-N-02]

### Federal Housing Administration (FHA): Direct Endorsement Program Timeframe for Conducting Pre-Endorsement Review

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** Through this document FHA advises that it is shifting the timeframe for FHA's review of loans prior to endorsement from pre-closing to post-closing. A lender applying for unconditional Direct Endorsement authority will therefore submit required loan files, required in accordance with HUD regulations, only after closing. After determining that the mortgage is acceptable and meets all FHA requirements, FHA will notify the lender that the loan has been endorsed.

**DATE:** Effective Date: **[INSERT DATE THAT IS 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION, CONTACT:** Joy Hadley, Director, Office of Lender Activities and Program Compliance, Office of Housing, U.S. Department of Housing and Urban Development, 490 L'Enfant Plaza East, SW, Room P3214, Washington, DC 20024-8000; telephone number 202-708-1515 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

FHA grants lenders unconditional Direct Endorsement authority to close loans without prior

FHA approval in accordance with the terms and conditions of HUD's regulations in 24 CFR 203.3. Under the Direct Endorsement program, the lender underwrites and closes the mortgage loan without prior FHA review or approval. Before being granted unconditional Direct Endorsement authority, the lender must submit a specified number of loan files for review and approval by FHA as described in 24 CFR 203.3(b)(4). The regulations provide for the review of each loan file to be conducted by FHA, and the lender to be notified of the acceptability of the mortgage, prior to FHA endorsement of the mortgage for insurance. The Direct Endorsement program has been designed to give the lender sufficient certainty of FHA endorsement requirements to justify the assumption of the responsibilities involved in originating and closing mortgage loans without prior FHA review.

Currently, FHA generally conducts this review of the loan files required under 24 CFR 203.3(b)(4) prior to closing and, if acceptable, issues a commitment to the lender at that time. After closing, the mortgage is then submitted to FHA for endorsement for insurance. While this is the general procedure utilized by lenders seeking unconditional Direct Endorsement approval, FHA currently allows lenders to close the loans before submission for review. A lender is eligible for unconditional Direct Endorsement authority once FHA has reviewed and found acceptable the requisite number of loan files, at either pre-closing or pre-endorsement review, provided that the lender has met the other requirements for Direct Endorsement approval under 24 CFR 203.3.

## **II. Solicitation of Comment on Timeframe Pre-Endorsement Review**

### **A. March 2013 Notice Soliciting Comment**

On March 21, 2013, at 78 FR 17303, HUD published in the Federal Register a notice that solicited comment from FHA-approved lenders and other interested parties on FHA's announcement that it was considering shifting the timeframe for FHA's review of loans prior to endorsement from pre-closing to post-closing. The notice specifically sought feedback on whether

the proposed change in review time would benefit the lender by reducing the amount of time between loan origination and closing, and would result in operational savings of time and costs associated with approval timeframes, which FHA recognizes can be lengthy at times. The notice also sought feedback on whether the proposed change in review time would benefit the borrower; that is, would the borrower be able to take advantage of shorter interest rate lock-in periods, which could help to ensure that the borrower receives the best interest rate available at the lowest possible cost to the borrower.

As provided in the March 21, 2013, notice, HUD submitted that the proposed change in review time should not alter the current quality of review of the loan file or the quality of the Direct Endorsement lender approval process. The notice advised that FHA guidance issued in accordance with 24 CFR 203.3(b)(2), already requires the lender to certify that their underwriter(s) have the qualifications, expertise, and experience to underwrite mortgage loans in accordance with FHA requirements. The notice provided that given the certification required of lenders, the shift in the timeframe for review may in fact result in enhanced lender accountability; that is, the lender will place more emphasis on ensuring that their underwriting staff is sufficiently trained prior to requesting Direct Endorsement authority. The notice further provided that properly trained underwriters will help to increase the number of loans that are found to be acceptable, resulting in an even higher percentage of loan files that meet FHA policies and guidelines.

The March 21, 2013, notice also advised that HUD had analyzed data for mortgage loans that were submitted for review during the period beginning October 1, 2009 through June 30, 2012, and the data demonstrated that 86.7 percent of all loans reviewed during this time period, and 90.5 percent of all loans reviewed year to date in FY 2012, were found to meet FHA policies and guidelines and were subsequently endorsed. The notice further advised that the lenders entering the

Direct Endorsement review process during the October 1, 2009 through June 30, 2012 timeframe, 48.6 percent did not receive an unacceptable rating on any loan submitted for review, while 28 percent of lenders had only one loan rated unacceptable and 10.9 percent of lenders had two loans rated unacceptable, and that overall, 87.4 percent of lenders had two or fewer loans rated unacceptable. The March 21, 2013, notice provided that when material violations of FHA policies and procedures are uncovered during the loan file review, FHA notifies the lender that a preliminary assessment, based on file documentation, indicates that the loan contains material findings such that FHA is exposed to an unacceptable level of risk. FHA will provide the lender with an opportunity to present missing information or documentation to address the review findings and permit subsequent submission for endorsement, and as is the current practice, if the lender is unable to adequately respond (or fails to respond) to the material findings, FHA will notify the lender that the loan is not eligible for endorsement.

#### **B. Public Comment and HUD's Response to the Comment**

In response to HUD's solicitation of comment, HUD received only one comment, and the following provides the issues raised by the commenter and HUD's responses.

Comment: The commenter stated that feedback received from FHA during the pre-endorsement review is helpful and enables lenders to adjust their processes prior to closing loans that may be ineligible for insurance. The commenter stated that if the proposal is adopted lenders applying for Direct Endorsement authority will be expected to close loan transactions with no guarantee that their loans will be insured by FHA when they are submitted for post-closing, pre-endorsement review.

HUD Response: FHA guidance issued in accordance with 24 CFR 203.3(b)(2) requires lenders to certify that it has on its permanent staff an underwriter(s) that has the qualifications,

expertise and experience to underwrite mortgage loans in accordance with FHA requirements. (See Handbook 4000.1 Section I.B.3). Further, lenders must submit loans for review and approval by FHA as described in 24 CFR 203.3(b)(4), which are processed in accordance with § 203.5 which, in turn, requires underwriter due diligence be exercised to the same level of care which the lender would exercise in obtaining and verifying information for a loan in which the lender would be entirely dependent on the property as security to protect its investment.

On September 14, 2015, FHA's Single Family Housing Policy Handbook went into effect and FHA implemented a core component of its goal to expand access to mortgage credit. This implementation consolidated and superseded hundreds of Mortgage Letters and Housing Notices, along with numerous policy handbooks. Mortgagees and other stakeholders now benefit from a single consolidated source and comprehensive set of policies that support homeownership for millions of qualified individuals and families each year. It also provides mortgagees' with a clear and consistent understanding of FHA's requirements during the origination, underwriting, closing and endorsement process.

FHA provides live and online training events throughout the year covering multiple topics regarding FHA Single Family Housing policies, processes, and technology to assist lenders in complying with HUD/FHA's requirements. In addition, FHA has created a series of eight pre-recorded training webinars covering the policies that mortgagees use for origination through FHA insurance endorsement for Title II forward mortgages. The modules provide an overview of the policies and requirements contained in the Origination through Post-Closing/Endorsement for Title II Forward Mortgages section of the Single Family Housing Policy Handbook 4000.1.

Comment: Under the proposed rule, lenders would bear considerable new financial responsibility. The commenter wrote that bringing lenders attention to uninsurable loans only after

they closed at considerable expense to the lender would discourage some FHA lenders from seeking DE authority and/or force them to make loans only to the most credit worthy borrowers. The commenter cited the 13 percent of all loans reviewed from October 1, 2009 to June 30, 2012 which were not in compliance with FHA policies and guidelines and were not eligible for endorsement.

HUD Response: As a part of the post-closing, pre-endorsement program, FHA will continue to notify the lender that a preliminary assessment, based on file documentation, indicates that the loan contains material findings such that FHA is exposed to an unacceptable level of risk. FHA will provide the lender with an opportunity to present missing information or documentation to address the review findings and permit subsequent submission for endorsement. As is the current practice, if the lender is unable to adequately respond (or fails to respond) to the material findings, FHA will notify the lender that the loan is not eligible for endorsement.

FHA requires lenders to certify that it has on its permanent staff an underwriter(s) that has the qualifications, expertise and experience to underwrite mortgage loans in accordance with FHA requirements. As stated in March 21, 2013, notice, FHA continues to believe that given the certification required of lenders, the shift in the timeframe for review may in fact result in enhanced lender accountability; that is, the lender will place appropriate emphasis on ensuring that their underwriting staff is sufficiently trained prior to requesting Direct Endorsement authority. Properly trained underwriters will help to increase the number of loans that are found to be acceptable, resulting in an even higher percentage of loan files that meet FHA policies and guidelines.

### **C. Analysis of More Recent Data**

Since HUD issued the March 2013 notice, FHA analyzed a new set of data for the period October 1, 2014 through June 30, 2016 and found that overall the acceptability of mortgage loans submitted for pre-closing review continued to improve during this period when compared to the

October 1, 2009 through June 30, 2012 data analyzed in the March 21, 2013, notice. Specifically, for mortgage loans that were submitted for review during the period beginning October 1, 2014 through June 30, 2016, the data demonstrated that 94.3 percent of the total cases reviewed were found to meet HUD/FHA guidelines and were eligible for endorsement; 87.2 percent of the eligible cases were endorsed as of July 25, 2016. In addition, of the lenders entering the Direct Endorsement review process during the October 1, 2014 through June 30, 2016 timeframe, 55.5 percent did not receive an unacceptable rating on any loan submitted for review, while 33.7 percent of lenders had only one loan rated unacceptable and 6.4 percent of lenders had two loans rated unacceptable. Overall, 95.6 percent of lenders had two or fewer loans rated unacceptable.

### **III. New Timeframe for FHA's Review of Loans Prior to Endorsement**

After consideration of public comment and further consideration of this issue, FHA has determined to move the timeframe for FHA's review of loans prior to endorsement from pre-closing to post-closing. FHA's Mortgagee Letter which more fully addresses this issue can be found at <http://portal.hud.gov/hudportal/documents/huddoc?id=16-21ml.pdf>.

Dated: December 1, 2016

---

Genger Charles, General Deputy Assistant Secretary  
for Housing

**[FR-5658-N-02]**

[FR Doc. 2016-29757 Filed: 12/13/2016 8:45 am; Publication Date: 12/14/2016]