

**FAQs Related to
Press Releases 09-177 and Mortgagee Letter 2009-31 issued September 18, 2009
and
Press Release 09-216 and Proposed Regulation Change Published in the Federal Register
November 30, 2009**

- 1. Has FHA stopped approving mortgage brokers and other types of loan correspondents?**
- 2. Has FHA increased the net worth requirements for FHA mortgagees?**
- 3. What does the recent Press Release HUD issued say about FHA making changes to its requirements for FHA approved lenders, mortgagees, loan correspondents and mortgage brokers?**
- 4. Has HUD changed its requirements for approving mortgage brokers as FHA approved nonsupervised loan correspondents?**
- 5. Do mortgage brokers who are FHA approved nonsupervised loan correspondents have to renew their approval?**
- 6. Is HUD eliminating required audits for FHA loan correspondent mortgage brokers?**
- 7. When do FHA approved lenders have to comply with the expanded list of ineligible participants announced in Mortgagee Letter 2009-31?**
- 8. How does the expanded list of ineligible participants announced in Mortgagee Letter 2009-31 effect companies who have already applied FHA lender approval but are not yet approved?**
- 9. When will FHA return the applications for FHA lender approval that “have not yet been approved” that was announced in Mortgagee Letter 2009-31 and what does the applicant submit in its reapplication?**
- 10. What additional information must applicants for FHA approval as a lender, mortgagee or loan correspondent submit to comply with Mortgagee Letter 2009-31 issued September 18, 2009?**
- 11. What changes did Mortgagee Letter 2009-31 make related to FHA lenders changing their fiscal year end date in FHA records?**
- 12. When do FHA approved supervised mortgagees have to start submitting audited financial statements in order to renew their FHA lender approval?**

1. Has FHA stopped approving mortgage brokers and other types of loan correspondents?

No.

HUD issued a press release 09-177 on September 18, 2009, that included an announcement that the Department is going to pursue rule making to stop approving mortgage brokers and other types of loan correspondents.

HUD then issued a press release 09-216 on November 30, 2009, that announced the publication of a proposed rule to stop approving brokers and other types of loan correspondents.

Rule Making is the administrative procedure that government agencies use to make change to their regulations. It generally requires:

(1) publication of a notice of proposed rulemaking in the *Federal Register* that explains the proposed change and then provides the exact wording of the proposed regulation change. The proposed rule was published November 30, 2009, and can be downloaded at: <http://portal.hud.gov/portal/page/portal/HUD/documents/fr74-228.pdf>

(2) a comment period of at least 30 days for public participation in the rulemaking by submission of written comments. The public comment period on the proposed rule ends December 30, 2009.

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2. Has FHA increased the net worth requirements for FHA mortgagees?

No. HUD issued a press release 09-177 on September 18, 2009, that included an announcement that the Department is going to pursue rule making to increase the net worth requirements for FHA mortgagees.

HUD then issued a press release 09-216 on November 30, 2009, that announced the publication of a proposed rule to stop approving brokers and other types of loan correspondents.

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3. What do the recent Press Releases HUD issued say about FHA making changes to its requirements for FHA approved lenders, mortgagees, loan correspondents and mortgage brokers?

HUD has issued two press releases on this issue:

HUD No. 09-177	FOR RELEASE
Melanie Roussell	Friday
(202)708-0685	September 18, 2009

FHA Announces Credit Policy Changes, Adding Chief Risk Officer

Policy Changes Will Reduce Risk As Officials Anticipate Annual Actuarial Study to Show Capital Reserve Ratio Dropping Below Congressionally-Mandated 2 percent

(Washington, DC) – Federal Housing Administration (FHA) Commissioner David H. Stevens today announced plans to implement a set of credit policy changes that will enhance the agency's risk management functions. Stevens also announced his intention to hire a Chief Risk Officer for the first time in the FHA's 75-year history.

Both actions come as the agency's annual independent actuarial study is being completed. The study will be sent to Congress in November and is expected to show the capital reserve ratio dropping below the congressionally-mandated threshold of two percent. The changes announced today will strengthen the FHA's reserves and better manage risk.

“To be clear, the fund's reserves are sufficient to cover our future losses, so the FHA will not require taxpayer assistance or new Congressional action,” said Commissioner Stevens. “That said, given the size and scope of the FHA and its importance to today's market, these risk

management and credit policy changes are important steps in strengthening the FHA fund, by ensuring that lenders have proper and sufficient protections.”

“By keeping affordable loans flowing, particularly to the growing ranks of first-time homebuyers, the FHA has been critical to our nation’s economic and housing market recovery,” said U.S. Department of Housing and Urban Development Secretary Shaun Donovan. “As we begin to move from recession to recovery, these changes will not only ensure FHA’s financial strength but they will also help to further strengthen our nation’s economy.”

FHA’s congressionally mandated capital reserve ratio, which is determined by the independent actuarial study, measures excess reserves above and beyond projected losses over the next 30 years. FHA continues to hold more than \$30 billion in its total reserves today, or more than 4.4% of its insurance in force. Additionally, FHA’s full faith and credit insurance means that there is no risk to homeowners or bondholders, even in the event that the capital reserve ratio drops below the two percent threshold mandated by Congress. With the FHA’s higher average credit scores and tighter credit policies announced today, the FHA fund is expected to produce revenue for the U.S. Treasury.

The FHA’s risk management functions are currently dispersed across a number of offices. The Chief Risk Officer will oversee the coordination of FHA’s efforts to concentrate risk management in a single division devoted solely to managing and mitigating risk to the FHA’s insurance fund – across all FHA programs.

In addition to adding a Chief Risk Officer, the FHA is proposing specific credit policy changes that are largely focused on ensuring responsible lending and risk management for FHA-approved lenders. These changes build on lessons learned in the credit crisis and seek to align the FHA with the Administration’s goal of regulatory reform. As the FHA’s stable of lenders grows, these lenders must have “skin in the game.” These credit changes will do that by ensuring they have long-term interest in the performance of the loans they originate.

Changes Being Pursued by Mortgagee Letter, Effective January 1

Require Submission of Audited Financial Statements by Supervised Mortgagees

This new requirement is a prudent safeguard that permits FHA to ensure that those entities with which it does business are adequately capitalized to meet potential needs. FHA is aware that the majority of supervised and non-supervised mortgagees are already required to prepare audited financial statements for various regulatory bodies, Government Sponsored Enterprises (GSEs), and investors. Given these existing requirements, FHA’s new policy will help to reduce risk at limited new costs for approved mortgagees.

Modify Procedures for Streamline Refinance Transactions

Revises current procedures for streamline refinance transactions to establish new requirements for seasoning, payment history, income verification, and demonstration of net tangible benefit to the borrower; provide for collection of credit score information when available; and to cap

maximum LTV at 125 percent. An appraisal will be required in all cases where a borrower wants to add closing costs to the transaction. These revisions bring documentation standards for streamline refinance transactions in line with other FHA loan origination guidelines, ensures the borrower's capacity to repay the new mortgage, and prohibits the dangerous practice of loan churning, where borrowers raise cash through successive cash-out refinancings that put them further in debt.

Require Appraiser Independence In Loan Origination

Provides new guidelines on ordering appraisals for FHA-insured mortgages and reaffirms existing policy on FHA requirements regarding appraiser independence and geographic competence. Mortgage brokers and commission based lender staff are prohibited from ordering appraisals. FHA does not require the use of Appraisal Management Companies or other third party providers, but does require that lenders take responsibility to assure appraiser independence. While FHA's existing policies regarding appraiser independence are consistent with the Home Valuation Code of Conduct (HVCC), FHA will adopt language from the Code to ensure full alignment of FHA and GSE standards.

Modify Appraisal Validity Period

FHA's appraisal validity period will be reduced to four months for all properties including existing, proposed and new construction. Previous validity periods were six months for existing properties and up to twelve months for proposed and under construction properties. This provides for more accurate home values used for underwriting FHA-insured mortgages during volatile housing market conditions.

Appraisal Portability

Provides new guidelines that allow a second appraisal to be ordered under a limited set of circumstances when a borrower switches from one lender to another and restates the requirement that the first lender must transfer the appraisal to the second lender at the request of the borrower. This will prevent delays in closing that often occur when a loan is transferred to a new lender.

Changes Being Pursued by Rule Making Process

Modify Mortgagee Approval and Participation in FHA Loan Origination

Lenders seeking approval to originate, underwrite, or service an FHA loan must meet the eligibility criteria for a supervised or non-supervised mortgagee. Mortgagees with this approval status must assume liability for all the loans they originate and/or underwrite. Loan Correspondents (mortgage brokers) will continue to be able to originate FHA-insured loans through their relationships with approved mortgagees; however they will no longer receive independent FHA approval for origination eligibility. These policy changes will require the FHA approved mortgagee to assume responsibility and liability for the FHA insured loan underwritten and closed by the approved mortgagee. These changes align FHA with the GSEs and will

potentially increase the number of loan correspondents (mortgage brokers) who are eligible to originate FHA-insured loans while providing for more effective oversight of loan correspondents through the FHA approved mortgagees.

Increase Net-Worth Requirements for Mortgagees

The FHA plans to propose to increase the net worth requirement for approved mortgagees to meet industry standards. The requirement is currently at \$250,000 and has not been increased since 1993. HUD is proposing an initial increase of approximately \$1,000,000 that would be in place within one year of the enactment of this rule. To maintain consistency with industry standards, HUD may propose that the net worth requirements be increased further in future years to a level comparable to those required by GSEs and other market institutions. These changes will help to ensure that FHA lenders are sufficiently capitalized to meet potential needs, thereby permitting HUD to mitigate losses and decrease risks to the FHA insurance fund.

All mortgagee letters will be available at noon today on HUD's website. The proposed rule provisions will be subject to a notice and comment period, after which the final rule will take effect.

HUD No. 09-216
Lemar Wooley
(202) 708-0685

FOR RELEASE
Monday
November 30, 2009

FHA PROPOSES NEW RULES TO STRENGTHEN RISK MANAGEMENT

Proposed regulations to boost lender oversight, tighten controls and streamline lender approval
WASHINGTON – The Federal Housing Administration (FHA) today proposed new regulations to further reduce risks to its single-family insurance fund as it continues to play a critical role in today's housing market. FHA proposes to increase the net worth requirements of FHA-approved lenders, strengthen lender approval criteria, and make lenders liable for the practices of their correspondent mortgage brokers.

[The proposed rule](http://portal.hud.gov/portal/page/portal/HUD/documents/fr74-228.pdf) (which can be downloaded at: <http://portal.hud.gov/portal/page/portal/HUD/documents/fr74-228.pdf>) will permit FHA to more effectively focus its resources on lenders that pose the greatest potential threat to its insurance funds and to ensure that lenders possess the resources appropriate for the financial services they deliver. FHA is soliciting comment for 30 days on its proposals and the comments received will be considered in the development of a final rule.

“With FHA's crucial role in today's housing market, it is critically important that we are able to manage risk and to ensure that our reserves are adequate to cover future losses,” said FHA Commissioner David Stevens. “We are taking a number of aggressive steps to ensure that we are able to continue to support the housing market in the short-term and provide access to home ownership to the underserved in the long term, while minimizing the risk to the American taxpayer.”

On September 18th, Stevens announced [a set of credit policy changes](#) (which can be downloaded at:

http://portal.hud.gov/portal/page/portal/HUD/press/press_releases_media_advisories/2009/HUDNo.09-177) that will enhance FHA's risk management function, including the hiring of a Chief Risk Officer for the first time in the agency's 75-year history. In addition, Stevens announced his intent to propose new regulations to further strengthen FHA's risk management. The proposed rule published today makes good on that promise and would:

- **Strengthen and Streamline Lender Approval** – Lenders seeking approval to originate underwrite, or service an FHA loan must meet the eligibility criteria for a supervised or non-supervised mortgagee. FHA-approved Mortgagees must assume liability for all the loans they originate and/or underwrite. While loan correspondents (mortgage brokers) will continue to be able to originate FHA-insured loans through their relationships with approved mortgagees, they will no longer receive independent approval for origination eligibility. This will require the FHA-approved mortgagee to assume responsibility and liability for the FHA-insured loan underwritten and closed by the approved mortgagee. These changes align FHA with Fannie Mae and Freddie Mac and will potentially increase the number of loan correspondents (mortgage brokers) who are eligible to participate in the origination of FHA-insured loans while providing for more effective oversight of loan correspondents through the FHA approved mortgagees.
- **Strengthen the Capacity of FHA-Approved Mortgagees** – Since 1993, FHA has required approved mortgagees have a net worth of at least \$250,000. To strengthen the financial capacity of FHA counterparties to ensure they can meet their obligations, the proposed rule would require mortgagees maintain a minimum of \$1 million in net worth within the first year and at least \$2.5 million of net worth within three years of the effective date of the rule. These changes are consistent with industry standards and will ensure that FHA lenders are sufficiently capitalized to meet potential needs, thereby permitting FHA to mitigate losses and decrease risks to its insurance fund.

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4. Has HUD changed its requirements for approving mortgage brokers as FHA approved nonsupervised loan correspondents?

No.

HUD issued a press release 09-177 on September 18, 2009, that included an announcement that the Department is going to pursue rule making to stop approving mortgage brokers and other types of loan correspondents.

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5. Do mortgage brokers who are FHA approved nonsupervised loan correspondents have to renew their approval?

Yes.

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Until that process is completed and the change takes effect, all existing FHA approved mortgage brokers will need to maintain their FHA approval (including its annual renewal) in order to continue to originate FHA loans.

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6. Is HUD eliminating audited financial statements for FHA loan correspondents?

FHA is working on such a change, but it has not taken effect at this time.

There has been no change in the FHA's current requirement that a mortgage broker must submit a CPA audit of their financial records to become a FHA nonsupervised loan correspondent. In addition, there has not been any change to the current annual renewal requirements for nonsupervised loan correspondents.

However, HUD issued a press release 09-177 on September 18, 2009, that included an announcement that the Department is going to pursue rule making to stop approving mortgage brokers and other types of loan correspondents.

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7. When do FHA approved lenders have to comply with the expanded list of ineligible participants announced in Mortgagee Letter 2009-31?

This requirement was effective upon the enactment of the "Helping Families Save Their Homes Act of 2009" (Public Law 111-22) (the HFSH Act), which occurred on May 20, 2009. All FHA approved lenders are required to certify compliance with all of HUD's requirements each year as part of the annual renewal of their approval. See Mortgagee Letter 2009-25 for additional information on the certification process. It is available online at:

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/09-25ml.doc>

8. How does the expanded list of ineligible participants announced in Mortgagee Letter 2009-31 effect companies who have already applied FHA lender approval but are not yet approved?

FHA is in the process of contacting each applicant and will provide them with detailed instructions on how to amend their application to certify that both they and all of their officers, partners, directors, principals, managers, supervisors, loan processors, loan underwriters, or loan originators comply with the expanded list of ineligible participants.

Any applicant who does not comply with this new restriction or wishes to withdraw their application can notify FHA and their application package will be returned and their application fee will be refunded.

The mortgagee letter is available at:

<http://www.hud.gov/utilities/intercept.cfm?/offices/adm/hudclips/letters/mortgagee/files/09-31ml.doc>

9. When will FHA return the applications for FHA lender approval that “have not yet been approved” that was announced in Mortgagee Letter 2009-31 and what does the applicant submit in its reapplication?

Subsequent to the issuance of the above referenced mortgagee letter, FHA decided it would contact each applicant and provide them with detailed instructions on how to amend their application to certify that both they and all of their officers, partners, directors, principals, managers, supervisors, loan processors, loan underwriters, or loan originators comply with the expanded list of ineligible participants.

Any applicant who does not comply with this new restriction or wishes to withdraw their application can notify FHA and their application package will be returned and their application fee will be refunded.

The mortgagee letter is available at:

<http://www.hud.gov/utilities/intercept.cfm?/offices/adm/hudclips/letters/mortgagee/files/09-31ml.doc>

10. What additional information must applicants for FHA approval as a lender, mortgagee or loan correspondent submit to comply with Mortgagee Letter 2009-31 issued September 18, 2009?

Each applicant must submit a certification letter including the following list of certifications with regard to the expanded and revised list of ineligible participants contained in the mortgagee letter is available at:

<http://www.hud.gov/utilities/intercept.cfm?/offices/adm/hudclips/letters/mortgagee/files/09-31ml.doc> .

The applicant's certification letter cannot just reference the Mortgagee Letter. The letter must be on company letterhead, dated and signed by the same officer who signs the FHA lender approval application form submitted for approval.

The undersigned certifies that neither the applicant nor any of its officers, partners, directors, principals, managers, supervisors, loan processors, loan underwriters, or loan originators of the applicant is:

- (1) Currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;
- (2) Under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;
- (3) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;
- (4) Engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrates irresponsibility;
- (5) convicted of, or who has pled guilty or nolo contendere to, a felony related to participation in the real estate or mortgage loan industry—
 - (i) During the 7-year period preceding the date of the application for licensing and registration; or
 - (ii) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;
- (6) In violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or
- (7) In violation of any other requirement as established by the Secretary.

If you cannot certify compliance to all of the above, please identify which item of noncompliance and include in the letter a detailed explanation of the circumstances for noncompliance along with supporting documentation that of the noncompliance

11. What changes did Mortgagee Letter 2009-31 make related to FHA lenders changing their fiscal year end date in FHA records?

The mortgagee letter added a restriction that lenders must submit all such requests 90 days prior to the end of a lender's fiscal year as shown in FHA records. The rest of the requirements for changes in a lender's fiscal year end are in paragraph 6-7 of Handbook 4060.1 and have not been changed: Paragraph 6-7 states the following:

6-7 **Change of Fiscal Year.** A mortgagee is allowed to change its fiscal year. The mortgagee must submit a written request to the Lender Approval and Recertification Division. HUD may, at its discretion, require the mortgagee to submit financial statements and a computation of adjusted net worth certified by its management. This requirement depends on the length of time since the mortgagee last submitted audited financial statements to the Department. Every period must eventually be audited. In no case may more than 18 months elapse between the dates of *audited* financial statements.

12. When do FHA approved supervised mortgagees have to start submitting audited financial statements in order to renew their FHA lender approval?

The January 1, 2010, effective date for this requirement in Mortgagee Letter 2009-31 applies to all supervised mortgagees for a fiscal year ending on or after January 1, 2010. This new requirement does not apply to FHA approved supervised loan correspondents.