

October 19, 2009

MORTGAGEE LETTER 2009-41

**TO: ALL APPROVED MORTGAGEES
ALL FHA ROSTER APPRAISERS**

SUBJECT: Appraisal performance standards and sanctions

The purpose of this Mortgagee Letter is to remind mortgagees and appraisers of (1) Federal Housing Administration (FHA) appraisal performance standards used by FHA in its compliance monitoring of appraisers and (2) FHA enforcement standards and sanctions that can be imposed by the Department upon appraisers who do not comply with FHA appraisal reporting requirements or with the Uniform Standards of Professional Appraisal Practice (USPAP).

FHA requires that all appraisers performing appraisals of properties that will be security for FHA-insured financing be knowledgeable of FHA appraisal reporting requirements as well as USPAP. Appraisals performed for purposes of FHA-insured financing are reviewed to ensure credibility, accuracy and compliance with FHA standards and guidelines. An appraisal review is always conducted by the underwriter and compliance monitoring reviews of appraisals are routinely conducted by FHA staff reviewers. Mortgagee Letter 00-30 provides an appraiser violations matrix which is intended as a guide and is not to be considered as an all inclusive list of possible violations or the appropriate administrative action by FHA for an infraction. As a result of deficiencies uncovered through an appraisal review and depending upon the level of severity of the deficiency, the Department may impose the following actions and/or sanctions:

1. FHA Administrative Appraiser Roster Actions

A. Notice of Deficiency (NOD)

An appraiser is placed on notice due to deficiencies which are considered gaps in due diligence and professionalism, but are not considered severe enough to require education or a sanction. As a NOD is not a sanction, no appeal is available and no action is required on the appraiser's part. A NOD is noted on the appraiser's record. Multiple NODs may result in the Department's Single Family Housing Homeownership Center (HOC) with jurisdiction taking further action.

B. Remedial Education

More serious deficiencies in the appraisal that involve incomplete data collection or lack of support for analysis and conclusions presented within the appraisal report, may result in the appraiser being required to take remedial education on appraisal related topics. Remedial education is not a sanction and no appeal is available. The appraiser must take and complete the remedial education class within 60 days of the date of notification from the HOC. Failure to comply with a remedial education

action may result in escalation of the action to an administrative sanction, such as removal from the roster. This amends Paragraph 7-3, A, Chapter 7, Handbook 4150.2, CHG-1, Valuation Analysis for Home Mortgage Insurance for Single Family One- to Four- Unit Dwellings.

2. FHA Administrative Appraiser Roster Sanctions

A. Removal or Removal with Education

Deficiencies involving improper valuation, failure to report repairs, fraud, failure to comply with prior FHA actions and other serious omissions, including a history of prior actions or sanctions, may result in removal, with or without remedial education, from the FHA Appraiser Roster for a period of up to 12 months. Removal with or without education may be appealed by the appraiser. The Department will notify the state licensing or certification agency in writing when an appraiser has received a final notice of removal from the FHA Appraiser Roster.

B. Limited Denial of Participation (LDP)

A LDP prohibits the appraiser from performing appraisals used as collateral for FHA insured mortgages and is subject to appeal. Generally no longer than 12 months in length, LDPs are typically restricted to specific HUD programs (such as FHA) and may or may not be national in scope. For more information, review the LDP webpage at:

<http://www.hud.gov/offices/enforce/ecmemo.cfm>

C. Debarment

Debarment can remove the appraiser from the FHA Appraiser Roster for an indefinite period depending upon the level of seriousness of the appraiser's conduct or non compliance with FHA performance standards and is subject to appeal.

3. Civil Sanctions

Pursuant to 24 CFR §28 and §30.36, appraisers may be liable for civil penalties and assessments for each violation. Under 24 CFR §28, the Department's Office of General Counsel processes the complaint. Civil money penalties under 24 CFR §30.36 are imposed by the Department's Assistant Secretary for Housing. Civil sanctions are subject to appeal.

4. Criminal Sanctions

If an appraiser's non-compliant action is so egregious as to violate criminal law, HUD's Office of General Counsel or Office of Inspector General will refer the case to the Attorney General at the U. S. Department of Justice. All criminal sanctions are subject to appeal.

5. Appraiser Appeals

Regulations governing the removal of appraisers from the FHA Appraiser Roster and appeal procedures can be found at 24 CFR §200.204.

6. State Suspensions

A. Expired state issued appraisal credentials

If an appraiser has an expired state issued appraisal credential, he or she is automatically removed from the FHA Appraiser Roster in **that** state until such time as the appraisal credentials are renewed by the issuing state. No appeal is available.

B. Loss of standing

If an appraiser loses standing in **any** state as a state licensed or certified appraiser due to disciplinary action (revocation, suspension or surrender of credential) as a result of actions taken by that state, he or she will be automatically removed from the FHA Appraiser Roster and will be prohibited from conducting FHA related appraisals in **all** states. There is no right of appeal and the appraiser may not be reinstated on the Roster until such time as the state imposed sanction is lifted.

7. Lender Responsibilities

Mortgagees are reminded that they are responsible along with the appraiser for the quality and accuracy of the appraisal if the lender knew or should have known that there were problems with the integrity, accuracy and thoroughness of an appraisal submitted to FHA for mortgage insurance purposes.

If you should have any questions concerning this Mortgagee Letter, call 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

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