Summary of FHA Proposed Rule on Mortgagee Approval and Net Worth

On Monday, November 30, 2009, the Department of Housing and Urban Development (HUD) published a proposed rule in the Federal Register that seeks to "streamline, modernize, and strengthen the mortgage insurance functions and responsibilities" of the Federal Housing Administration (FHA). The proposal is open for comment for a 30-day period (ending December 30th, 2009) and seeks to: 1) Create a new means for approving FHA loan correspondents; 2) Phase-in a new higher net worth requirement for FHA-approved mortgagees; 3) Require approved lenders to use the business name registered with FHA; and 4) Consolidate requirements for approving lenders in the Helping Families Save their Homes Act of 2009 (HFSH) into regulations.

Mortgagee Approval Modifications – FHA proposes to no longer approve correspondent lenders as they have in the past by awarding the "mini eagle" designation, rather FHA proposes to require lenders that cannot meet the net worth standards for a "full eagle" designation to be approved by FHA-supervised lenders that meet all of FHA's requirements. Loan correspondents would have to apply to supervised mortgagees in order to continue originating FHA-insured products. The supervised FHA lender would serve as the loan correspondent lender's sponsor and agree to assume responsibility for any non-supervised mortgagee that works with the supervised mortgagee in the FHA loan, and assume liability for the FHA-insured loan underwritten and closed in the name of the supervised mortgagee.

- **Supervised Mortgagees/Lender –** The definition is a financial institution that is a member of the Federal Reserve System or an institution whose accounts are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA). Supervised lenders must meet the net worth requirements (see below), notify HUD in the event that its supervision is terminated by its supervising agency and lenders making single-family loans for purposes other than home improvements shall have a fidelity bond and errors and omissions insurance.

- **Approving Lender/Mortgagees –** FHA would require and is consolidating existing statutory requirements from the HFSH and inserting the conditions for declining an application to become an FHA-approved lender into regulations. Specifically, the HFSH gives FHA the ability to decline applications to become FHA-approved lenders if the applicant lender has any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter or loan originator that is currently suspended, indicted or convicted of an offense that reflects on the applicants integrity, there are unresolved findings by HUD, engaged in business practices that do not conform to generally accepted practices, convicted of a felony related to real estate finance (subject to conditions) or a violation of the S.A.F.E. Act licensing requirements.

- **Loan Correspondents –** FHA proposes that loan correspondents may not originate FHA loans except where it is working with and through an FHA-approved lender and that an officer, partner, director principal, manager, supervisor, loan processor, or employee of the loan correspondent is not subject to any of the sanctions from HFSH described earlier in this summary.

New Net Worth Standard – FHA also proposes to raise the net worth requirement for FHA-approved lenders from $250,000 to $2.5 million within three years of the effective date of a final rule. At least 20 percent of the net worth must be in liquid assets. Investing mortgagees would also have to comply with this new requirement. Within one year of the effective date of a final rule, supervised and nonsupervised mortgagees and investing mortgagees would be required to have a minimum of $1 million net worth, of which at least 20 percent must be liquid assets. FHA believes $2.5 million is a reasonable amount because of its own analysis and because Fannie Mae is increasing its net worth requirements to $2.5 million, effective December 31, 2009. The agency believes that $2.5 million will be the new standard.

Registered Business Name – As required in HFSH, FHA-approved mortgagees will be required to use their HUD-registered business names in all advertisements and promotional materials related to FHA programs. Approved names may include "doing business as" names on file with FHA.

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