FHA Changes/Updates in 2009

January 2009 – ML 2009 – 01

Annual Renewal of FHA Approval
Mortgagees must meet all annual renewal requirements on-time
Can no longer settle violations with Lender Approval Division directly
Must appeal to the Mortgagee Review Board from now on
If terminated by the Mortgagee Review Board cannot reapply for approval for period of 12 months

January 2009 – ML 2009 – 02

Co-branded Outreach Materials
Education and outreach flyers developed and available for industry partners
Can be found on-line (www.fha.gov)
Material not available yet
Expected March 2009
"Fillable" for company name, logo, contact information/numbers
No modifications beyond "fillable" allowed

January 2009 – ML 2009 – 03

Hope for Homeowner Supplements/Changes
Loan-to-values and debt ratios amended
LTV up to 96.5% with debt ratios not exceeding 31%/43%
LTV up to 90% with debt ratios not exceeding 38%/50%
Loan terms for new H4H loan either 30 year or 40 year to GinnieMae pool
Loan terms for intermediate allowed if lender does not sell to GinnieMae pool
1 – 4 units now allowed – Borrower must occupy one of the units
If 3 – 4 units, property must debt service per FHA guidelines
Current subordinate lien holders only may now receive upfront payments or share in FHA’s shared appreciation if write off >$2,500
Upfront payments may be 3% if CLTV >135% or 4% if <135%
Shared appreciation may be 9% if CLTV >135% or 12% if <135%
February 2009 – ML 2009 – 07

Loan Limit Increases for FHA
Changes as a result of American Recovery and Reinvestment Act (ARRA)
Loan limit increases for 1 – 4 family units
Loan limit increases for Home Equity Conversion Mortgages (HECM)
National floor limit remains unchanged
New loan limit ceiling 175% of GSE (Freddie Mac Limit $417,000) = $729,750
County MSA determines maximum limit
Possible higher limits for Alaska, Hawaii, Guam, and Virgin Islands
National HECM limit = $625,500
These limits expire December 31, 2009

February 2009 – ML 2009 – 08

Limits on Cash-Out Refinance, Subordinate Liens, and Combined Loan-to-Values
Effective April 1, 2009
All cash-out refinances are limited to 85%
With subordinate financing combined loan-to-value (CLTV) also clarified
New subordinate financing allows for 85% maximum CLTV
Subordinating financing re-subordinating has no maximum CLTV
Subordinate financing, modified and re-subordinating has no max CLTV
Must be owner occupied
Property must be owned a minimum of 12 months preceding date of application
and LTV based on current appraised value
If owned less than 12 months then current appraised value or sales price (whichever
is less)
Borrowers delinquent on their current mortgage are ineligible
Second appraisal required when loan amount exceeds $417,000
Co-borrowers/co-signers must occupy the property to be added for qualifying
Non-occupant co-borrowers/co-signers may not be added for qualifying
Properties owned free and clear may be financed as a cash-out refi

March 2009 – ML 2009 – 09

Adoption of Market Conditions Addendum (MCA)
Effective April 1, 2009
FHA has adopted Fannie Mae and Freddie Mac’s requirements for completion
Completed by the appraiser
DE is equally responsible as appraiser for accuracy and completeness
Clarification of HECM Counseling Issues (Clarifies and/or reiterates requirements)
A. Prospective borrower initiates request for counseling
   Lender may not contact a counselor or counseling agency to refer
B. Requires lenders to provide a list of counseling agencies to prospective borrowers
   No fewer than 10 HUD approved HCA’s – five of which must be in the local area and/or state of the prospective HECM borrower with at least one agency located within a reasonable driving distance for the purpose of face-to-face counseling
C. Counselors required reviewing and documenting a client’s unique financial situation
   Income, assets, debts, monthly expenses provided by borrower
   Evaluate and discuss appropriate alternatives
D. Use of new Certificate of HECM Counseling
   Per ML 2008 -12
   Form HUD – 92902

March – ML 2009 – 11

HECM for Purchase
Supersedes Mortgagee Letter 2008 – 33.
"Buy and bail" rules apply for current residences will be vacated but retained and the borrower is obtaining a HECM for the new purchase.
Allows purchase of 1 – 4 units (borrower must occupy one of the units).
Property must be fee simple or leasehold for not less than 99 years and renewable, or under a lease having a remaining period of not less than 50 years beyond the date of the 100th birthday of the youngest mortgagor.
Property flipping rules apply
All major property deficiencies that affect the health, safety, soundness, and security of the property must security must be repaired prior to close.
   Examples: No running water, leaking roof, no primary heating source, etc.
FHA mortgage limit for HECM is same regardless of number of units (no difference between 1 – 4 units).
Borrower provides monitory investment to satisfy the difference between the HECM principal limit and the sales price for the property.
Acceptable funding sources clarified.
Prohibits seller contributions/seller concessions
Borrowers funds for closing must be verified
Bridge/gap/interim financing not allowed.
2% upfront mortgage insurance premium

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March – ML 2009 – 12

Mortgagee Monitoring
Restatement of FHA’s focus on fundamentals of prudent underwriting and credit policies.
Announcement of reactivation of Special Work Assessment Teams (SWAT) to conduct single-focus on-site reviews of lenders whose originations are exhibiting signs of stress.

April – ML 2009 – 14

Online Versions of Handbooks 4155.1 Mortgage Credit Analysis and 4155.2 Lender’s Guide to Single Family Mortgage Insurance Processing
The online version of the 4155.1 replaces the 4155.1 (Rev. 5)
The online version of the 4155.2 replaces the 4000.2 (Rev. 3), 4000.4 (Rev. 1), and 4165.1 (Rev. 2).

May – ML 2009 – 15

Using First Time Homebuyer Tax Credits
Second Lien
The refund cannot be assigned to a third party
Tax credit may be in the form of a second lien from eligible sources (4155.1; 5C3 and 5C4)
May not exceed amount of anticipated tax credit
May not exceed amount needed for downpayment, closing costs, and prepaids
May be "hard" (payments) or "soft" (no payments) liens
Any short-term lien must revert to P&I payments if borrower fails to pay on time or converts to a "soft" second

Purchase of Tax Credit
May be purchased by FHA-approved mortgagees, FHA-approved non-profits, Federal, state, and local governmental agencies and instrumentalities
May not exceed amount of anticipated tax credit
Costs are to be nominal and reasonable and disclosed to the homebuyer (no greater than 2.5%)

Cannot be used for downpayment
May only be used for additional downpayment (not the required 3.5%), interest rate buydowns, and closing costs

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Manufactured Housing Policy Guidance – Property and Underwriting Eligibility
Now allows for manufactured housing units in a condo project.
No “spot” approvals allowed.
All manufactured housing project approval requests must be processed by the Homeownership Center that has geographical authority over the property.
No cash out allowed for manufactured homes that have been permanently erected on a site for less than one-year prior to the date of the application.
Lesser of three formula’s used to calculate maximum allowable mortgage
1. Value of land and unit or total cost to construct
2. Appraised value
3. “Existing indebtedness” Cost of home minus trade-in plus cost of unit plus cost of construction plus closing cost (including discount points and prepaids)

Accuracy of Lender Data for FHA-Approved Mortgagors
Restates requirements for approved mortgagees to keep the Department appraised of relevant business changes for their institutions.
Chapter 6 of HUD Handbook 40601 Rev -2
Only individuals currently listed as an authorized corporate officer or principal owner in the Department’s records will be permitted to complete the annual Certification for renewals.

Energy Efficient Mortgages
Maximum amounts increased

Lesser of:
5% of the value of the property
(e.g. Value = $300,000 – 5% = $15,000 = $315,000)
115% of media area price of single-family dwelling
(e.g. Median area price $300,000 @ 115% = $345,000)
150% of conforming Freddie Mac limit
(e.g. 2009 Freddie Mac conforming limit = $417,000 @ 150% = $625,500)

Based on these examples, the maximum allowed under using an EEM would be $15,000 for the EEM portion of the loan.
Condominium Approval Process – Single Family Housing
Provides guidelines and instructions on options available for project approval.
Effective with case number assignments October 1, 2009 unless noted.
All condos now fall under 203(b) program (no longer 234c).
Allows lenders to determine project eligibility, review project documentation, and
certify compliance.
Requires lenders to retain all project legal documentation.
Requirements vary for existing projects, proposed/under construction projects, and
condo conversions.
Two options for project approval processing:
DE lender must decide from onset which they will do (whichever they
decide, all projects processed in that manner – not decided project by
project)
1. HUD Review and Approval Process (HRAP)
2. DE Lender Review and Approval Process (DELRAP)
   Lender must have unconditional DE authority
   Knowledgeable staff with expertise in reviewing and approving condo
   projects
(First five must be submitted to appropriate HOC for review)
Project approval not required for “site condos” (effective immediately).
Condo “spot” approval is eliminated.
Manufactured housing in condo projects are not treated as site-condo.s
Manufactured housing in condo projects can only be approved through the
HUD Review and Approval Process (HRAP).
Approvals good for a maximum of two years (NOTE: Lender still required to
certify, each time loan is done in an approved project, that project still meets
guidelines)
Project approval not required on refinance transactions where it is FHA to FHA or
purchase HUD REO to FHA.
Environmental reviews may be needed (refer to Mortgagee Letter)
Not needed if lender selects DE Lender Review and Approval Process
May need for HUD Review and Approval Process

June 2009 – Mortgagee Letter 2009 – 21

Home Equity Conversion Mortgage Refinancing of Existing Loans
Reduces upfront mortgage insurance premium HECM to HECM (same property)
Presently insured and assigned loans
Restates anti-churning disclosure requirements
Restates housing counseling requirements

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July 2009 – Mortgagee Letter 2009 – 23

Making Home Affordable Program:

Permanent program added to other loss mitigation options
Can only be used if borrower does not qualify for current loss mitigation options
Combines forbearance, partial claim, and modification into one option
Borrower(s) must occupy the property (1 – 4 units) and cannot own any other property.
Loan must be open at least 12 months
Borrower must have made at least four monthly payments
Loan is not more than 12 months delinquent
Maximum debt ratios 31%/55%
    Can use partial claim up maximum of 30% to get to required ratios
    Cannot go to lower debt ratios
    Cannot exceed 30% to get to required ratios
Loan must be re-amortized to a 30 year fixed rate mortgage
Borrower does not need to be delinquent to qualify but must be 90 days delinquent at time
of modification – trial modification with lower payments will achieve this requirement.
Minimum three month trial modification period
Lenders may be eligible to receive incentives

August 2009 – Mortgagee Letter 2009 – 25

Electronic Annual Certification to Replace Title II Yearly Verification Report

Effective September 1, 2009
Replaces yearly paper report for lenders
Only corporate offices and principal owners with authority to legally bind permitted
to complete the electronic Annual Certification on behalf of institutions.

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Appraiser Independence

Effective for all case number assigned on or after January 1, 2010
FHA lenders are prohibited from accepting appraisals prepared by FHA Roster
appraisers who are selected, retained, or compensated in any manner by a mortgage
brokers or any member of a lender’s staff who is compensated on a commission
basis tied to the successful completion of a loan.
FHA does not require the use of Appraisal Management Company (AMC) or other
third party organizations.
FHA Roster appraisers are not prohibited from recording the fee the appraiser was
paid for the performance of the appraisal in the appraisal report.
FHA Roster appraisers are compensated at a rate that is reasonable and customary
for appraisal services performed in the market area of the property being appraised.
A fee for the actual completion of the FHA appraisal may not include a fee for the
management process of the appraisal process.
Any management fees charged by an AMC or third party must be for actual
services related to ordering, processing, or reviewing of appraisals performed.
AMC and other third party fees must not exceed what is reasonable and customary
for such services provided in the market area of the property being appraised.
Affirmed existing requirements preventing improper influences on appraisers.
Reaffirmed appraiser independence safeguards contained in ML 1994 – 54
Appraiser must have knowledge of market area and geographic competency.
Appraiser’s reminded of Uniform Standards of Professional Practice (USPAP)
requirements and certifications required.

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Appraisal Portability

Effective for all case numbers assigned on or after January 10, 2010
When borrower switches from one lender to another and an appraisal was ordered
by the first lender
FHA prohibits “appraiser shopping”
Second appraisals may be ordered under limited circumstances
First appraisal contained material deficiencies determined by D.E.
Appraiser in first appraisal is excluded from second lender’s list
Failure of first lender to provide copy of appraisal to second lender in a
timely fashion
FHA does not require either name of lender to be changed when appraisal
transferred

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Appraiser Validity Periods

Effective for all case numbers assigned on or after January 1, 2010
Appraisals valid on all appraisals for existing, proposed, and under construction
will be 120 days
Previously 6 months for existing property that is complete and 12 months
for proposed and under construction

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Strengthening Counterparty Risk Management

Effective September 18, 2009
Additional requirements to current regulations for approved mortgagees/lenders
“Helping Families Save Their Home Act of 2009” (HFSH Act)
Limitations on those eligible to participate in FHA programs
Restricts us of a mortgagee name in advertising and promotional materials
Expands FHA’s authority to pursue civil money penalties for violations
Directs that a lender or mortgagee shall not have any officer, partner, director,
principal, manager, supervisor, loan processor, loan underwriter, loan originator of
the applicant who is:
Currently suspended, debarred, or limited denial of participation of any
federal agency.
Under indictment for, or has been convicted of, an offense that reflects
adversely upon the applicants integrity, competence, or fitness to meet
responsibilities.
Subject to unresolved finding contained in HUD, or other governmental
audit, investigation, or review.
Engaged in business practices that do not conform to generally accepted
practices of prudent mortgages or that demonstrate irresponsibility.
Convicted of, or who has pled guilty or nolo contendere to a felony related to
participation in the real estate or mortgage loan industry
During the 7-year period preceding date of application for licensing
and registration or
At any time preceding such date of application if such felony
involved an act of fraud, dishonesty, breach of trust, or money
laundering
In violation of the S.A.F.E. Mortgage Licensing Act of 2008 or any
applicable State law
In violation of any other requirement as established by the Secretary

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Strengthening Counterparty Risk Management – Continued

Lenders requesting change of fiscal year end must be submitted 90 days prior to current fiscal year as shown in FHA records to be considered. Lenders must now submit annual certified audited financial statements within 90 days of their fiscal year end in compliance with HUD Handbook 2000.04. Consistent with the HFSH Act, Mortgagees must use their HUD registered business names in all advertisements and promotional materials related to FHA programs. HUD registered names include any alias or “doing business as” on file. Must keep copies of all advertisements and promotional materials for a period of two years from the date the materials are circulated or used for advertising.

Approved lenders are required to notify FHA if individual employees are subject to any sanction or any other administrative action. Lenders are additionally required to notify FHA if there is a revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Act. The HFSH Act expands FHA’s ability to seek civil money penalties against any owners, officers, or directors of any FHA-approved mortgagee for violations, and also authorized to pursue civil money penalties against:

- Any non-FHA approved or unauthorized individual or entity that originates an FHA insured mortgage.
- Any participant in FHA programs that causes or participates in any violation set forth in Section 536(b)(1) of the National Housing Act.
- Any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, for any use of Federal Housing Administration, Department of Housing and Urban Development, Government National Mortgage Association, Ginnie Mae, the acronyms HUD, FHA, or GNMA, or any official seal or logo of the Department of Housing and Urban Development except as authorized by the Secretary.

Provisions within the HFSH Act were/are effective upon enactment of the Act.
September 2009 – Mortgagee Letter 2009 – 32

Revised Streamline Refinance Transactions

Revised procedures
Reaffirms existing procedures
Effective on or after 60 days from September 18, 2009
Key provisions

Seasoning
Must have made at least 6 payments

Payment History
Mortgages < 12 months – payments must have been made in month due
Mortgages > 12 months – no more than one 30-day in past 12 months and
all within the month due for immediate preceding three months from date
of application

Net tangible benefit to borrower
Reduction in total mortgage payment at least 5% lower than current
Fixed rate to ARM new mortgage at least 2% below current mortgage
ARM to Fixed new rate will be no greater than 2% above current rate
Reduction in Term done as no cash out refinance
Investment/Second Homes not eligible for streamline to an ARM

Maximum combined-loan-to-value
Combined-loan-to-value not to exceed 125% if subordinate financing
remains in place

For streamline without appraisal CLTV based on original appraised
value at time original loan closed
For streamline with appraisal CLVT based on new appraised value

Maximum mortgage amount streamline without appraisal
Cannot exceed outstanding principal balance minus applicable
refund of UFMIP PLUS
The new UFMIP that will be charged

Discount points no longer calculated in existing debt streamline with appraisal
If borrower has agreed to pay, the lender must verify the borrower
has the assets to pay them along with any other financing costs not
included in the new mortgage

Verification of any assets needed to close
Lender must certify and submit/retain in loan package
Certification that borrower is employed and has income
Lender must certify
Elimination of abbreviated Uniform Residential Loan Applications
September 2009 – Mortgagee Letter 2009 – 34

Home Equity Conversion Mortgage (HECM) – Principal Limit Factors

Effective for case numbers assigned on or after October 1, 2009
New factor table available on HUD’s web-site (www.hud.gov)
Reduction in principal limited – shared premium factor
Maximum claim ratio reduced

September 2009 – Mortgagee Letter 2009 – 36

Revised Eligibility Requirements for FHA Roster Appraisers

Reminder to all approved lenders and appraisers that as of October 1, 2009, appraisers listed on FHA’s Appraiser Roster who are not state certified (certified residential or certified general) will be removed
Appraisers who are removed from the roster but who subsequently meet the minimum state certification eligibility requirement may apply for reinstatement to the Roster

October 2009 – Mortgagee Letter 2009 – 37

Flood Zone Requirements and Responsibilities of FHA Mortgagors and Appraisers

Reminds mortgagees and FHA Roster Appraisers of their responsibility to determine if a property is located within a Special Flood Hazard Area (SFHA) as designated by FEMA
Reiterates FHA’s eligibility requirements for properties located in such zones
Flood insurance must be obtained and maintained in amount at least equal to the least of:

- The outstanding principal balance of the loan or
- The maximum amount of the NFIP (national flood insurance program) insurance available with respect to property improvements or
- The development cost of the property, less estimated land cost

If any part of property improvements on new or proposed construction the property is ineligible for FHA mortgage insurance unless:

- Final Letter of Map Amendment (LOMA) or final Letter of Map Revision (LOMR) that removed the property from the SFHA location is obtained from FEMA or
- FEMA Elevation Certificate prepared by licensed engineer or surveyor that lowest floor (including basement) built at or above the 100 year flood elevation

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October 2009 – Mortgagee Letter 2009 – 37 – Continued

Flood Zone Requirements and Responsibilities of FHA Mortgagees and Appraisers

Existing Construction:
Insurance must be obtained as condition of closing and maintained for life of
loan when any portion of the residential improvements located in SFHA
If subsequently removed from SFHA by LOMA or LOMR flood insurance
will no longer be required

Manufactured Homes:
Finished grade level shall be at or above the 100 year return frequency flood
elevation
Any portion of property improvements (dwelling and related
structures/equipment essential to the property value and subject to flood
damage) for both new and existing manufactured homes located within a
SFHA, the property is not eligible for insurance without:
FEMA issued LOMA or LOMR or
FEMA Elevation Certificate prepared by licensed engineer or
surveyor that lowest floor (including basement) built at or above the
100 year flood elevation
When using an elevation certificate, the property remains in a
SFHA, and flood insurance is required

Condominiums:
The HOA, not the borrower or individual unit owner, is responsible for
obtaining and maintaining adequate flood insurance under NFIP on buildings
located in a SFHA
Flood insurance must protect the interest of the borrowers in the unit as well
as common areas of the project

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Update on Eligibility Requirements for Nonprofit Instrumentalities of Government
Seeking Placement on the Federal Housing Administration Organization Roster as
Providers of Secondary Financing

Temporary waiver for requirement of non-profit to be 501(c)(3)
May now be non-profit 115 under Internal Revenue Code of 1986
Must be instrumentality of government
Must have voluntary board of directors
Must be approved by the Department to be eligible