U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

September 30, 2014

MEMORANDUM NO:
2014-CH-1801

Memorandum

TO: Dane M. Narode
Associate General Counsel, Office of Program Enforcement, CACC

//**signed//**
FROM: Kelly Anderson
Regional Inspector General for Audit, Chicago Region, 5AGA

SUBJECT: Final Civil Action: U.S. Bank Settled Allegations of Failing To Comply With HUD's FHA Loan Requirements

INTRODUCTION

The U.S. Department of Housing and Urban Development's (HUD), Office of Inspector General (OIG), in conjunction with the Department, the U.S. Department of Justice, and the U.S. Attorney's Offices for the Eastern District of Michigan and Northern District of Ohio, conducted a joint investigation of U.S. Bank National Association's (U.S. Bank) loan originations, underwriting practices, and quality control program for Federal Housing Administration (FHA) insured loans.

BACKGROUND

The FHA program is a component of HUD. The program provides mortgage insurance for a person to purchase or refinance a principal residence. The mortgage loan is funded by a lending institution, such as a mortgage company or bank, and the mortgage is insured by FHA.

U.S. Bank, based in Minneapolis, MN, has participated in the FHA program since 1934 and became a direct endorsement lender in 1989. The direct endorsement lender program authorizes private-sector mortgage lenders to approve mortgage loans for insurance by FHA. Lenders approved for the program must follow FHA requirements and provide annual and per loan certifications that the lender complied with these requirements when underwriting and approving loans for FHA insurance.

RESULTS OF INVESTIGATION

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation in regards to the U.S. Government's claims, and in consideration of the mutual promises and obligations, on June 30, 2014, U.S. Bank entered into a settlement agreement to pay $200 million. Of the settlement total, the FHA insurance fund received nearly $144.2 million, before incurring related costs.[1]

As part of the settlement, U.S. Bank agreed that it engaged in certain conduct in connection with its origination, underwriting, quality control, and endorsement of single family residential mortgage loans that were insured by the FHA on or after January 1, 2006, and endorsed by U.S. Bank on or before December 31, 2011, and resulted in claims submitted to HUD on or before March 28, 2014. Specifically, U.S. Bank agreed that it

- Endorsed loans for FHA insurance that did not meet HUD's underwriting requirements and, therefore, were not eligible for FHA insurance under the Direct Endorsement Lender program, and

- Failed to implement and maintain a quality control program in accordance with HUD requirements for FHA loans. For instance, U.S. Bank never reviewed (1) a sample consisting only of FHA-insured loans and (2) either 10 percent of its FHA-insured loans or a statistical sample of its FHA-insured loans that provided a 95 percent confidence level with 2 percent precision. It also (1) failed to identify material deficiencies in many of its FHA-insured loans, in violation of HUD requirements and (2) repeatedly failed to take the corrective action HUD required for deficiencies found in its internal loan file reviews.

As of a result of U.S. Bank's conduct, FHA insured loans endorsed by U.S. Bank that were not eligible for FHA mortgage insurance. FHA subsequently incurred substantial losses when it paid insurance claims on the loans.

RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

1A. Allow HUD OIG to post the $144,199,970 recovery in HUD's Audit Resolution and Corrective Actions Tracking System as an ineligible cost.

HUD's Office of General Counsel, Office Program Enforcement has agreed to the recommendation. No further action is required.

[1] The Department of Justice (DOJ) will retain up to 3 percent of the total amount recovered pursuant to 28 U.S.C. §527. The FHA fund retains single damages less the DOJ retained portion. DOJ remits the balance of the damages into the general fund of the U.S. Treasury as miscellaneous receipts.