



July 21, 2015

Kathleen Zadareky
Deputy Assistant Secretary for Single Family Housing
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

RE: FHA Single-Family Housing Policy Handbook

Dear Deputy Assistant Secretary Zadareky:

The Mortgage Bankers Association (MBA)¹ continues to strongly support the efforts of the Department of Housing and Urban Development (HUD) to develop a new comprehensive Federal Housing Administration (FHA) Single-Family Housing Policy Handbook (Handbook). This resource will be very beneficial for lenders to ensure compliance with FHA program guidelines.

MBA also greatly appreciates the resources HUD has made available so far, including the more than 400 frequently asked questions (FAQ), the online training modules, and the live Handbook forums. They are great steps forward and have already helped to address many questions and concerns.

Nevertheless, there is more work to be done. Since the initial release of the new Handbook in September 2014, MBA has worked closely with its members to understand and identify provisions in the language--and now the FAQ--that are unclear or that could impede lenders' ability to comply with HUD requirements. This process has revealed that a few key outstanding issues remain. Specifically, lenders continue to have concerns about the pre-closing re-verification requirement, the lack of guidance around student loan debt, and the treatment of non-purchasing spouses. These issues are discussed in detail below.

For many lenders, these are significant concerns. After the implementation of the Handbook on September 14th, if lenders remain uncertain about these issues, they will be unlikely to assume the risk of originating FHA loans that implicate those unclear provisions. With that in mind, it is critical that these issues be addressed as swiftly as

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mba.org.

possible. MBA requests that HUD publish clear, written guidance addressing these concerns at least 30 days before September 14th. If that timeline is not feasible, MBA strongly suggests that HUD delay the effective date of the Handbook until all critical guidance has been finalized and published.

Key Outstanding Issues

MBA members have identified several key outstanding issues in the Handbook and the content of the FAQ. The following is a non-exhaustive list of critical issues identified by MBA and its members that will impact lenders' ability to implement the Handbook in a manner that ensures continued access to credit and compliance with HUD program requirements. MBA urges HUD to:

- 1) **Provide written guidance eliminating the pre-closing quality control re-verification requirement.** The new Handbook currently requires that a mortgagee's Quality Control Plan for underwriting must provide for the review and re-verification of borrower information on all FHA-insured mortgages selected for pre-closing and post-closing review.

While the post-closing re-verification rule is a norm, this pre-closing re-verification rule requires lenders to undergo costly, challenging, and time-consuming changes to their systems and operations. As such, MBA believes that the removal of this requirement is critical for successful implementation of the Handbook and, ultimately, for the ongoing availability of FHA-insured mortgage credit. It will also be critical that the removal of the pre-closing requirement appear clearly in published written guidance as soon as possible so that lenders can build their systems appropriately. Such guidance will be especially important for smaller lenders who typically outsource system buildouts and need a clear understanding of the scope of work involved.

- 2) **Remove the unnecessary provision requiring the non-borrowing spouse to relinquish all rights to the property.** The Handbook and FAQ document state that if it is necessary to perfect a valid first lien under state law, the lender must require a non-borrowing spouse to execute either the security instrument or documentation indicating that they are relinquishing all rights to the property. The Handbook also requires that lenders confirm a non-borrowing spouse's social security number. These requirements are in conflict with fair lending laws, and might also impinge on certain state laws. Once the Handbook is implemented, this conflict of laws may prevent many lenders from lending to applicants with a non-borrowing spouse for fear of the legal ramifications. The elimination of this unnecessary provision would clear up the uncertainty and allow lenders to continue originating FHA-insured mortgages without facing this legal risk.

MBA encourages HUD to reconsider the necessity of these requirements and to thoroughly review the conflict of laws.

- 3) **Release detailed guidance on the treatment of student loan debt.** An increasing number of creditworthy borrowers, and in particular creditworthy first-time homebuyers, are burdened with student loan debt. The growing number of these borrowers, as well as the myriad of student loan debt repayment plans now available, introduces additional complexity for lenders.

MBA requests that FHA release additional detailed guidance on the treatment of student loan debt that describes how lenders are to proceed with respect to different repayment plans—in particular those repayment plans that could have changing monthly payments—and loans currently in forbearance. This guidance would be especially helpful if it included case-studies or examples that demonstrate exactly how FHA interprets the Handbook content and how it should be applied.

The requirements included in the new Handbook are helpful, but insufficient to address the scale and diversity of the issues and questions that student loan debt presents. Absent additional guidance in advance of the implementation date, lenders might hesitate to work with borrowers who have student loan debt and use a repayment plan that introduces any amount of uncertainty with respect to the Handbook's guidelines. MBA strongly encourages FHA to release this detailed guidance as soon as possible.

- 4) **Publishing side-by-side guidance for the most frequently asked questions.** When FHA released its new Handbook draft in September 2014, it did not release a redlined version of existing guidance that would make clear to lenders where policy changes had been made.

MBA understands that the process for compiling the new Handbook does not allow for the publication of a redlined version of existing guidance. During the live Handbook forums, however, FHA staff did distribute a side-by-side comparison of existing policies with content in the new Handbook. This document was well-received by all attendees and has proven to be a highly valuable resource in understanding key differences between old and new guidance.

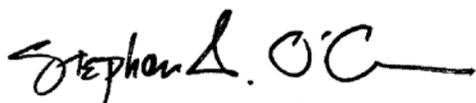
MBA requests that HUD release and make available on its website additional side-by-side comparisons for those topics that are the subject of the most confusion and that include material changes that must be implemented on September 14, 2015. Suggestions for these topics include the treatment of third party originators, and appraisal requirements.

MBA strongly encourages HUD to address these concerns as soon as possible. It will be important to publish and finalize all guidance quickly, as lenders are now adjusting systems and operations for both the Handbook and the TILA-RESPA Integrated Disclosure (TRID) rule. The TRID rule constitutes a major shift for lenders and implementation of those new requirements is consuming nearly all of the industry's capacity for change. With TRID now taking effect on October 3rd--less than 20 days after September 14th--most lenders will be unable to give the Handbook the undivided attention it deserves. Timely guidance will afford lenders and vendors the opportunity to dedicate the appropriate resources to review the Handbook, resolve outstanding questions, develop training programs, and adapt their systems specific to HUD's requirements.

As September 14, 2015 approaches, MBA would like to continue to work with HUD staff to communicate our members' questions and concerns. This effort will further ensure that the final Handbook is clear, concise, and consistent, and that stakeholders will be ready for implementation.

Should you have questions or wish to discuss any aspect of these comments further, please contact Tamara King, Associate Vice President for Loan Production at (202) 557-2758 or tking@mba.org; or Elizabeth Kemp, Assistant Regulatory Counsel at (202) 557-2941 or ekemp@mba.org.

Sincerely,

A handwritten signature in black ink that reads "Stephen A. O'Connor". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Stephen A. O'Connor
Senior Vice President Public Policy & Industry Relations