MORTGAGE BANKERS ASSOCIATION

March 26, 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] strongly supports 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). When it is complete, the Handbook will replace hundreds of Mortgagee Letters, and other guidance and will be the single authoritative source for HUD's single-family policies. This resource will be very beneficial for lenders to ensure compliance with FHA program guidelines.

As valuable as this Handbook will be, the process for creating and implementing the Handbook resource has been precipitously swift. In September 2014, HUD released the first draft of the Origination through Endorsement sections of the Handbook, slated for implementation on June 15, 2015. This draft was not accompanied by a key indicating which mortgage letters or other policies had been changed or clarified. On March 18, 2015, HUD published an updated version of the Handbook that included new chapters for appraisers and 203(k) consultants. These sections are also slated for implementation on June 15. Multiple sections of the Handbook remain outstanding, including guidance for Condominium Project Approvals and HUD Real Estate Owned Properties but will likely have a later effective date. Training for the Handbook will not be available to lenders until April 30, 2015.

Since the initial release in September 2014, MBA has worked closely with its members to understand and identify provisions in the Handbook that are unclear or that could impede lenders' ability to comply with HUD requirements. This still ongoing review process has revealed a number of both policy clarifications and policy changes, as well

[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.

as operational issues of great import to lenders. Some of these items are discussed in greater detail below. While the most recent version of the Handbook—released March 18, 2015—did provide some clarity, many outstanding questions remain and several hundred pages of content must be analyzed before lenders can implement the policies, especially if the content requires systems changes.

Less than three months from the June 15 implementation, HUD has not released a complete Handbook and, because of the ambiguous policies and lack of clarity, lenders have been unable to train staff or adapt operations. Accordingly, MBA requests that HUD delay implementing the Handbook. **MBA expects that lenders will be able to comply with the mandatory provisions by December 1, 2015, and will have the ability to implement additional features of the Handbook by February 1, 2016.**

During this time, MBA would like to continue to work with HUD staff to identify any outstanding issues and develop a final Handbook that is clear, concise, and consistent. This work will include another comprehensive review of the re-released chapters and analysis of the new material. The additional time will also afford lenders an opportunity to identify and address any operational issues that could impede compliance.

This work will be critical to ensure compliance and to preserve access to FHA mortgage credit. If lenders are unclear about provisions in the Handbook, they will be unlikely to assume the risk of originating FHA loans that implicate those unclear provisions. Even those borrowers who are able to get an FHA loan will likely experience delays in closing as lenders will need to confirm that the loan complies with all other policies in the Handbook. These issues are likely to be exacerbated by the fact that they will arise at the peak of homebuying season. It is critical that lenders be comfortable and confident with the all HUD requirements during this time to minimize any disruptions to the availability of FHA mortgage credit.

As previously stated, MBA members have identified many outstanding issues in initial Handbook. The following is a non-exhaustive list of key factors 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:

I. Lender Operations

Compliance with the Handbook will require that lenders have both the guidance necessary to align their systems with HUD's, and the available resources to do so. It is unlikely that lenders will have this guidance or the resources before the June 15, 2015, implementation date.

a. Technical Implementation

Some of the policy changes in the Handbook will mean changes for the TOTAL Scorecard. Lenders and developers will need sufficient time with the complete Handbook to identify all the changes to the TOTAL Scorecard. They will also then need access to a revised Developers Guide that incorporates those changes. Until that process is complete, lenders and vendors will not be able to align their systems with HUD's system.

TOTAL Scorecard plays a critical role for mortgagees and applicants by ensuring that applicants are evaluated by the same scoring process regardless of the automated underwriting system utilized by a lender. Mortgagees also have the benefit of a reliable risk classification that significantly enhances compliance with Fair Lending regulations, and FHA eligibility, underwriting and documentation requirements. In addition, the risk assessment classification provided by TOTAL is integral to a mortgagee's ability to manage workflow and internal operations based on TOTAL's assessment and its associated complexities. It is critical that TOTAL reflect the entirety of the Handbook and that lenders and vendors are equipped with guidance to align their systems.

Lenders must have a complete Handbook before they can identify every technical implementation need. A delay will allow lenders and vendors to identify these challenges and address them before they become a liability or affect a lender's ability to originate FHA loans.

b. Lender Capacity

The June implementation date comes at a time when mortgage lenders are adapting to an unprecedented number of new legal and regulatory requirements. Specifically, the TILA-RESPA Integrated Disclosure rule constitutes a major shift for lenders and implementation of those new requirements is consuming nearly all of the industry's capacity for change. A delay in implementation would 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.

II. Policy

There are many outstanding, key policies that will require clarification for lenders to originate FHA loans with confidence. For example:

- **Treatment of Delinquent Federal Debt:** The Handbook requires that delinquent Federal debt be resolved in accordance with the Debt Collection Improvement Act (DCIA) but provides no further guidance on DCIA. Currently, it is not clear where the lender would go to find out if the borrower's federal debt has been referred to the US Treasury for collection, or if FHA is referring to past defaulters who have FHA insurance claims paid to the Treasury Department. Finally, it is also unclear whether Treasury will provide a letter stating that the debt has been satisfied or is under a repayment plan.

- **Treatment of Excluded Parties:** The Handbook requires lenders to ensure that no third party originator or contractor engages any person who has been suspended, debarred, or otherwise excluded from participation in HUD programs. This policy puts an impossible burden on lenders as the lender must guarantee that an employee of another company with which the lender is working does not have an employee who has been suspended or debarred by HUD. It is unclear if HUD will establish a process for verification or what kind of certification will be required. Some lenders are likely to stop using third-party originators altogether until this issue is resolved.

- **Satisfactory Credit:** The Handbook includes a new definition of satisfactory credit that requires that a borrower must have made all housing and installment loan payments on time for the last 12 months and have no more than two 30 day late payments in the past 24 months. It is not clear if this new definition applies only to purchase transaction, and this definition conflicts with payment history requirements in other sections of the Handbook.

MBA and its members have identified many additional policy changes that will need to be addressed before implementation. Lenders will also now need time to review the new content and identify any other provisions that will require clarification.

Conclusion

MBA greatly appreciates the effort that HUD has already put into developing the Handbook. MBA believes that by delaying the effective date of the Handbook it will provide time for HUD to work with industry to finalize the Handbook in a manner that works for FHA, lenders, and most importantly, consumers.

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 Director for Loan Production at (202) 557-2941 or ekemp@mba.org.

Sincerely,

Stephen A. O'Connor
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