



January 27, 2012

Department of Housing and Urban Development: Single-Family Mortgage Insurance: Elimination of Requests for Alternative Mortgage Limits

Executive Summary

The Department of Housing and Urban Development (HUD) is proposing a rule that would eliminate the process for requesting alternative FHA maximum mortgage amounts. HUD believes the rule permitting a process for requesting alternative FHA maximum mortgage amounts is outdated and unnecessarily disrupts HUD's loan limit determination process. Eliminating the appeals process would, according to HUD, allow HUD to release its annual loan limits one month earlier than it has for the past three calendar years, which would provide more certainty in the mortgage lending market.

Comments must be submitted to HUD by March 13, 2012; please submit your comments directly to CUNA by **March 1, 2012**. Please email your comments to Senior Vice President and Deputy General Counsel Mary Dunn at mdunn@cuna.coop or Counsel for Special Projects Kristina Del Vecchio at kdelvecchio@cuna.coop. You can also mail them to CUNA's Regulatory Advocacy Department, 601 Pennsylvania Avenue, NW, South Building, 6th Floor, Washington, DC 20004. The proposed rule is available [here](#).

Background

Section 203(b)(2) of the National Housing Act (as amended by the Housing and Economic Recovery Act of 2008) limits the principal obligation on FHA-insured single-family mortgages to the greater of: (1) 115 percent of the median house price for a single-family home in the "area" as determined by the HUD Secretary; or (2) 65 percent of the national conforming limit. An "area" is defined as a "metropolitan area" in conformity with the Office of Management and Budget's (OMB) categorizations. In no case, however, may the mortgage amount exceed the appraised value of the property securing the mortgage.

HUD's regulations at § 203.18b implementing the National Housing Act provide for a process by which a party may submit documentation in support of an alternative mortgage limit for the area for which the loan is being sought. The regulation provides that if "any party believes that a mortgage limit established by the [HUD Secretary] does not accurately reflect the median house prices in the area, the party may submit documentation in support of an alternative mortgage limit."

This regulation was implemented in the early 1980s, when HUD did not have comprehensive data for home sales transactions. Consequently, HUD relied on appeals by interested parties, primarily local boards of realtors, as part of its loan limit determination process. But in 2008, HUD began contracting with a data aggregator, CoreLogic, to compile comprehensive sales transaction data. HUD now has access to a national database of home sales data, which it uses to compute the median home sale prices for each area. As a result, HUD has comprehensive direct sales transaction data for more than 2,000 counties. For the remaining approximately 1,200 counties with smaller populations and fewer transactions, HUD relies on indirect data sources to calculate the median house price.

Indirect sources of data include: (1) NAR existing home sale median prices at the “area” level, augmented with American Community Survey (ACS) data to create county-specific price estimates; (2) median home values from the most recent ACS indexed by the Federal Housing Finance Agency (FHFA) home price indices to create median price estimates for the relevant periods; (3) Decennial Census media value estimates updated with the price indices published by FHFA.

Because HUD has direct price data through CoreLogic for more than 2,000 counties with a high number of sales transactions, any appeals for an alternative mortgage limit would be automatically rejected by HUD. For the approximately 1,200 counties where HUD uses indirect price data, an appeal would have to meet four conditions to be considered:

- (1) The county must either be designated as “non-metro” by OMB or, if the county is within a designated metropolitan area, it is the county with the highest median price (high-cost) in that area;
- (2) There must be a sufficient number of transactions (ten or more) in the county in question during the defined period;
- (3) The loan limit must be already above the national floor or would be if the appeal were valid; and
- (4) The loan limit must not already be at the national ceiling.

There are currently only ten counties out of 3,234 that could possibly make an appeal based on these factors. Four of those are in the Northern Marianas Islands, and one is in Guam. The remaining counties are: a rural county in Colorado with a population of 800; a resort area on St. John in the U.S. Virgin Islands; two fishing villages in Alaska; and Lancaster County in Virginia where the median home price fluctuates widely because there are so few transactions. Of these counties, only Lancaster County could qualify for an appeal because FHA has insured ten or more loans in the county each year since 2005.

However, since the new procedures for establishing median home prices (using CoreLogic data and indirect sources) took effect in 2008, the number of appeals received and accepted by HUD has dropped to zero.

The Proposed Rule

The proposed rule would remove §203.18b of HUD's regulations altogether. HUD believes the current appeals process is outdated and unnecessary for two reasons:

- (1) HUD either has complete sales transaction data for counties covered by direct price data (in which case an appeal would be rejected immediately), and
- (2) The county's median home price falls below the national floor or has too few transactions to make a valid appeal based on these transactions.

HUD anticipates that there would be few, if any, appeals under this rule in the future, even if local economies improve and home prices rise. A valid appeal must provide better data than HUD already has for the area in question, and a successful appeal must actually impact the area's loan limits. Even for those counties for which HUD does not have direct sales data, individuals in these areas would not be eligible for appeal because of low home sales prices or low numbers of transactions. For counties currently covered by HUD's indirect price median index, HUD plans to work with sources in these counties to obtain more data on home sale transactions and will attempt to move toward using direct data.

HUD concludes that removing this regulation will not have any impact on the calculation of area loan limits now or in the future.

Applicability to Lenders

HUD believes that requiring a 30-day appeals period "for the sake of a possible appeal from one of the very small number of counties that possibly make an appeal" creates costs in terms of delays in determining the final annual loan limits for the national housing market. In the absence of this regulation, HUD plans to release annual loan limits one month earlier than it currently does (October rather than November). HUD believes releasing the annual loan limits earlier will assist lenders by giving them certainty in order to take loan applications in November and December as these loans may not close until the new calendar year and therefore would be subject to the new loan limits.

HUD specifically seeks comments on the following questions:

- (1) Whether any other counties (other than those listed above) could or would soon qualify for the appeals process;
- (2) Whether any reasons (other than the fact that HUD has direct or indirect pricing data for most counties and for those it doesn't, the county's median sales price fell below the national floor or the county had too few transactions to qualify for an appeal) contributed to the drop in the number of appeals to zero.

HUD plans to continue to strive to obtain direct sales data for additional counties, and welcomes a relationship with any entities that could provide direct data.

CUNA encourages lenders to consider whether they have utilized the appeals process in the past (and under what circumstances), or whether they anticipate taking advantage of the appeals process in the future. Please keep in mind HUD's limitations on qualifying for appeals, discussed above.