

§ 25.4

(1) The original lender under the mortgage, as that term is defined at sections 201(a) and 207(a)(1) of the National Housing Act (12 U.S.C. 1707(a), 1713(a)(1));

(2) A lender, as defined in this section;

(3) A branch office or subsidiary of the mortgagee or lender; or

(4) Successors and assigns of the mortgagee or lender, as are approved by the Commissioner.

Person. Any individual, corporation, partnership, association, unit of government or legal entity, however organized.

Secretary. The Secretary of the Department of Housing and Urban Development or a person designated by the Secretary.

[57 FR 31051, July 13, 1992; 57 FR 37085, Aug. 18, 1992, as amended at 60 FR 13835, Mar. 14, 1995; 60 FR 39237, Aug. 1, 1995; 61 FR 685, Jan. 9, 1996; 62 FR 20081, Apr. 24, 1997; 72 FR 53878, Sept. 20, 2007; 73 FR 60540, Oct. 10, 2008; 77 FR 51467, Aug. 24, 2012]

§ 25.4 Operation of the Mortgage Review Board.

(a) *Members.* The Board consists of the following HUD officials designated to serve on the Board by section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)(2)):

(1) The Assistant Secretary of Housing-Federal Housing Commissioner;

(2) The General Counsel of the Department;

(3) The President of the Government National Mortgage Association (GNMA);

(4) The Assistant Secretary for Administration;

(5) The Assistant Secretary for Fair Housing and Equal Opportunity (in cases involving violations of non-discrimination requirements);

(6) The Chief Financial Officer of the Department; and

(7) The Director of the Enforcement Center; or their designees.

(b) *Advisors.* The Inspector General or his or her designee, and the Director of the Office of Lender Activities and Program Compliance (or such other position as may be assigned such duties), and such other persons as the Board may appoint, shall serve as nonvoting advisors to the Board.

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(c) *Quorum.* Four members of the Board or their designees shall constitute a quorum.

(d) *Determination by the Board.* Any administrative action taken by the Board shall be determined by a majority vote of the quorum.

[57 FR 31051, July 13, 1992; 57 FR 37085, Aug. 18, 1992, as amended at 73 FR 60540, Oct. 10, 2008]

§ 25.5 Administrative actions.

(a) *General.* The Board is authorized to take administrative actions in accordance with 12 U.S.C. 1708(c), including, but not limited to, the following: issue a letter of reprimand, probation, suspension, or withdrawal; or enter into a settlement agreement.

(b) *Letter of reprimand.* A letter of reprimand shall be effective upon receipt of the letter by the mortgagee. Failure to comply with a directive in the letter of reprimand may result in any other administrative action that the Board finds appropriate as provided by 12 U.S.C. 1708(c).

(c) *Probation.* Probation shall be effective upon receipt of the notice of probation by the mortgagee. Failure to comply with the terms of probation may result in any other administrative action that the Board finds appropriate as provided by 12 U.S.C. 1708(c).

(d) *Suspension—(1) Effect of suspension.* (i) During the period of suspension, HUD will not endorse any mortgage originated by the suspended mortgagee under the Title II program unless prior to the date of suspension:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of suspension, a lender may not originate new Title I loans under its Title I Contract of Insurance or apply for a new Contract of Insurance.

(2) *Effective date of suspension.* A suspension issued pursuant to § 25.7(d) is effective upon issuance. Any other suspension is effective upon receipt of the notice of suspension by the mortgagee.

(e) *Withdrawal—(1) Effect of withdrawal.* (i) During the period of withdrawal, HUD will not endorse any

mortgage originated by the withdrawn mortgagee under the Title II program, unless prior to the date of withdrawal:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of withdrawal, a lender may not originate new Title I loans under its Title I Contract of Insurance or apply for a new Contract of Insurance. The Board may limit the geographical extent of the withdrawal, or limit its scope (e.g., to either the single family or multifamily activities of a withdrawn mortgagee). Upon the expiration of the period of withdrawal, the mortgagee may file a new application for approval under 24 CFR part 202.

(2) *Effective date of withdrawal.* (i) If the Board determines that immediate action is in the public interest or in the best interests of the Department, then withdrawal shall be effective upon receipt of the Board's notice of withdrawal.

(ii) If the Board does not determine that immediate action is necessary according to paragraph (e)(2)(i) of this section, then withdrawal shall be effective either:

(A) Upon the expiration of the 30-day period specified in § 25.10, if the mortgagee has not requested a hearing; or

(B) Upon receipt of the Board's decision under § 25.10, if the mortgagee requests a hearing.

[73 FR 60540, Oct. 10, 2008, as amended at 77 FR 51467, Aug. 24, 2012]

§ 25.6 Violations creating grounds for administrative action.

Any administrative action imposed under 12 U.S.C. 1708(c) shall be based upon one or more of the following violations:

(a) The transfer of an insured mortgage to non-approved mortgagee, except pursuant to 24 CFR 203.433 or 203.435;

(b) The failure of a mortgagee to segregate all escrow funds received from mortgagors on account of ground rents, taxes, assessments and insurance premiums, or failure to deposit these funds with one or more financial institutions in a special account or ac-

counts that are fully insured by the Federal Deposit Insurance Corporation or by the National Credit Union Administration except as otherwise provided in writing by the Assistant Secretary for Housing—Federal Housing Commissioner;

(c) The use of escrow funds for any purpose other than that for which they are received;

(d) The termination of a mortgagee's supervision by a governmental agency;

(e) The failure of a nonsupervised mortgagee to submit the required annual audit report of its financial condition prepared in accordance with instructions issued by the Secretary within 90 days of the close of its fiscal year, or such longer period as the Assistant Secretary of Housing—Federal Housing Commissioner may authorize in writing prior to the expiration of 90 days;

(f) The payment by a mortgagee of a referral fee to any person or organization; or payment of any thing of value, directly or indirectly, in connection with any insured mortgage transaction or transactions to any person, including but not limited to an attorney, escrow agent, title company, consultant, mortgage broker, seller, builder or real estate agent, if that person has received any other compensation from the mortgagor, the seller, the builder or any other person for services related to such transactions or from or related to the purchase or sale of the mortgaged property, except compensation paid for the actual performance of such services as may be approved by the Assistant Secretary for Housing—Federal Housing Commissioner;

(g) Failure to comply with any agreement, certification, undertaking, or condition of approval listed on, or applicable to, either a mortgagee's application for approval or an approved mortgagee's branch office notification;

(h) Failure of an approved mortgagee to meet or maintain the applicable net worth, liquidity or warehouse line of credit requirements of 24 CFR part 202 pertaining to net worth, liquid assets, and warehouse line of credit or other acceptable funding plan;

(i) Failure or refusal of an approved mortgagee to comply with an order of the Board, the Secretary, the hearing