

# LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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## AN ALT & ASSOCIATES NEWSLETTER

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**April 2010**

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The purpose of the Lenders Update is to provide a “heads-up” of new legislation and regulations affecting the mortgage lending industry. We provide summaries of new matters so our readers can judge whether the subject impacts their operations. We recommend that our readers review the entire new statute, regulation or other material in detail where it is relevant to them. For convenience, the applicable matter can be easily identified in the summary, and, where possible, a link is provided.

**The Update includes information available to Alt & Associates as of April 9, 2010.**

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## **HUD BULLETIN**

Last week, David Stevens who is the Assistant Secretary for Housing, and the Federal Housing Commissioner, published a letter to update various issues within the FHA. Perhaps most significantly he announced that FHA will soon be publishing its final rule increasing the net worth requirements of lenders, strengthening lender approval criteria and making lenders liable for oversight of mortgage brokers (perhaps we should read “brokers” as correspondents.). Mr. Stevens indicated that the final rule would be published within the next week so we can expect that very soon if HUD lives up to this prediction. Mr. Stevens announced the following areas affected by the final rule:

- **FHA new applicants will be required to have a minimum net worth of one million dollars.**
- **One year following the enactment of the rule current FHA approved lenders must have a minimum net worth of one million dollars.**
- **FHA approved small business lenders (We will see how this is defined.) must have a minimum net worth of five hundred thousand dollars.**

- 3 years following the enactment of the new rule, approved lenders must have a net worth of 1 million dollars plus 1% of total loan volume in excess of 25 million dollars.
- Approved lenders and applicants to FHA multi-family programs will need a net worth of 1 million dollars.
- If the multi-family lender also engages in servicing they will need an additional 1% of total volume in excess of 25 million dollars. If they do not perform servicing, they must have an additional .5 % of the total loan volume.
- Mortgage brokers will continue to be able to originate FHA mortgages through their relationship with approved lenders but they will longer receive independent FHA approval. Liability for loans and brokers will be imposed on the approved lenders.
- Current mortgage brokers will be authorized to continue to originate FHA insured loans through the end of the calendar year without sponsorship of an FHA approved lender but their origination authority will end on January 1<sup>st</sup> of next year.

We will advise you as soon as the new rules are published and provide a detailed summary.

## **NEW HOME VALUATION CODE OF CONDUCT** **FAQs**

FannieMae has issued revised Frequently Asked Questions (“FAQs”) further clarifying aspects of the Home Valuation Code of Conduct (“HVCC”). The new FAQs amend those published in March and July of last year. These can be found at:

[www.efaniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/pdf/hvccfaq.pdf](http://www.efaniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/pdf/hvccfaq.pdf)

To summarize some of the new issues:

- Q 2 clarifies that appraisers can perform an update of an appraisal for another lender (Q 2 also points out that some appraisers feel that this violates USPAP standards.
- Q 27 clarifies the definition of “loan production staff” for purposes of achieving appraiser independence, as those responsible for generating loan volume or approving loans as well as their subordinates. This includes employees whose compensation is based on loan volume or the closing of the loan transaction.
- Q 29 addresses and forbids the provision by a lender of a specific panel or list of appraisers to an AMC for use with a specific broker or real estate agent.
- Q 46 addresses the issue of an appraisal prepared for Lender A for a loan submitted by a broker. The broker later submits the loan to Lender B for any number of reasons. The question is, may the appraisal obtained by Lender A be used by Lender B. The answer is YES if the appraiser complies with the requirements of the Code, particularly Section III.A. Q 48 specifies that FannieMae could hold

Lender B responsible for violations committed by Lender A if Lender B has not taken appropriate precautions to detect such violations. If Lender A is not a FannieMae approved seller or servicer, Lender B will be fully responsible for any violations.

- Q 61 addresses the situation in which a copy of an appraisal has been sent to a borrower in accordance with the 3 day requirement but that appraisal is not received. When this happens, the loan can close if the borrower waives the 3 day requirement and, on the day of closing, is provided a copy of the appraisal.

Our monthly Lenders Update is published via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States. Only those persons who have requested this newsletter are on our mailing list. Should you have colleagues who wish to receive this complimentary service, please have them e-mail us at

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ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past two decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations. If you have any questions please contact:

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