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**McGLINCHEY
STAFFORD AND
YOUNGBLOOD &
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CLIENT ALERT

New Consumer Financial Protection Bureau (CFPB) and Federal Housing Administration (FHA) Rules

Both the CFPB and FHA have issued guidelines this month that may affect your business. A description of each is below.

CFPB Releases Mortgage Origination Examination Procedures

On January 11, 2012, the Consumer Financial Protection Bureau (CFPB) published a description of mortgage origination examination procedures for its examiners to use in looking at mortgage originators in both the bank and non-bank sectors of the industry. The procedures direct examiners to gather and evaluate company policies and procedures and interview employees of the company to assess whether the company is in compliance with applicable federal laws, and to identify risks to consumers in the company's advertising, loan products, loan terms, underwriting or originator compensation.

The link to the CFPB procedures is:

<http://www.consumerfinance.gov/wp-content/uploads/2012/01/Mortgage-Origination-Examination-Procedures.pdf>

FHA Releases Final Rule on Lender Indemnification and Eligibility

On January 25, 2012, FHA published a final rule amending three areas of HUD's relationship with its mortgagees participating in the FHA insurance program. First, mortgagees will be asked to indemnify HUD on an FHA insurance claim paid within five years of insurance endorsement, if HUD determines that the mortgagee 'knew or should have known' that there was a serious and material violation of HUD requirements, such that the loan should never have been submitted for endorsement. The violation need not be connected with the reason for the mortgage default, and

an Accept/Approve recommendation from FHA's TOTAL Scorecard system for the loan is not a defense to an indemnification demand. Mortgagees will no longer be able to 'appeal' the indemnification demand before the Mortgage Review Board, as the demands will come directly from the Mortgage Review Board or the Secretary of HUD.

The second and third changes are likely to be much less controversial than the first. The second change clarifies that a mortgagee is eligible to participate in the FHA insurance program if it maintains a default and FHA claim rate at or below 150 percent of the average rate of defaults and claims for all FHA loans in the states where that mortgagee operates. The third change clarifies HUD's requirement that a mortgagee applying for Direct Endorsement approval must have at least two years' acceptable history of defaults and claims. If the mortgagee applying has less than two years' history of claims and defaults, HUD may approve that mortgagee if (1) that mortgagee has an acceptable record for that shorter period, (2) the mortgagee is the surviving entity after a merger, acquisition or reorganization within the last two years, (3) one of the prior entities was an approved HUD mortgagee, (4) all the prior entities had an acceptable record for two years before the new mortgagee's application to HUD, individually and in the aggregate.

The link to the new FHA rule in the Federal Register is:

<http://www.gpo.gov/fdsys/pkg/FR-2012-01-25/pdf/2012-1508.pdf>

If you have any questions or comments concerning this Client Alert, please do not hesitate to contact:



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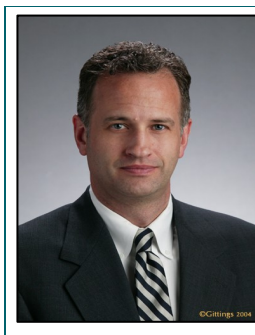
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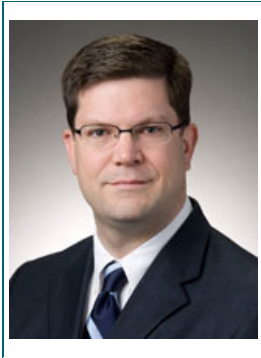
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Vicki Murphy is Director of Client Services for McGlinchey Stafford and Youngblood & Associates, LLP. She has worked in client services for law firms representing residential mortgage lenders for over 18 years. She has spent her career working with lawyers and residential mortgage lenders to develop operational and closing services and software to maximize lender efficiencies. **Ms. Murphy is not licensed to practice law.

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