



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

August 27, 2018

MEMORANDUM NO:
2018-FO-1802

Memorandum

TO: Dane M. Narode
Associate General Counsel, Office of Program Enforcement, CACC

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FROM: Frank Rokosz, Deputy Assistant Inspector General for Audit, GA

SUBJECT: Final Civil Action: Deloitte & Touché, LLP, Settled Allegations That It Failed To Conduct Taylor, Bean & Whitaker Mortgage Corporation's Audits in Conformance With Generally Accepted Auditing Standards

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the U.S. Department of Justice (DOJ), Civil Division, Washington, DC, in a civil investigation of Deloitte & Touché, LLP. Deloitte is a Delaware limited liability partnership that is headquartered in New York City, NY. It has offices in multiple locations, including Jacksonville, FL.

BACKGROUND

The Federal Housing Administration (FHA) is a component of HUD. It provides mortgage insurance for a person to purchase or refinance a principal residence. The mortgage loan is funded by a lending institution, such as a mortgage company or bank, and FHA insures the mortgage. HUD's direct endorsement program authorizes private-sector mortgage lenders to approve mortgage loans for FHA insurance. Lenders approved for the program must follow various FHA requirements, including providing annual and per loan certifications that the lender complied with these requirements when underwriting and approving loans for FHA insurance.

Taylor, Bean & Whitaker Mortgage Corporation (TBW), a privately owned corporation, was created in 1982 and incorporated in the State of Florida in 1991. TBW was an FHA-approved direct endorsement lender and a Government National Mortgage Association

(Ginnie Mae)-approved mortgage-backed securities (MBS) issuer and servicer. Both FHA and Ginnie Mae operate within HUD. As a HUD-approved direct endorsement lender and MBS issuer, TBW originated, underwrote, acquired, and sold loans to the Federal Home Loan Mortgage Corporation and other mortgage investors, which used these loans to support the issuance of MBS or held them as investments.

Deloitte served as the independent auditor for TBW for fiscal years that ended April 30, 2002, through April 30, 2008. Deloitte rendered opinions each year that TBW's financial statements presented fairly, in all material respects, TBW's financial position and results of operations.

TBW was required to submit to HUD annual audited financial statements to maintain its status as a direct endorsement lender. Deloitte's audit reports were specifically addressed to HUD. Deloitte stated in its reports that it had conducted its audits of TBW in accordance with generally accepted auditing standards, such standards required Deloitte to plan and perform its audits to obtain reasonable assurance about whether TBW's financial statements were free of material misstatement, and an audit includes examining evidence supporting the amounts and disclosures in the financial statements and assessing the accounting principles used by TBW management.

In August 2009, FHA suspended TBW, thereby preventing the company from originating and underwriting new FHA-insured mortgages. Ginnie Mae also defaulted¹ and terminated TBW as an issuer and servicer in its MBS program and took control of TBW's nearly \$25 billion Ginnie Mae, FHA, and U.S. Department of Veterans Affairs loan-servicing portfolio.

Also in August 2009, TBW declared bankruptcy and effectively ceased operations. Executives at TBW, including the chairman, chief executive officer, chief financial officer, president, treasurer, and senior financial analyst, pled guilty or were convicted of engaging in a fraudulent scheme at TBW. The fraudulent scheme included but was not limited to misappropriating billions of dollars from various borrowing and other financing TBW used to fund its mortgage-lending activities. In furtherance of this fraudulent scheme, executives at TBW colluded with executives from a federally chartered bank, who also pled guilty to the scheme.

As a result of the conduct by TBW and others above, it was alleged that TBW's audited financial statements were materially false and misleading, concealed TBW's true state of severe financial distress, and enabled TBW to continue originating and endorsing FHA-insured mortgage loans under the direct endorsement lender program. In conducting its audits and issuing its opinions on TBW's consolidated financial statements, Deloitte failed to detect the fraudulent conduct at TBW and that TBW's financial statements were materially false and misleading.

¹ Ginnie Mae, in accordance with its guaranty agreements and chapter 23 of the MBS Program Guide, may at its discretion, declare an issuer in default of its responsibilities under the Ginnie Mae MBS program. If action is taken against an issuer, the guide provides for remedies Ginnie Mae may seek.

RESULTS OF INVESTIGATION

On February 28, 2018, Deloitte entered into a settlement agreement with the Federal Government, agreeing to pay \$149.5 million, of which \$115 million was restitution. Deloitte settled allegations for alleged conduct in connection with its role as the independent outside auditor of TBW for TBW's fiscal years that ended April 30, 2002, through April 30, 2008. The settlement agreement was neither an admission of liability by Deloitte nor a concession by the United States that its claims were not well founded.

RECOMMENDATION

We recommend that HUD's Office of General Counsel, Office of Program Enforcement,

- 1A. Acknowledge the settlement amount of \$149,500,000 and that \$115,000,000 of the settlement represents restitution due HUD less DOJ's civil debt collection fees.ⁱ

ⁱ As of the date of this memorandum, HUD had received a restitution payment of \$115 million from the settlement amount of \$149.5 million. In accordance with HUD Handbook 2000.06, REV-4, the final action date will be set at August 13, 2018. At issuance of this memorandum, HUD OIG will enter a management decision into HUD's Audit Resolution and Corrective Action Tracking System, along with any supporting payment information received to date.