



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

December 9, 2014

MEMORANDUM NO:
2015-PH-1802

Memorandum

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

FROM: *//signed//*
David E. Kasperowicz
Regional Inspector General for Audit, Philadelphia Region, 3AGA

SUBJECT: Final Civil Action: SunTrust Mortgage, Inc., Settled Allegations of Failing To Comply With HUD's FHA Loan Requirements

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the U.S. Department of Justice (DOJ) in conducting an investigation of SunTrust Mortgage, Inc.'s underwriting practices for Federal Housing Administration (FHA)-insured loans.

BACKGROUND

The FHA program is a component of HUD. The program 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 the mortgage is insured by FHA.

SunTrust, based in Richmond, VA, has participated in the FHA program as a direct endorsement lender since 1984. The direct endorsement lender program authorizes private-sector mortgage lenders to approve mortgage loans for insurance by FHA. Lenders approved for the program must follow FHA requirements and provide annual and per loan certifications that the lender complied with these requirements when underwriting and approving loans for FHA insurance.

RESULTS OF INVESTIGATION

On June 17, 2014, DOJ and the Consumer Financial Protection Bureau, along with 49 State attorneys general and the District of Columbia's attorney general, filed suit against SunTrust for

misconduct related to the origination and servicing of single-family residential mortgages, based in part on OIG's review of the underwriting of FHA loans.¹ The United States, the Bureau, the State attorneys general, and the District of Columbia's attorney general sought damages and civil penalties under the False Claims Act; State law; the Consumer Financial Protection Act of 2010; the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and common law. The lawsuit alleged that during the period January 2006 through March 2012, SunTrust knowingly failed to comply with HUD regulations and requirements of the direct endorsement lender program governing the origination and underwriting of FHA-insured loans. FHA insured loans based on annual and per loan certifications submitted by SunTrust that it had complied with FHA requirements. When the borrowers defaulted on the loans, FHA incurred substantial losses.

On the same day, June 17, 2014, SunTrust entered into a settlement agreement to pay \$968 million to end the lawsuit, which the United States, the Bureau, the State attorneys general, and the District of Columbia's attorney general approved. Of the settlement total, \$418 million was attributable to FHA's direct endorsement lender program. The FHA insurance fund was to receive \$300 million of the \$418 million before incurring related costs, and the remaining \$118 million was to be remitted to other Federal entities.²

As part of the settlement, SunTrust admitted certain conduct, including but not limited to

- Endorsing for FHA insurance certain loans that did not meet underwriting requirements and, therefore, were not eligible for FHA insurance under the direct endorsement lender program. As a result of SunTrust's conduct, FHA insured certain loans endorsed by SunTrust that were not eligible for FHA mortgage insurance and that FHA would not otherwise have insured. FHA incurred losses when it paid insurance claims on those loans.
- Self-reporting to FHA fewer loans than required, based on SunTrust's internal quality control reports between January 2009 and March 2012, which identified loans with material underwriting deficiencies.

On September 30, 2014, the United States District Court for the District of Columbia entered the consent judgment, which made SunTrust liable to pay the \$418 million attributable to FHA's direct endorsement lender program.

RECOMMENDATION

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

¹ DOJ filed the lawsuit, on behalf of HUD, FHA, the U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and the United States Trustee Program, in connection with SunTrust's residential mortgage lending business. This memorandum addresses only the results directly related to HUD's FHA program.

² DOJ will remit to the FHA insurance fund that portion of a False Claims Act recovery that equals single damages (that is, FHA's actual damages) to compensate FHA for its losses. DOJ will retain up to 3 percent of the total amount recovered under 28 U.S.C. (United States Code) Part 527. The FHA fund will retain single damages less the DOJ-retained portion. DOJ will remit the balance of the damages to the general fund of the U.S. Treasury as miscellaneous receipts.

- 1A. Allow HUD OIG to post the \$300 million recovery to HUD's Audit Resolution and Corrective Actions Tracking System as ineligible costs.