

## 2008 CREF/Multifamily Convention Notes

The following notes encompass issues discussed at both the committee meetings and the FHA panel at the CREF/Multifamily Convention held February 3-5, 2008 in Orlando. Should you have questions on any of these issues, please contact Cheryl Malloy at [cmalloy@mortgagebankers.org](mailto:cmalloy@mortgagebankers.org).

### I. Legislative Issues

MBA is responding to a number of legislative proposals to address the turmoil in the single-family market from bankruptcy reform to proposals which would severely restrict the loan products that can be offered and constrain underwriting. However, MBA will also be working on a number of legislative proposals that affect the multifamily and commercial sides of the business, including: GSE oversight reform, FHA modernization, and flood insurance reauthorization.

Members are encouraged to attend the MBA National Policy Conference April 16 and 17 at the Washington Court Hotel. The conference will be streamlined this year and focus primarily on lobbying Congress. Information on the conference can be found at <http://events.mortgagebankers.org/npc2008>.

### II. Capital Markets Issues

A Rating Agencies Task Force, consisting of both residential and commercial/multifamily members, has been meeting to develop recommendations for encouraging stability in the capital markets and the roles that rating agencies can play. The task force will also explore the need for greater oversight of the rating agencies.

MBA is also reaching out to the investor community through conferences and educational events to enhance investors' knowledge of the commercial/multifamily business and the collateral underlying the securities. The emphasis is on the strong fundamentals currently in most commercial/multifamily markets and the value of real estate as an investment.

A GSE Affordable Housing Goals Working Group is being formed to develop recommendations to improve the current goals structure as well as suggest legislative changes that should be included in GSE reform bills. Rodrigo Lopez will be vice chair of the working group which will include both residential and multifamily members. The current goals expire on 12/31/08 and HUD has indicated they will be issuing a proposed rule setting goals for 2009 and beyond in April or May of this year.

### III. Servicing Issues

Insurance remains a top issue on the servicing side of the business and MBA is very involved in attempting to convince the insurance industry to provide acceptable evidence of insurance – whether that be with an improved ACORD 28 or other means. MBA is also developing an insurance white paper which should be available this spring for members.

The long process of developing an industry standard property inspection form is coming to fruition. The major investors, including Fannie Mae and Freddie Mac, are now comfortable with the new standard and it is anticipated that the new format, along with an explanation of terms, will be released this spring.

Education remains a focus for servicers. A new designation – the Certified Mortgage Servicer – has been launched and the coursework for the first level is now complete. Work is progressing on the second and third levels and it is anticipated that those courses will be completed by the end of 2008.

### IV. FHA Issues.

A. MIP Increase – The Administration’s FY09 Budget Proposal, which was released on February 4, did not contain a proposed increase in the mortgage insurance premium (MIP) for the FHA multifamily programs. John Garvin (Senior Advisor to the FHA Commissioner and Acting Deputy Assistant Secretary for Multifamily Housing), in his panel, thanked MBA for compiling the data on the affordability of the FHA programs. He acknowledged that the data was helpful in the discussions about what to include in the FY09 budget.

B. Facilitating Financing of Properties with Tax Credits – Congressman Barney Frank is expected to introduce – in the next month – a bill that would streamline FHA processing of properties with low income housing tax credits (LIHTC). While removing a number of legislative and regulatory barriers (e.g. cost certification, subsidy layering requirements, escrowing of tax credit equity, REAC inspections, etc), the legislation will also require a pilot program under which a chief underwriter will review applications rather than the separate disciplines now required to review each loan.

HUD also is planning to streamline processing of applications with LIHTCs. The main advantage of HUD’s proposal will be that only schematic plans and specifications will be required at the firm commitment stage and HUD will process the firm application within 30 days. John Garvin indicated that the Mortgagee Letter detailing the processing changes will soon be in Departmental clearance, but the

clearance process will be streamlined and he hopes to issue the Mortgagee Letter by the end of March.

- C. Healthcare Programs – There are four issues currently being considered by HUD for changes or further guidance: accounts receivable financing, professional liability insurance, specialized use facilities and transferring the policy-setting responsibilities for the Section 232 program to the office in Headquarters that is responsible for the Section 242 program (the Office of Insured Healthcare Facilities).

John Garvin stated that all of these issues were moving forward but he did not expect any additional guidance to be issued in the near term. He also informed the group that any reorganization of staff would need to go to the Hill for a 30-day comment period.

D. Preservation Issues

MBA's Preservation Working Group has been meeting over the past six months and developed several priorities for follow-up. (Attached is the report of the working group which was distributed at the FHA Insurance Subcommittee meeting.) At the subcommittee meeting, it was agreed that MBA would pursue the following two priorities with HUD:

- 1) Confirm that HUD has authority to approve budget-based rent increases for new debt that will rehab/preserve existing HUD subsidized properties – regardless of mortgage type (d3, d4, 236, 202) or owner (nonprofit or for-profit).
- 2) Allow for private source (seller notes) debt for 221d projects under MAP. Clarify to all field offices that it is allowable for related party sale transactions to be transferred at fair market value, rather than at outstanding debt amount.

E. Other Production Issues

A number of production-related issues were raised with John Garvin during the FHA panel at the Convention. John provided the following responses:

1. Review, not redo - On the HUB Director calls, John is emphasizing the messages that (a) decisions should be made at the field office level and (b) offices should be consistent in their approach, following the MAP Guide for reviewing applications rather than reprocessing the entire case. He pointed out that Joyce Allen will be following up on this with the monthly field office calls as well as with individual offices. John asked for

suggestions for ways to demonstrate that offices are reviewing and not reprocessing. Joyce indicated that, while she has only been at HUD for a month, she has already begun to focus on this issue. Lenders pointed out that delays in production affect the opportunity for repeat FHA customers.

2. Production statistics – While the first quarter 08 production numbers are lower than 07, John indicated that he believes production will pick up to at least the 07 levels. He also pointed out that 150 of the 333 loans in the firm commitment phase are Section 232 loans. The complete data sets on FY08 production are located at [www.hud.gov/offices/hsg/mfh/mfdata.cfm](http://www.hud.gov/offices/hsg/mfh/mfdata.cfm).
3. APPS – John pointed out that 70% of previous participation processing is being accomplished through APPS but acknowledged that there are system problems. He indicated that funding for system changes is problematic and he anticipates that acceptance of paper Form 2530s will be continued until system problems are resolved. When asked about the timing of additional funding, John stated that a letter from MBA detailing the industry's priorities for system changes would be helpful as they prioritize use of limited technology resources.
4. Loan Limits – John informed the group that the amended regulation – reflecting the recent statutory increase in the high cost factors – was a priority for the Department and he expected it to be published, as a final rule, in the next month. While acknowledging that a Mortgagee Letter with the new high cost factors would also be needed for implementation, John did not provide a timeframe for publication.
5. Quality control reviews – John stated that guidance was being drafted for determining which lenders could be considered “low risk” and would be subject to less stringent quality control review requirements. Several lenders suggested that criteria that included no assignments for a period of time would not be appropriate because most large lenders have had defaults. Joyce indicated that the criteria is still being discussed and she would take back this lender feedback to the group working on the criteria. John also informed the group that a Mortgagee Letter detailing common findings from the reviews and some “best practices” should be issued soon.
6. MAP Guide – A revised MAP Guide, which contains all directives issued since the latest update, has been compiled and completed clearance

within the Office of Housing. Departmental clearance has been started but there is no clear timeline for issuance of the new MAP Guide.

7. Sandwich leases – HUD has been working on this issue for the past few months and John announced that they expect to have some guidance out in March on how to address the many issues involved in projects wanting to utilize sandwich leases.
8. Concurrent processing of Section 223(f) and Section 241 loans for refinances of Section 202 properties needing rehab – A lender commented on a glitch in the debt stack processing for Section 202 refinances. She asked John Garvin to direct HUD field offices to permit concurrent processing for these Section 202 refinances instead of sequential processing for the Section 223(f) and Section 241 loans. John Garvin suggested the lender draft a letter to HUD and copy the MBA.
9. Section 231 loans – A lender asked about the possibility of insuring a loan under Section 231 where 50 percent of the units are restricted to those 62 and over while the remaining 50 percent are restricted to those 55 and over. Joyce indicated that she was aware of this request and that, while Housing believes this approach should be acceptable under the regulations, they have asked OGC for an opinion.
10. New Closing Documents – When asked by a lender about the status of the new closing documents, John indicated that they would not be published in final form before the industry had an opportunity to be briefed on the proposed changes and an opportunity to ask questions and express concerns.

#### F. Asset Administration Issues

1. MBA is working with industry experts and Ginnie Mae to assist members as they attempt to comply with new IRS regulations on widely held fixed investment trusts (WHFITs). Ginnie Mae has been assisting lenders and has agreed to publish, on Ginnie Mae's website, the market discount fraction for Ginnie Mae pools – relieving lenders from that responsibility. However, issues remain with calculating the market discount fraction, particularly identifying the original prepayment assumption for loans pooled prior to January 2006. A working group of industry practitioners is being formed to develop a position paper that the industry could use for establishing a “reasonable prepayment period assumption.” If anyone would like to join this group, please contact Angela Epps

([aepps@mortgagebankers.org](mailto:aepps@mortgagebankers.org)). The first meeting of the group will be February 20.

2. REAC, particularly property inspection requirements, continues to be a problem for servicers of FHA-insured loans. MBA continues to meet with representatives of REAC and the Office of Housing to streamline requirements for approval of inspectors as well as to provide a more reasonable approach to inspections for healthcare facilities.
3. Transfers of Physical Assets requirements of HUD and other investors vary widely and can be both time-consuming and unnecessarily cumbersome. An MBA working group is attempting to develop “best practices” for TPAs/assumptions that would provide some uniformity across investors. The objective is to have draft best practices prior to the MBA Servicing and Technology Conference in May.
4. An MBA working group on claims processing is being formed to address a number of issues that have arisen in both the legal and accounting processes for FHA mortgage insurance claims. If anyone would like to join this group, please contact Angela Epps ([aepps@mortgagebankers.org](mailto:aepps@mortgagebankers.org)).
5. A number of other issues with FHA’s asset administration processes and procedures are frustrating both lenders and owners and driving good owners out of the FHA programs. Many of these issues have to do with inconsistent practices among field offices as well as lack of adequate staff. John Garvin noted during his panel that approval has been given to hire 41 new people in the field offices and that many of these positions are in asset administration. He encouraged those present to help the offices find qualified applicants for these positions.
6. John noted that a major focus of his time over the past six months has been the funding of project-based Section 8 contracts. He reported that the crisis should be behind us - at least in the short term – as funding in the FY08 budget is sufficient to pay on all contracts through the end of this fiscal year so there should be no lapse in payments as occurred in FY07.