

§ 25.3

for Housing—Federal Housing Commissioner, by section 202(c)(1) of the National Housing Act (12 U.S.C. 1708(c)(1)), as added by section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989). Except as limited by this part, the Board shall exercise all of the functions of the Secretary with respect to administrative actions against mortgagees and lenders and such other functions as are provided in this part. The Board may, in its discretion, approve the initiation of a suspension or debarment action against a mortgagee or lender by any Suspending or Debarment Official under part 24 of this subtitle A. The Board shall have all powers necessary and incident to the performance of these functions. The Board may redelegate its authority to review submissions and conduct hearings under § 25.8. The Board may also redelegate its authority to impose administrative sanctions on the grounds specified in §§ 25.9 (e), (h), and (u), and to take all other nondiscretionary acts. With respect to actions taken against Title I lenders and loan correspondents, the Board may redelegate its authority to take administrative actions for failure to remain in compliance with the requirements for approval in 24 CFR 202.5(i), 202.5(n), 202.7(b)(4), 202.8(b)(1) and 202.8(b)(3).

[60 FR 39237, Aug. 1, 1995, as amended at 62 FR 20081, Apr. 24, 1997]

§ 25.3 Definitions.

Adequate evidence. Information sufficient to support the reasonable belief that a particular act or omission has occurred.

Board. The Mortgagee Review Board.

Hearing officer. An Administrative Law Judge or Board of Contract Appeals judge authorized by the Secretary, or by the Secretary's designee, to issue findings of fact or other appropriate findings under § 25.8(d)(2).

Hearing official. An official designated by the Board to conduct hearings under § 25.8.

Lender. A financial institution as defined in paragraphs (a) and (b) of the definition of lender in § 202.2 of this title.

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Loan correspondent. A financial institution as defined in paragraph (c) of the definition of lender in § 202.2 of this title.

Mortgagee. For purposes of the regulations in this part, the term "mortgagee" includes:

(1) The original lender

under the mortgage, as that term is defined at sections 201(a) and 207(a)(1) of the National Housing Act (12 U.S.C. 1707(a), 1713(a)(1));

(2) A lender or loan correspondent as defined in this section;

(3) A branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

(4) Successors and assigns of the mortgagee, lender, or loan correspondent, as are approved by the Commissioner.

Person. Any individual, corporation, partnership, association, unit of government or legal entity, however organized.

Secretary. The Secretary of the Department of Housing and Urban Development or a person designated by the Secretary.

[57 FR 31051, July 13, 1992; 57 FR 37085, Aug. 18, 1992, as amended at 60 FR 13835, Mar. 14, 1995; 60 FR 39237, Aug. 1, 1995; 61 FR 685, Jan. 9, 1996; 62 FR 20081, Apr. 24, 1997]

§ 25.4 Operation of the Mortgagee Review Board.

(a) *Members.* The Board consists of the following voting members: The Assistant Secretary for Housing—Federal Housing Commissioner who serves as chairperson; the General Counsel; the President of the Government National Mortgage Association (GNMA); the Assistant Secretary for Administration; the Chief Financial Officer of the Department; and, in cases involving violations of nondiscrimination requirements, the Assistant Secretary for Fair Housing and Equal Opportunity; or their designees.

(b) *Advisors.* The Inspector General or his or her designee, and the Director of the Office of Lender Activities and Land Sales Registration (or such other position as may be assigned such duties), and such other persons as the Board may appoint, shall serve as non-voting advisors to the Board.

(c) *Quorum.* Four members of the Board or their designees shall constitute a quorum.

(d) *Determination by the Board.* Any administrative action taken by the Board shall be determined by a majority vote of the quorum.

[57 FR 31051, July 13, 1992; 57 FR 37085, Aug. 18, 1992]

§ 25.5 Administrative actions.

(a) *General.* The Board is authorized to take the following administrative actions: letter of reprimand, probation, suspension, withdrawal, or settlement agreement. These actions are described at 12 U.S.C. 1708(c)(3), and as further set out in this section.

(b) *Letter of reprimand.* A letter of reprimand shall be effective upon receipt of the letter by the mortgagee. Failure to comply with a directive in the letter of reprimand may result in any other administrative action under this part that the Board finds appropriate.

(c) *Probation.* Probation shall be effective upon receipt of the notice of probation by the mortgagee. Failure to comply with the terms of probation may result in any other administrative action under this part that the Board finds appropriate.

(d) *Suspension.* (1) *Cause for suspension.* The Board may issue a suspension if there is adequate evidence of violation(s) under § 25.9, and if continuation of the mortgagee's HUD/FHA approval pending the completion of any audit, investigation, or other review, or other administrative or legal proceedings as may ensue, would not be in the public interest or in the best interests of HUD.

(2) *Effect of suspension.* (i) During the period of suspension, HUD will not endorse any mortgage originated by the suspended mortgagee under the Title II program unless prior to the date of suspension:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of suspension, a lender or loan correspondent may not originate new Title I loans under its

Title I Contract of Insurance or apply for a new Contract of Insurance.

(3) *Effective date of suspension.* A suspension issued pursuant to § 25.6(c) is effective upon issuance. Any other suspension is effective upon receipt of the notice of suspension by the mortgagee.

(e) *Withdrawal.* (1) *Effect of withdrawal.* (i) During the period of withdrawal, HUD will not endorse any mortgage originated by the withdrawn mortgagee under the Title II program unless prior to the date of withdrawal:

(A) A firm commitment has been issued relating to any such mortgage; or

(B) A Direct Endorsement underwriter has approved the mortgagor for any such mortgage.

(ii) During the period of withdrawal, a lender or loan correspondent may not originate new Title I loans under its Title I Contract of insurance or apply for a new Contract of Insurance. The Board may limit the geographical extent of the withdrawal, or limit its scope (e.g., to either the single family or multifamily activities of a withdrawn mortgagee). Upon the expiration of the period of withdrawal, the mortgagee may file a new application for approval under 24 CFR part 202.

(2) *Effective date of withdrawal.* (i) If the Board determines that immediate action is in the public interest or in the best interests of the Department, then withdrawal shall be effective upon receipt of the Board's notice of withdrawal.

(ii) If the Board does not determine that immediate action is necessary according to paragraph (e)(2)(i) of this section, then withdrawal shall be effective either:

(A) Upon the expiration of the 30-day period specified in § 25.8, if the mortgagee has not requested a hearing; or

(B) Upon receipt of the Board's decision under § 25.8, if the mortgagee requests a hearing.

[60 FR 685, Jan. 9, 1995, as amended at 65 FR 9087, Feb. 23, 2000]

§ 25.6 Notice of violation.

(a) *General.* The Chairperson of the Board, or the Chairperson's designee, shall issue a written notice to the mortgagee at least thirty days prior to taking any probation, suspension or