



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

**MEMORANDUM NO.**  
2012-CF-1814

September 25, 2012

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

FROM: *//signed//*  
Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Final Civil Action: CitiMortgage, Inc., Settled Allegations of Failing To Fully Comply With HUD-FHA Requirements and Submitting False Certifications to HUD on FHA Loans

### **INTRODUCTION**

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the U.S. Attorney's Office, Southern District of New York, in conducting a review of CitiMortgage, Inc. The review began due to a *qui tam*<sup>1</sup> filing in the U.S. District Court for the Southern District of New York. The objective of the review was to determine whether CitiMortgage followed Federal Housing Administration (FHA) requirements when underwriting FHA loans and certifying to HUD that it complied with applicable requirements.

### **METHODOLOGY AND SCOPE**

To assist the U.S. Attorney's Office, OIG performed the following:

- Provided loan-level data from HUD's Single Family Data Warehouse system;
- Provided reports from HUD's Neighborhood Watch system regarding loans reported by CitiMortgage that it deemed to have serious deficiencies, patterns of noncompliance, or suspected fraud;

<sup>1</sup> The False Claims Act allows private persons to file suit for violations of the False Claims Act on behalf of the Government. A suit filed by an individual on behalf of the Government is known as a *qui tam* action, and the person bringing the action is referred to as a "relator."

- Provided CitiMortgage's annual lender certifications required for participation in the FHA program;
- Provided information and documentation on HUD reviews of CitiMortgage, including Mortgage Review Board actions;
- Provided a 2009 OIG audit report on CitiMortgage's FHA loan underwriting and quality control program (2009-KC-1001);
- Researched and provided information on HUD instructions to FHA lenders;
- Provided CitiMortgage's most recent performance data (defaults and claims) on FHA loans that it underwrote and provided guidance on how to interpret the data; and
- Coordinated with various HUD officials to provide information requested by the U.S. Attorney's Office.

The U.S. Attorney's Office and HUD staff also conducted investigative and legal work to support the case.

### **BACKGROUND**

CitiMortgage is a direct subsidiary of Citibank, N.A., and Citibank is an indirect subsidiary of Citigroup. CitiMortgage is based in O'Fallon, MO. CitiMortgage has participated in the FHA direct endorsement lender program since 1981. 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 various HUD-FHA requirements and provide annual and per loan certifications that the lender complies with these requirements when underwriting and approving loans for FHA insurance.

On or about August 5, 2011, the relator commenced a *qui tam* action by filing a complaint in the Southern District of New York against CitiMortgage, Citibank, and Citigroup and filed an amended complaint on October 20, 2011. The relator alleged, among other things, that the named entities violated the False Claims Act, 31 U.S.C. (United States Code) 3729 *et seq.*, in connection with CitiMortgage's participating in the direct endorsement lender program by causing the United States or its departments or agents to insure mortgages originated by the named entities, based on the entities' false statements that these loans were consistent with applicable regulations and rules regarding the quality of the mortgages or loans.

On or about February 13, 2012, the U.S. Attorney's Office intervened (joined the relator's case on behalf of HUD) in the civil action against CitiMortgage, Citibank, and Citigroup and entered into a settlement agreement to resolve the complaint. On February 15, 2012, the U.S. District Judge approved the settlement and issued a consent judgment<sup>2</sup> awarding \$158.3 million to the United States.

<sup>2</sup> A consent judgment is a judgment issued by a judge based on an agreement between the parties to a lawsuit to settle the matter, aimed at ending the litigation with a judgment that is enforceable.

## RESULTS OF REVIEW

CitiMortgage did not fully comply with FHA requirements when underwriting FHA loans and certifying to HUD that it complied with applicable requirements.

On February 15, 2012, CitiMortgage, Citibank, and Citigroup agreed to settle the complaint by paying the Federal Government and relator \$158.3 million. The complaint filed by the U.S. Attorney's Office alleged that CitiMortgage was liable under the False Claims Act; the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. 1833a; and the common law theory of breach of fiduciary duty. The complaint further alleged that during the period January 1, 2004, to the complaint effective date of February 15, 2012 (the covered period), CitiMortgage submitted false certifications to FHA and HUD concerning CitiMortgage's compliance with the FHA direct endorsement lender program rules and endorsed loans for FHA insurance in violation of the program rules.

As part of the settlement agreement, CitiMortgage admitted, acknowledged, and accepted responsibility for certain conduct alleged in the Government's complaint:

- (1) As a direct endorsement lender, CitiMortgage must comply with certain HUD-FHA requirements.
- (2) CitiMortgage failed to comply fully with all HUD-FHA requirements with respect to certain loans.
- (3) HUD-FHA rules require direct endorsement lenders to conduct a full review of all loans endorsed for FHA mortgage insurance pursuant to the direct endorsement lender program that become 60 days past due within the first six payments (early payment defaults).
- (4) CitiMortgage failed to conduct a full review of certain loans that it endorsed for FHA mortgage insurance pursuant to the direct endorsement lender program that experienced early payment defaults (became 60 days past due within the first six payments).
- (5) For every mortgage loan that CitiMortgage endorsed for FHA mortgage insurance pursuant to the direct endorsement lender program, CitiMortgage submitted form HUD 92900-A or an equivalent form to HUD-FHA (loan-level certifications).
- (6) In each loan-level certification, the direct endorsement lender certifies to HUD-FHA that the loan is eligible for FHA mortgage insurance under the direct endorsement lender program.
- (7) During the covered period, CitiMortgage endorsed for FHA mortgage insurance pursuant to the direct endorsement lender program certain loans that did not meet underwriting requirements contained in HUD's handbooks and mortgagee letters and, therefore, were not eligible for FHA mortgage insurance under the direct endorsement lender program.
- (8) As a result, CitiMortgage submitted to HUD-FHA certifications stating that certain loans were eligible for FHA mortgage insurance when they were not; FHA insured certain loans endorsed by CitiMortgage that were not eligible for FHA mortgage insurance and that FHA would not otherwise have insured; and HUD incurred losses when those CitiMortgage-endorsed loans defaulted.

CitiMortgage also agreed and committed to work with HUD going forward to maintain business practices that comply with HUD-FHA requirements applicable to direct endorsement lenders.

The \$158.3 million settlement payment included the portion payable to the U.S. Department of Justice and the relator for bringing the lawsuit, and the remainder of the more than \$122.8 million was paid to the FHA insurance fund.

### **RECOMMENDATION**

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

- 1A. Agree to allow HUD OIG to post the \$122,840,800 recovery to the FHA insurance fund to HUD's Audit Resolution and Corrective Actions Tracking System as an ineligible cost.