



**U.S. Department of Housing and Urban Development
Office of Inspector General**

Office of Audit - Civil Fraud Division
451 7th Street, SW
Washington, DC 20410

**MEMORANDUM NO.
2012-CF-1809**

June 12, 2012

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

FROM: Kim Randall, Director, Civil Fraud Division, GA

SUBJECT: Final Civil Action: Bank of America Settled Alleged Violations of the False Claims Act by Countrywide Home Loans, Inc.

INTRODUCTION

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), conducted a review of loans underwritten by Countrywide Home Loans Inc., and its divisions Countrywide Bank FSB and Countrywide Mortgage Ventures, LLC. OIG's participation in the case began due to a *qui tam*¹ filing in the Eastern District of New York and a request for assistance from the U.S. Attorney's Office. The objective of the review was to determine whether Countrywide underwrote Federal Housing Administration (FHA) loans in accordance with HUD-FHA regulations.

SCOPE AND METHODOLOGY

We selected a statistical sample of 110 loans from a universe of 8,724 FHA-insured loans, which Countrywide and two of its related entities had closed between January 1, 2003, and December 31, 2009; were 90 days delinquent in the most recent default episode within 24 months of the loans' closing or settlement date; and had gone into claim status as of December 12, 2010. We

¹ 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."

performed the following steps:

- Identified Countrywide and its two related entities' loan originations through HUD's Single Family Data Warehouse;
- Analyzed the FHA loan binders, electronic case binders, and lender files;
- Coordinated with HUD's Philadelphia Homeownership Center;
- Reviewed HUD Quality Assurance Division reports and Mortgagee Review Board actions; and
- Reviewed HUD's Single Family Asset Management System for HUD loss information and HUD's Single Family Insurance System for preforeclosure sale data.

BACKGROUND

Countrywide is a subsidiary of Bank of America, Charlotte, NC. Countrywide is a former FHA nonsupervised direct endorsement lender located in Calabasas, CA. Bank of America acquired Countrywide on January 11, 2008. Countrywide's FHA approval was voluntarily terminated on September 2, 2010.

Bank of America is the servicer or holder for many Countrywide loans associated with the three Countrywide entities noted above. These loans closed between January 1, 2003, and December 31, 2009, which was our statistical sample review period.

RESULTS

We reviewed the 110 statistically selected loans and referred our findings to the U.S. Attorney's Office of the Eastern District of New York.

Bank of America and its affiliated entities² decided to enter into a settlement agreement with the U.S. Department of Justice. The consent judgment stated that the parties agreed to resolve their claims without the need for litigation and that Bank of America did not admit the allegations of the complaint other than those facts deemed necessary to the jurisdiction of the court.

On April 4, 2012, the U.S. District Judge for the District of Columbia approved the consent judgment,³ which was based in large part on our review of the 110 statistically selected FHA loans. As a result, Bank of America paid FHA nearly \$471 million to settle the Countrywide portion of the consent judgment.

Bank of America and its affiliated entities also agreed to a deferred settlement payment to FHA of \$850 million. The \$850 million is deferred for 3 years from the effective date of the consent judgment to allow Bank of America to conduct a one-time, nationwide modification program to be offered to underwater borrowers with economic hardship on first-lien loans. Bank of America

² Affiliated entities include Bank of America Corporation; Bank of America, N.A.; BAC Home Loan Servicing, LP; Countrywide Home Loans Servicing, LP; Countrywide Home Loans, Inc.; Countrywide Financial Corporation; Countrywide Mortgage Ventures, LLC; and Countrywide Bank FSB.

³ 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.

will have no obligation to make the \$850 million deferred settlement payment to FHA if it satisfactorily completes the stipulations of the modification program.

RECOMMENDATION

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

- 1A. Agree to allow HUD OIG to post the \$470,813,750 recovery to HUD's Audit Resolution and Corrective Actions Tracking System.