



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

September 30, 2019

MEMORANDUM NO:
2019-CF-1804

Memorandum

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

//Signed//

FROM: Christeen Thomas
Director, Joint Civil Fraud Division, GAW

SUBJECT: Final Civil Action: PrimeLending, a PlainsCapital Company, Settled Allegations of Failing To Comply With HUD's Federal Housing Administration 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), Washington, DC, and the U.S. Attorney's Offices for the District of Kansas and the Northern District of Texas in the civil investigation of PrimeLending, a PlainsCapital company. The investigation was of PrimeLending's origination, underwriting, and quality control of Federal Housing Administration (FHA)-insured mortgage loans between 2008 and 2012. PrimeLending has its principal place of business in Dallas, TX.

BACKGROUND

FHA is a component of HUD. It 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.

PrimeLending became an FHA-approved direct endorsement lender on February 13, 1990. HUD's direct endorsement lender program authorizes private-sector mortgage lenders to approve mortgage loans for FHA insurance. Through the direct endorsement lender program, approved lenders such as PrimeLending are authorized to originate, underwrite, and approve mortgage loans to be insured by FHA without prior HUD review or approval. Lenders approved for the program must follow various FHA requirements, including providing annual and per loan

certifications that the lender complied with these requirements when underwriting and approving loans for FHA insurance.

RESULTS OF INVESTIGATION

On October 23, 2018, PrimeLending entered into a settlement agreement with the Federal Government to pay more than \$6.75 million to avoid the delay, uncertainty, inconvenience, and expense of lengthy litigation of certain civil claims the Government stated it had against PrimeLending. The United States contends that for 79 FHA-insured loans, PrimeLending failed to follow all HUD requirements in connection with its origination, underwriting, and quality control. Specifically, the United States contends that between January and December 2008, PrimeLending failed to ensure that the 79 loans qualified for FHA insurance, improperly incentivized underwriters, and failed to perform quality control reviews as required by HUD regulations. The settlement was neither an admission of liability or wrongdoing by PrimeLending nor a concession by the United States that its claims were not well founded. Of the \$6.75 million settlement, HUD FHA received more than \$3.37 million.

PrimeLending also entered into an indemnification agreement with HUD to pay more than \$6.74 million in restitution to indemnify FHA for the portion of losses associated with 160 FHA-insured loans that were not eligible for FHA insurance because of alleged material underwriting defects. These 160 FHA-insured loans were originated by PrimeLending between January 1, 2009, and December 31, 2012. The indemnification agreement did not constitute an admission of liability or fault on the part of either PrimeLending or HUD.

RECOMMENDATIONS

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

- 1A. Acknowledge that \$3,375,163 in the attached settlement agreement represents an amount due HUD, less DOJ's civil debt collection fees.¹
- 1B. Acknowledge that the \$6,749,673 in the attached indemnification agreement represents an amount due HUD.

The settlement amount due HUD was paid in full on October 29, 2018. The indemnification amount due HUD was paid in full on October 22, 2018. Therefore, no further action is required by the Office of General Counsel. At issuance of this memorandum, HUD OIG will enter a management decision into HUD's Audit Resolution and Corrective Action Tracking System, along with the supporting payment information to show that final action was completed.

¹ DOJ's 1994 Appropriation Act (Public Law 103-121) authorized DOJ to retain up to 3 percent of all amounts collected as the result of its civil debt collection litigation activities.