



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

September 29, 2015

**MEMORANDUM NO:**  
**2015-AT-1801**

## *Memorandum*

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

//signed//

FROM: Nikita N. Irons, Regional Inspector General for Audit, Atlanta Region, 4AGA

SUBJECT: Final Civil Action: First Tennessee 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, assisted the U.S. Department of Justice, Washington, DC, and the U.S. Attorney's Office, Northern District of Georgia, in conducting a review of First Tennessee Bank, N.A. First Tennessee has its principal place of business in Memphis, TN and is a wholly owned subsidiary of First Horizon Financial Corporation.

### **BACKGROUND**

The Federal Housing Administration (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.

HUD's direct endorsement program authorizes private-sector mortgage lenders to approve mortgage loans for FHA insurance. 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.

First Tennessee became an FHA-approved direct endorsement lender in 1984. As a direct endorsement lender, First Tennessee was authorized by HUD to originate and underwrite

mortgage loans on HUD's behalf, including determining a borrower's creditworthiness and whether the proposed loan met all applicable requirements. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a direct endorsement lender, such as First Tennessee, the lender (or its representative) has the option of submitting a claim to HUD to compensate the lender for any loss sustained as a result of the default. Therefore, once a mortgage loan is endorsed for FHA insurance, HUD insures the risk of the borrower's defaulting on that mortgage, which is realized if an insurance claim is submitted.

## **RESULTS OF REVIEW**

On June 1, 2015, First Tennessee entered into a settlement agreement with the Federal Government to pay \$212.5 million to avoid the delay, uncertainty, inconvenience, and expense of lengthy litigation of certain civil claims the Government contended that it had against First Tennessee. The settlement agreement was neither an admission of liability by First Tennessee nor a concession by the United States that its claims were not well founded.

As part of the settlement, First Tennessee agreed that it engaged in certain conduct in connection with its origination, underwriting, and quality control of certain single-family residential mortgage loans insured by FHA.<sup>1</sup> First Tennessee further agreed that it certified these loans for FHA mortgage insurance under the direct endorsement program; however, these loans did not meet certain HUD requirements and therefore were not eligible for FHA insurance.

As a result of First Tennessee's conduct, HUD insured hundreds of loans approved by First Tennessee that were not eligible for FHA mortgage insurance under the direct endorsement program and that HUD would not otherwise have insured. HUD incurred substantial losses when it paid insurance claims on the loans covered by the settlement agreement.

Of the total settlement, FHA received \$142 million in July 2015, and other Federal entities were to receive the remaining \$70.5 million.

## **RECOMMENDATION**

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

- 1A. Ensure that HUD records the \$142 million settlement to recognize funds due and returned as an ineligible cost.

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<sup>1</sup> Loans covered in the settlement agreement included loans originated between January 1, 2006, and December 31, 2008, that resulted in claims submitted to HUD on or before April 2, 2015, excluding home equity conversion mortgages under 12 U.S.C (United States Code) 1715z-20 and streamline refinances under 12 U.S.C. 1715n(a)(7).