

US Department of Housing
and Urban Development

Lender Qualification
and Monitoring Division

Multifamily Credit Watch Initiative

- ◉ Modeled after Single Family Credit watch
- ◉ Object is to give FHA a more efficient vehicle to enforce administrative actions
- ◉ Modifies and Enhances the current MAP enforcement regulation (24 CFR Part 200 Subpart Y)

What is Credit Watch?

- Lender performance will be tracked using a point based assessment system
 - > Warning Letters
 - > Findings of Material Violation
 - > Early Defaults
 - > Early Claims
- Predetermined point levels will mandate enforcement actions
 - > Clearly defined infractions and associated penalties means no more ambiguity

Early Defaults/Claims

- Points will be assessed for Defaults that occur in the early years of the loan
 - > Why? Early claims/defaults are normally related to inadequate underwriting or poor CLA
- Early Defaults are defined as Defaults/Claims that occur within the first three years after final endorsement
- Significant points will be assessed for defaults/claims that occur prior to final endorsement.

Risk Management and Accountability

- By holding responsible parties accountable for early claims and defaults, lenders will be responsible for insuring the projects and players are good long term risks
- Lenders will no longer have an incentive to “throw it against the wall and see if it sticks!”, or exert undue pressure on third parties

Credit Watch for Third Party Contractors

- ◉ Available enforcement actions for third parties are:
 - > Limited Denial of Participation
 - Maximum of 12 months
 - > Suspension
 - Used as a precursor to Debarment
 - Temporary status of ineligibility pending investigation of further actions
 - > Debarment
 - Maximum of 3 years

Limited Denial of Participation

A limited denial of participation excludes a specific person from participating in a specific program, or programs, within a HUD field office's geographic jurisdiction, for a specific period of time.

(maximum of 12 months)

Who May be Subjected to an LDP?

A person who has a critical influence on, or substantive control over, a covered transaction, whether or not employed by the participant:

- > Loan officers;
- > **Staff appraisers and inspectors;**
- > Underwriters;
- > Bonding companies;
- > Borrowers

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- > Purchasers
- > Recipients of HUD assistance;
- > Ultimate beneficiaries of HUD programs;
- > **Fee appraisers and inspectors;**
- > Real estate agents and brokers;
- > Management/marketing agents;
- > Accountants, consultants, investment bankers, architects, engineers, and attorneys

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- > Contractors;
- > Closing agents;
- > Developers;
- > Title companies;
- > Escrow agents;
- > Project owners;
- > Administrators of hospitals/nursing homes
- > Developers, sellers, or owners

Who may issue a limited denial of participation?

- A limited denial of participation is normally initiated by a HUD field office, but may be initiated by a Headquarters office.
 - > HUB (Regional Office) Initiated LDP Affects Participation only in that Region
 - > Headquarters Office of Multifamily Development Initiated LDP Affects Participation Nationally
- The Secretary designates a **HUD Official** who ultimately imposes the LDP

When may HUD issue a limited denial of participation?

- Approval would constitute an unsatisfactory risk
- Irregularities in past performance
- Failure to maintain prerequisites of eligibility

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- False certifications
- False statements for the purpose of influencing an action of the Department
- Violation of any law, regulation, or procedure relating to the application for insurance or final commitment to insure or guarantee.

Actions by Other Parties

- An affiliate or organizational element may be included solely on the basis of its affiliation, regardless of its knowledge of or participation in the acts providing cause for the sanction

Debarment

- A Federal agency uses the debarment and suspension system to exclude persons who are not presently responsible.
- An exclusion is a serious action that a Federal agency may take only to protect the public interest.
- A Federal agency may not exclude a person or commodity for the purposes of punishment.

Who May Issue a Debarment?

- An Administrative Law Judge or Office of Appeals Judge authorized by the HUD Secretary

What are the causes for debarment?

- ◉ Commission of fraud or a criminal offense in connection with a public or private agreement or transaction;
- ◉ Violation of Federal or State antitrust statutes, including price fixing between competitors, allocation of customers, and bid rigging;

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- ◉ Embezzlement;
- ◉ Theft;
- ◉ Forgery;
- ◉ Bribery;
- ◉ Falsification or destruction of records;
- ◉ Making false statements;
- ◉ Tax evasion;
- ◉ Receiving stolen Property;

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- ◉ Making false claims;
- ◉ Obstruction of justice;
- ◉ Commission of any other offense indicating a lack of business integrity or honesty
- ◉ Failure to pay a single substantial debt, or a number of outstanding debts owed to any Federal agency or instrumentality.

Thank You!!!!!!