

### **UNDERWRITING DIRECTIVE NO. 3**

**TO:** All Delaware Agents  
**FROM:** Dwight E. Edwards  
**DATE:** January 04, 2002  
**SUBJECT: Mortgage Fraud/Predatory Lending**

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HUD has identified property “flipping” as a major example of predatory lending and has published a proposed rule in the September 5, 2001 Federal Register to amend HUD’s FHA single family mortgage insurance regulations by establishing new 24 CFR part 203.37a. If adopted as proposed, the new rule would make any property sold within six months of its acquisition, ineligible for mortgage insurance.

Property flipping occurs when a recently acquired property is resold for a considerable profit with an artificially inflated value, often involving a lender’s collusion with an appraiser. And it usually involves a rapid resale in which the final purchaser’s loan is used to finance all aspects of both transactions.

HUD is not alone in addressing the issue of property flipping and other forms of mortgage fraud. Many lenders provide in their written closing instructions that their transactions may not be closed unless the borrower has been vested in title for a minimum specified period of time (usually six months or a year) before a closing is conducted. Non-compliance with such instructions could lead to claims if a closing protection letter has been issued.

Lenders closing instructions may also prohibit simultaneous transactions and restrict the source of non-mortgage funds to the borrower or third parties approved by the lender. Typically, written authorization from a specified senior officer of the lending organization is required in order to deviate from closing instructions. Generally, this is not the mortgage broker who originated the loan.

While a quick and profitable resale of a recently acquired property is not necessarily illegal and may not be mortgage fraud, we want to alert you to some of the potential pitfalls involved in these situations. It should be obvious that title commitments and the HUD-1 Settlement Statement should always reflect the facts as you know them. Commitments that do not reflect your analysis of the public record you have examined should not be issued. The HUD-1 Settlement Statement should be completed in accordance with the instructions contained in RESPA Regulation X.

Do not issue a HUD-1 Settlement Statement or title commitment with inaccurate information as an accommodation to any party to the transaction. If you are requested to accommodate a transaction by providing an inaccurate HUD-1 or title commitment, you should refuse to comply with the request and contact your state office.

**PLEASE PLACE IN THE STATE SPECIFIC MATERIALS SECTION OF YOUR  
UNDERWRITING PRACTICES MANUAL**