



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

March 12, 2009

MORTGAGEE LETTER 2009-08

**TO: ALL APPROVED MORTGAGEES**

**SUBJECT: Limits on Cash-Out Refinances**

Effective for case number assignments on or after April 1, 2009, the loan-to-value (LTV) of any cash-out refinance to be insured by FHA may not exceed 85 percent of the appraiser's estimate of value.

Given the continued deterioration in the housing market, and FHA's need to limit its exposure to undue risk, this reduction to the maximum LTV for cash-out refinances is being instituted on a temporary basis while FHA further analyzes the housing and mortgage industry as well as its own portfolio to determine whether permanent measures should be taken.

Underwriting and eligibility requirements for cash-out refinances include:

- Subordinate Liens and Combined Loan-to-Value (CLTV):
  - New Subordinate Financing: If new subordinate financing is being offered by the mortgagee or other permitted entity, the CLTV is limited to 85 percent (the FHA-insured first mortgage and any new junior liens when added together).
  - Re-Subordinate: Existing subordinate financing may remain in place, but subordinate to the FHA-insured first mortgage, regardless of the total indebtedness or combined loan-to-value ratio, provided the borrower qualifies for making scheduled payments on all liens.
  - Modified Subordinate Lien: FHA understands that many subordinate lien holders have been requesting modifications to the terms of the lien (typically a reduction in the amount of the lien) in exchange for remaining in a subordinate position. Modifying the subordinate lien in this manner often results in re-executing it at closing, which is an acceptable practice to FHA and therefore, FHA does not consider it a new subordinate lien.
- Length of Ownership:
  - 12 Months or More: The subject property must have been owned by the borrower as his or her principal residence for at least 12 months preceding the date of the loan application in order to obtain the maximum of 85 percent of the appraiser's estimate

of value in the new mortgage. This applies whether there was a mortgage, and thus, mortgage payments, on the property, i.e., ownership of at least 12 months regardless of the number of mortgage payments, if any, that may have come due.

- Less than 12 Months: If the subject property has been owned less than 12 months preceding the date of the loan application as the borrower's principal residence, the mortgage amount is limited to the lesser of either 85 percent of the appraiser's estimate of value or 85 percent of the sales price of the property when acquired. However, a sales price need not be considered if the property was acquired as the result of inheritance and is or will become the heir's principal residence.
- Delinquent Borrowers Ineligible: Borrowers who are delinquent or in arrears under the terms and condition of their mortgage *are not* eligible for a cash-out refinance.
- Three-and Four Unit Properties: The "self-sufficiency" test for three- and-four unit properties remains in effect. Handbook HUD-4155.1 REV-5, paragraph 1-8C explains the additional requirements for these properties.
- Second Appraisal Requirements for High-Balance Cash-Out Refinances: A second appraisal is required on cash-out refinances that will exceed \$417,000 and the property is in a declining area. See Mortgage Letter 2008-09 for more information.
- Non-Occupant Co-Borrowers/Co-Signers: Any co-borrower or co-signer being added to the note must be an occupant of the property securing the new FHA-insured mortgage. Non-occupant co-borrowers or co-signers **may not** be added in order to meet FHA's credit underwriting guidelines for the cash-out refinance.
- Fees Charged by Non-Approved Broker: While FHA regulations (see 24 CFR 203.27(e)) permit a borrower to engage a broker who is not FHA-approved to assist in obtaining mortgage financing, the loan origination services *may not* be performed by that broker and the FHA approved mortgagee shall not compensate the broker for such services. FHA requires that these services be performed by either an FHA-approved lender or loan correspondent. Further, under no circumstances may a borrower be charged a fee that is *not* commensurate with the amount normally charged for similar services. If the payment bears no reasonable relationship to the market value of the services provided, the excess over the market rate may be used as evidence of a compensated referral or unearned fee in violation of section 8(a) or (b) of RESPA and 24 CFR 3500.14(g). See Mortgage Letter 2008-17 for additional guidance.
- Existing Mortgage Not Required: Properties owned free and clear may be financed as cash-out transactions.

If you have any questions regarding this mortgagee letter, please contact the FHA Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

Brian D. Montgomery  
Assistant Secretary for Housing-  
Federal Housing Commissioner