



Notes from
Multifamily Committee Conference Call
October 15, 2004

The Multifamily Committee held its first meeting of FY 2005 by conference call with Tari Flannery, President, M&T Realty Capital Company, and new Chair of the Multifamily Committee, presiding. 74 members of the committee called in to participate in the meeting. Ms. Flannery first thanked Dave Roberts, outgoing chair, for all his leadership and hard work on a variety of issues in the past year. She then welcomed Scott Moore, President, Lancaster Pollard Mortgage Co., as the new Vice Chair of the Committee.

Secondary Market Update

Jim Hiatt, head of the CMBS desk at CSFB, provided the secondary market update, giving a view of interest rates and the general economy. He pointed out that, over the next several months, the market will be looking at oil prices, employment numbers, CPI and PPI. On the election, he predicted that the re-election of President Bush would be “good for equities, bad for bonds”, and if Senator Kerry is elected President, it would be “good for bonds, bad for equities.” In response to a question, Mr. Hiatt noted that the recent controversy over accounting at Fannie Mae had not had much effect on DUS pricing.

Legislative Update

Renee Rappaport of MBA’s legislative affairs staff provided the legislative update. She noted that FHA had been provided a prorated share of the \$29 billion approved in FY 04 of commitment authority and MBA was cautiously optimistic that it would be sufficient to keep the FHA programs operational through the recess. Congress is expected to pass an omnibus appropriations bill when it returns November 15 which should contain \$35 billion in commitment authority, since both the House and Senate versions of the HUD/VA appropriations bill contains that number.

On GSE oversight Ms. Rappaport reported that Fannie Mae had fared well in the Congressional hearing held the previous week. It is anticipated that no more action will be taken on GSE oversight this year, but that it would be taken up early in the next Congress.

For an election preview, Ms. Rappaport noted that the battle for the President was pretty much a dead heat with the key states to watch of Florida, Ohio and West Virginia. She reminded the members that of the eight open seats in the Senate, most are Democratic and many are in states that have a Republican tilt for the Presidency.

GSE Issues

Cheryl Malloy, the staff representative to the committee, reported that HUD had sent a final version of the GSE affordable housing goals rule to OMB on October 1. She noted that Assistant Secretary for Housing, John Weicher, had expressed the hope that OMB would release the rule by November 1 in order for it to go into effect January 1, 2005. Ms. Malloy also stated that MBA had recently met with the SEC to discuss their proposed rule on asset backed securities. She informed the committee that the SEC staff had been supportive of many of MBA's recommendations for changes in the rule but had asked for additional information on MBA's concern about disclosing all points and fees in a transaction to the investors. MBA will be submitting that additional information in the next two weeks.

Tari Flannery informed the committee that MBA has taken no position on the Fannie Mae accounting issues and was not publicly commenting. MBA's position is that the GSEs are an important component of the mortgage market but should have adequate, credible oversight of their activities – both their safety and soundness and their mission.

Research/Surveys Update

Jamie Woodwell of MBA's research division provided an update of MBA's activities relating to surveys, research and data accumulation. He noted that MBA is now producing a quarterly data book on commercial and multifamily activity which was released for the first time last month. This data book pulls together MBA's economic commentary/forecasts, MBA's surveys on origination and servicing, and data from other sources on debt outstanding. MBA will be sending this information to members of the multifamily committee and it is also available on the website. Mr. Woodwell also pointed out that the research division had been conducting research and surveys to bolster MBA's legislative efforts on such issues as TRIA extension and REMIC reform.

FHA Issues

Scott Moore began this section of the meeting by expressing concern about how some lenders are portraying the FHA program and offering very negative comments about the HUD staff. He noted that all involved in the business should pay more attention to the tone used around HUD staff and borrowers. Lenders need to emphasize the positive aspects of the FHA programs and the need for lenders to work cooperatively with the HUD staff to provide quality applications for HUD review.

Mr. Moore then commented on liability insurance on Section 232 loans. He noted that HUD had made significant improvements to Notice 04-01 through the issuance of Notice 04-15 and that HUD staff felt they were pleased with the current requirements. He pointed out that two significant areas remain for MBA to pursue possible amendment by HUD: (1) risk retention groups and HUD criteria for approving them as eligible insurers and (2) softening of the language for all properties operated by an entity to have liability insurance coverage comparable to that required for the FHA-insured loan.

Cheryl Malloy provided an update on the new closing documents proposed by HUD on August 2. She thanked John Vihstadt of Krooth and Altman who chaired the working group providing comments on the documents and all those who had spent significant time and effort on MBA's comment letter. She noted that MBA had met with HUD staff on October 2 to walk through MBA's major comments and concerns. Ms. Malloy also reported that FHA Commissioner Weicher had contacted MBA chairman-Elect Mike Petrie to inform him that he had read MBA's letter and understood the magnitude of our concerns. Dr. Weicher noted, however, that he would like to work with MBA to attempt to achieve acceptable versions – at least for the key documents – that could be finalized by January, 2005.

Dee McClure of M&T Realty Capital Co. provided an update on implementation of the quality control plan requirements recently imposed by HUD. She pointed out that in the QCP training provided by HUD, the staff had indicated a change in policy and was now no longer allowing a qualified senior executive to perform the appraisal review, but rather was requiring that the individual conducting the review must meet the same qualifications as the individual performing the original appraisal. Such an interpretation, she noted, may force most mortgagees to have the quality review function outsourced.

Ms. McClure also informed the group that following the conference call, the HUD staff had contacted MBA on the timing of the QCP's implementation. She stated that HUD was now requiring that not only must the QCP be submitted by December 24 but it must be implemented. And HUD was now defining "implemented" as meaning that loan reviews must be underway. She indicated that in conversations with HUD staff they had suggested that loans closed after August 24 (the date the final requirements for the QCP were published) should be reviewed and those reviews must be underway by December 24. It was agreed that further written clarification from HUD was needed and it was agreed that it would be difficult for most mortgagees to meet this timeframe – particularly those planning to contract out the review function.

Chip Moore updated the group on the status of HUD's proposal to allow lower floater financing on FHA insured loans. He noted that NAHB was taking the lead on this issue but was working with a coalition of groups including MBA. He reported that there had been several meetings with HUD on their first proposal and that a new proposal had been floated by HUD. Mr. Moore asked for input from members as to whether the new proposal was workable or could be amended to be a useful tool.

Marty Johnson of Reilly Mortgage and Chair of the FHA Servicers Subcommittee reported that the subcommittee had recently been established to provide an opportunity for servicers to meet and discuss common issues and for them to work with HUD to resolve concerns. She noted that the first activity of the group involved the issue of rolling defaults and that issue was resolved favorably with HUD. The group had met as a subcommittee first in June at MBA's servicing conference and was able to meet with HUD asset administration staff in September. The HUD staff was amenable to developing a partnership to address mutual concerns. The next meeting of the group

was scheduled for October 21 where MBA would submit a proposal for “best practices” for the MDDR system as well as alternatives to the current 9807 termination of insurance requirements. Also on the agenda for October 21 are REAC and 2530 previous participation issues and Ms. Johnson encouraged members of the committee to submit their comments or concerns on those issues to her or Ms. Malloy prior to the meeting.

Cheryl Malloy updated the group on the status of the Notice being issued by HUD on underwriting the refinancing of Section 202 direct loans with FHA insurance. MBA had been working for over a year with HUD staff on amending the Section 223(f) underwriting requirements for Section 202 loans to provide a process closer to that used under section 223(a)(7) (because this program is not available for direct loans, only currently FHA-insured loans.) She reported that a draft Notice was with Commissioner Weicher for his review and approval. Dr. Weicher had contacted Mike Petrie to discuss two issues: (1) underwriting without real estate taxes for those properties currently tax exempt and (2) an appropriate cap rate to use in the underwriting. MBA called several large FHA servicers to determine if properties with tax exemption had ever lost that tax exemption and the consensus was that if there was no change in ownership the tax exemption was not in jeopardy. MBA relayed this information to the Commissioner and suggested that for those properties where the ownership entity was being changed in the refinancing, the mortgagee would need to submit documentation from the local government stating whether the property would remain tax exempt. If there was no change in the ownership entity, MBA recommended that the property be underwritten assuming a continuation of the tax exemption.

On the issue of an appropriate cap rate, MBA reiterated its previous recommendation that a band of investment approach be pursued. Two different approaches to a simple calculation were provided to the Commissioner for his consideration. To date Dr. Weicher has not responded to MBA's recommendations nor has he indicated whether there are other issues that might delay the issuance of the Notice.

Upcoming Meetings

Cheryl Malloy noted that the CREF/Multifamily Convention is scheduled for February 6 – 9, 2005 in San Diego. She informed the group that the Multifamily Committee meeting would be held Sunday, February 6 from 10:00 a.m. to 11:30 a.m. and that the FHA Subcommittee would meet from 1:00 p.m. to 2:30 p.m. She also indicated that the regional FHA groups would have an opportunity and venue to meet following the FHA subcommittee meeting, but pointed out that the Superbowl was scheduled to begin at 3:00 p.m. because the meeting is on the West Coast.

Ms. Malloy also urged the committee members to mark their calendars for April 19 -20 and plan to attend MBA's National Policy Conference in Washington, D.C. She noted that an important issue to be lobbied by MBA in the next Congress would be legislative changes which would improve the efficiency and effectiveness of FHA and Ginnie Mae.