



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

September 30, 2016

**MEMORANDUM NO:**  
2016-AT-1802

## *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: Branch Banking and Trust Company Settled Alleged  
Violations of Federal Housing Administration Loan Requirements

### **INTRODUCTION**

The U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG), assisted the Department of Justice (DOJ), Civil Division, Commercial Litigation Branch and the U.S. Attorney's Office of the Northern District of Georgia in the civil investigation of Branch Banking and Trust Company (BB&T). BB&T has its principal place of business in Winston-Salem, NC.

### **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 lender program authorizes private-sector mortgage lenders to approve mortgage loans for FHA insurance. Lenders approved for the program must follow FHA requirements, including providing annual and per loan certifications that the lender complied with these requirements when underwriting and approving loans for FHA insurance.

BB&T has been an FHA-approved direct endorsement lender since at least January 2006. As a direct endorsement lender, BB&T 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 HUD requirements, without a preendorsement review of the mortgage application by HUD. When a borrower defaults on an FHA-insured loan underwritten and endorsed by a direct endorsement lender, such as BB&T, 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 INVESTIGATION**

Based in part on our review, the Federal Government alleged that BB&T violated the False Claims Act when it originated and underwrote FHA mortgage loans that did not meet applicable requirements. The Federal Government also alleged that BB&T did not maintain a quality control program that complied with requirements. As a result of BB&T's conduct, HUD insured hundreds of loans approved by BB&T that were not eligible for FHA insurance under the direct endorsement program and that HUD would not otherwise have insured. HUD incurred substantial losses when it paid insurance claims on certain defaulted loans.

On September 29, 2016, BB&T entered into a settlement agreement with the Federal Government to pay \$83 million to avoid the delay, uncertainty, inconvenience, and expense of lengthy litigation. As part of the settlement, BB&T agreed that it engaged in certain conduct in connection with its origination, underwriting, and quality control of single-family residential mortgage loans insured by FHA.<sup>1</sup> The settlement was neither an admission of liability by BB&T nor a concession by the United States that its claims were not well founded.

Of the total \$83 million settlement, HUD FHA was to receive \$35.7 million, and the remaining portion will be paid to other Federal entities.

### **RECOMMENDATION**

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

- 1A. Acknowledge that \$35,700,000 of the \$83,000,000 in the attached settlement represents an amount due HUD.

As of the date of this memorandum, the settlement agreement of \$83 million was reached and it represents an amount due HUD of \$35,700,000, pending receipt from DOJ. The settlement agreement explains that payment is expected no later than seven days after the

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<sup>1</sup> Loans covered in the settlement agreement included loans insured by FHA between January 1, 2006, and September 30, 2014, that resulted in claims submitted to HUD on or before February 15, 2016, excluding origination or underwriting of home equity conversion mortgages under 12 U.S.C. (United States Code) 1715z-20 and streamlined refinances under 12 U.S.C. 1715n(a)(7).

date of settlement. In accordance with HUD Handbook 2000.6, Rev 4, the final action target date will be set at November 7, 2016. At issuance of this memorandum, HUD OIG will enter a management decision into HUD's Audit Resolution and Corrective Action Tracking System, along with any supporting payment information received to date.