

US Bank to Pay \$200 Million to Settle False Claims Act Allegations

Late last month, banking services company US Bank **agreed to repay the government** a staggering \$200 million amid allegations it misrepresented residential home loans as suitable for insurance when, in fact, the borrowers either did not meet standard underwriting requirements or were not checked for creditworthiness at all. The settlement comes on the heels of several other settlements between private mortgage lenders and the federal government – many of which stem from the 2008 housing crisis.

Facts of Case Against US Bank

Like so many other **mortgage fraud cases** under the False Claims Act, the allegations against US Bank involve misrepresentations to federal agencies like the Department of Housing and Urban Development (HUD) and the Federal Housing Agency (FHA) about the creditworthiness of borrowers seeking residential home loan products. During the period in question, US Bank was involved in the FHA's insurance program as a "direct endorsement lender" (DEL) with the authority to originate, underwrite, and certify mortgages as eligible for insurance from the FHA. Under federal rules, any mortgage loan with FHA insurance protects the lender from the effects of a default by providing it with reimbursement for any financial loss incurred as a result of a default. In an effort to manage its risk, the FHA requires lenders to engage in certain minimal underwriting procedures to ensure loans are not handed out haphazardly to ineligible borrowers. At a minimum, lenders must verify income and employment, as well as review the applicant's debts and assets.

Pursuant to the settlement agreement, US Bank admitted that for a period spanning from 2006 through 2011, it intentionally and consistently certified loans for FHA insurance that did not meet the underwriting requirements set forth by HUD. It further admits it did not implement a comprehensive quality control program as required under FHA regulations and was therefore unable to identify credit issues with its home loan applicants. Further, HSBC admitted that it did not self-report deficient loans as required under the law and did not take steps to initiate any corrective or mitigating action when apprised of its underwriting issues.

Not unexpectedly, thousands of US Bank borrowers entered into default during the economic crisis, resulting in mortgage insurance payouts by FHA in the millions of dollars. These payouts, according to the Department of Justice, would have been unnecessary – saving taxpayers millions of dollars – if US Bank had followed proper protocol with regard to its lending procedures.

Government's Response to the Settlement

The federal government issued **several statements** about the settlement with US Bank, reiterating its dedication to eliminating this type of fraud and repairing the residential housing industry following its collapse in 2008. In a statement, a U.S. Attorney for the Northern District of Ohio said, "U.S. Bank ignored certain lending requirements causing substantial losses to taxpayers....This settlement demonstrates that the Department of Justice will not permit lenders to play fast and loose with the rules and stick the American people with their significant tab." The Inspector General for HUD further clarified the settlement as a warning to other mortgage lenders: "This substantial recovery on behalf of the Federal Housing Administration should serve as a vivid reminder of the potential consequences of not following HUD program rules, and the diligence with which we will pursue those that violate them, particularly where lenders such as U.S. Bank take actions to compromise the insurance fund...."