

Common Themes

In summary, completed and on-going OIG investigations, have identified many of the following themes in common relating to fraud pertaining to due-diligence requirements at lenders and lender servicers :

- o An organized effort by more than one mid-level, or higher, employee(s) to cover lapses in required due diligence activities in order to retain the Federal guarantee on multiple loans—the complicity or active involvement of management officials;
- o In these cases, the falsifications were motivated, at least in part, by management's desire to avoid a financial loss (loss of guarantee, loss of fees or contractual penalties incurred);
- o To some degree in all three cases, the lack of sufficient collection capacity (insufficient staffing, insufficient computer resources or conflicts arising from changing computer systems) was a contributing factor to an unmanageable work load creating the need to play "Catch up" and the related temptation to "Cut corners";
- o When collection problems and due diligence "Violations" were found and reported to management by regulators or auditors, management underplayed or explained away the magnitude or severity of the findings and in one instance engaged in an overt effort to "Fix the problem" by creating bogus entries.⁵

5. In the G-138 Cure Letter, ED defined "violation" as: "...the failure to timely complete a required diligent phone contact effort, the failure to send a required letter (including a request for preclaims assistance), or the failure to timely engage in a required skip-tracing activity..

**Due Diligence
Violations:
Indicators of Potential Fraud**

1. The volume of rejected claims is a common measure of servicing quality. A significant increase in the number of a lender's/servicer's claims rejected by a GA gives a strong indication that the lender/servicer faces a potential increase for financial loss which in turn may tempt the lender/servicer to Cut corners~.

A review of the rejected claims may identify patterns such as: required calls or letters, in specific buckets, not being made or sent by specific collectors during specific time frames; calls made on holidays or during vacations; and numerous identical and consecutive text strings documenting contact with a borrower or borrowers.

2. Prior reviews noting collection errors, deficiencies and or due diligence violations. What was management's response? Was the response credible and realistic? What did they actually do in response to the finding(s)?
3. A significant increase in the number of loans in the collections portfolio without a reasonable increase in collection capacity (i.e. more collectors, increased computer and telecommunications resources) may strain the ability to conduct the required collection activities in a timely manner. If the increase in the lender's portfolio results from the purchase of loans rather than the making of new loans, then the source of the loans, the "cure" status and character of the loans may put further strains on a lenders collection capacity than would be anticipated from new loans.
4. What is the make-up of the collection portfolio? What percentage of the portfolio is comprised of loans for borrowers from proprietary trade and technical schools? These loans have historically tended to be for borrowers who can be more difficult to contact, are less inclined to want to repay the loan and therefore, more prone to default.
5. How many actual calls (attempts and completions) does each collector make on an hourly, daily, and weekly basis? Are these rates reasonable and in line with industry norms? Does the lender/servicer set production expectations, goals, or objectives for the collection staff? Are these reasonable?
6. Announced or rumored "down sizings", reorganizations of the collections unit, or high turnover of collection staff may reduce the collectors productivity and increase the potential for sloppy and untimely work.
7. A collection staff largely comprised of part-time employees or college students paid minimum wage rates may raise questions about the quality of the collection efforts.
8. Surges or Spikes" in collection contacts at the end of buckets when compared to Normals collection contacts during the remainder of the period.

9. A gross deviation by the lender/servicer from its usual practices relating to collection histories. For example, a servicer that normally submits a computer generated collection history as part of its default claims package to the GA for no obvious reason starts to submit manually prepared collection histories as part of its default claims package.
10. A significant increase in the number of approved forbearances.

Basic Steps for Documenting Due Diligence Fraud

The following is a brief list of steps an investigator or auditor should consider when confronted with potential due diligence fraud:

1. Analysis and comparison of collection histories, telephone billing records, and mail records.
 - * Compare suspicious telephone contact entries (i.e. date, time, originating number) with telephone billing records. In some instances, this may be limited to toll calls and in other cases non-toll call records may exist;
 - * Assess whether the length of the telephone contact is of sufficient length to accomplish the collection activity. If the collection history records a telephone conversation and the phone records show a call of 10 seconds, then there may be a problem;
 - * If backdating of contacts is suspected, compare computer backup records from month to month. Example: June contact information does not appear on June or July back up tape but does appear on the August back up tape;
 - * If it is suspected that the collection histories contain falsified entries relating to collection levers (i.e., lepers not sent) in addition to conducting a sample verification of the borrowers, check postal billings. Some lenders/servicers may send lepers by certified mail. Are there billing records that support such mailings?
 - * Eye ball' collection records for suspiciously similar signatures on borrower related documents and collection histories containing nearly identical written initials for different collectors;
 - * Determine whether individual collectors id's are being used to log collection activities even before or after they are employed by the lender/servicer.

NOTE: If it is anticipated that It will be necessary to compare collection histories and telephone records, the telephone service provider(s) should be contacted immediately because many service providers retain records for only limited periods of time. Also, some lenders/servicers may have their own phone systems and generate internal telephone records.

2. Question collectors and collection supervisors about discrepancies and contradictions. If an employee admits to falsifying collection efforts or identifies others, ask follow up questions:
 - * What was the motivation for the falsification: incentives, increased salary, fear of losing job?
 - * Where did the idea to falsify records originate? Whose idea was it?
 - * Who else is doing the falsification? How widespread (i.e., one person, a few people, or virtually everyone)?
 - * How many records did the person falsify and/or what proportion of the persons work efforts were devoted to the falsification of entries?
 - * What was falsified (i.e., types of entries and distinguishing characteristics) and how was it falsified (i.e., fabrication, forgery, etc.)? When did the falsification(s) occur (time frame)?