KEY HECM MORTGAGEE LETTERS, SUMMARIZED FOR COUNSELORS

The following are summaries and excerpts of important Mortgagee Letters.
For full, official text, refer to the HUD website at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hecm/hecmml

Lender Letter #	Date	Topic
96-15	4/10/96	Expands HECM eligibility to 2- to 4-unit, owner-occupied properties
96-41	8/3/96	Improves eligibility for condominiums – **No longer valid**
97-15	4/24/97	Changes rate at which principal limit (and creditline) grows from expected rate plus 0.5% to note rate (i.e., the rate currently being charged on the loan) plus 0.5%; also permits life estates and clarifies that borrowers may change title after closing.
98-3	1/7/98	Establishes monthly servicing cap of $35 for HECMs with monthly adjustable interest
99-2	2/18/99	Explains consumer protections against excessive fees by "estate planners"
00-10	3/8/00	Raises origination fee limit to the greater of $2000 or 2% of the maximum claim amount, including any broker or correspondent fees; establishes 180-day limit for counseling certificate. **Origination fee rules superseded by 08-34**
00-9 00-34 00-39	3/8/00 8/30/00 11/6/00	Establishes policies for HECMs in Texas (not included in this document)
03-16	09/24/03	Expected interest rate lock-in: Allows mortgage lenders to set the expected interest rate for HECMs at the time the loan application is signed by the borrower rather than on the date of closing. **Superseded by 06-22**.
04-18	04/23/04	Announces new procedures related to refinancing of existing HECMs, including anti-churning disclosures and counseling requirements. Also, introduces principal limit floor at 5.5%. **Partially superseded by 09-21**
04-25	6/23/04	Addresses counseling issues including who can provide counseling, topics that must be covered in counseling, permissible types of counseling, procedures for referrals by lenders to counselors and vice versa. Also addresses which lender activities are allowed and prohibited prior to counseling. **Superseded by HUD HECM counseling protocol**
04-48	12/30/04	Discusses rules for face-to-face and telephone counseling, including who may provide telephone counseling. **Superseded by HUD HECM counseling protocol**

05-44	11/01/05	Expands network of counselors approved by HUD to provide face-to-face and telephone HECM counseling nationally. Announces plans for HECM exam and roster. **Superseded by 09-47.**
06-06	03/17/06	Announces changes in HECMs in Texas, to include the addition of the line of credit option.
06-20	08/16/06	Clarifies that the FHA permits existing liens to be subordinated to the first and second HECM liens. Also discusses the treatment of pre-existing judgments or judgment liens, as well as Federal debts and liens.
06-22	08/31/06	Extends the expected interest rate "lock-in" provision for HECMs to 120 days (from 60 days). **Supersedes 03-16**
06-25	9/28/06	Clarifies who must receive HECM counseling, and what activities a HECM lender may perform prior to a prospective HECM borrower receiving HECM counseling. Adds discussion of possible mortgage fraud to counseling requirements– **Superseded by HUD HECM counseling protocol**
07-06	4/12/07	Defines existing property as one where construction is completed and property is habitable. Removes 12 month completion requirement. **Amended by 09-11 regarding HECM for Purchase.**
07-08	4/27/07	Permits both counseling and lender activities to take place by telephone, removing the former in-person interview requirement for lenders.
07-13	10/12/07	Authorizes the uses of the 1-month CMT index and 1-month LIBOR index for calculating interest rate adjustments on the monthly adjustable HECM product, and 1-year LIBOR index for annually adjustable HECM.
08-08	3/28/08	Clarifies rules for fixed rate HECM loans. **Partially superseded by 04-11**
08-12	5/6/08	Provides guidance to counseling agencies re: charging fees for HECM counseling. – **Superseded by HUD HECM counseling protocol**
08-14	5/16/08	Reviews the acceptable roles and payment structures for non- FHA-approved brokers or "reverse mortgage advisors". **Rescinded by 08-24**
08-24	09/16/08	Implements consumer safeguards prohibiting cross-selling of other financial or insurance products in connection with a HECM transaction. Also bars brokers (non-FHA approved) from being compensated through the HECM origination fee. **Rescinds 08-14**
08-28	9/29/08	Prohibition on lender-funded HECM counseling. **Amends 08-12**
08-33	10/20/08	HECM for Purchase program implementation and rules. **Superseded by ML 09-11**

08-34	10/31/08	New limits on HECM origination fee, including $2500 minimum and $6000 maximum **Partially supersedes 00-10.**
08-35	11/6/08	Creates nationwide HECM mortgage limit at $417,000, replacing 203(b) limits. **Amended by 09-07 and future MLs which temporarily increase limit to $625,500**
08-38	12/5/08	Changes interpretation of non-recourse limit when home is to be retained by borrower or estate. **Rescinded by ML 11-16.**
09-07	02/24/09	Increases nationwide HECM mortgage limit to $625,500 until 12/31/2009. **Amends 08-35 on a temporary basis.**
09-10	03/27/09	Clarification of Home Equity Conversion Mortgage counseling issues (referral process, budgeting requirement, new counseling certificate with fee information.) **Partially superseded by HUD HECM counseling protocol**
09-11	3/27/09	HECM for Purchase Program. **Supersedes 08-33**
09-21	6/30/09	Repeats guidelines for HECM refis.. Also confirms that HECMS already assigned to HUD are potentially eligible for refinance. **Supersedes 04-18**
09-34	9/23/09	Reduction of HECM Principal Limit Factors, new PLF table introduces 5% Floor
09-47	11/6/09	HECM Counseling Standardization and Roster Final Rule: announces roster, exam, and continuing education requirements for HECM counselors
09-49	11/18/09	Guidance regarding prohibited and allowable subordinate liens in conjunction with HECM loans. **Repeats and expands on 06-20**
10-34	9/21/10	Introduces HECM Saver; announces mortgage insurance premium and principal limit factor changes for HECM Standard. Superseded by 13-01 and
11-01	1/4/11	HECM Property Charge Loss Mitigation: announces new rules and specialized counseling
11-09	2/4/11	Clarifies when HECM counseling fees should be waived and what activities are included in the time recorded portion of the HECM counseling certificate. **Partially supersedes 08-12**
11-16	4/5/11	Rescission of Borrower's Recourse – **rescinds 08-38** but gives no details about what to do instead.
11-26	8/12/11	Expands list of intermediaries approved to do nationwide telephone counseling. **Modifies 10-37**
11-31	8/26/11	Announces revised HECM counseling certificate with POA documentation; requires non-borrowing spouses to attend counseling and sign certificate; gives instructions for transferring counseling certificates and/or case numbers to another lender
13-01	1/30/13	Eliminates HECM Standard Fixed Rate option; **superseded by 14-21.**

13-27	9/3/13	Changes to the HECM Program Requirements: announces initial disbursement limits and 2-tier mortgage insurance premiums; new principal limit factor tables; introduces financial assessment and life expectancy set-asides for property charges. Discontinues HECM Saver. **Superseded by 14-21 and 14-22.**
13-28	9/3/13	Financial Assessment and Property Charge Guide. **Superseded by 14-22.**
13-33	9/25/13	Mandatory Obligations, Life Expectancy Set-Aside Calculation, and Purchase Transactions. S**upplements, clarifies and corrects 13-27**
13-45	12/20/13	Delays effective date for Financial Assessment and Property Charge set-asides.
14-07	4/25/14	Establishes new procedures for non-borrowing spouse, with potential for deferral of repayment, also explains history of non-borrowing spouse issue. **Modified and expanded by 15-02 and 15-09.**
14-10	6/18/14	Prohibits misleading or deceptive program descriptions or advertising by lenders and prohibits restriction of borrower's freedom of choice
14-11	6/18/14	Prohibits future draws after closing on fixed interest rate HECMs; limits fixed rate HECMs to the Single Disbursement Lump Sum; limits adjustable rate HECMs to the other 4 payment plans.
14-12	6/27/14	New HECM Principal Limit Factors: expands PLF table to include Non-Borrowing Spouse with ages down to 18
14-21	11/10/14	Modifies initial disbursement limits and mandatory obligations; announces modified financial assessment and property charge analysis; defines new life expectancy set-asides; introduces new seasoning requirements for existing non-HECM liens; **supersedes 13-01, 13-27 and 13-33; partially supersedes 10-34**
14-22	11/10/14	Financial Assessment and Property Charge Requirements: publishes new HECM Financial Assessment and Property Charge Guide, **supersedes 13-28**
15-02	1/9/15	Creates distinction between Eligible and Ineligible NBS and provides new certification forms; clarifies seasoning requirement for existing non-HECM liens. **Modifies 14-07**.
15-03	1/29/15	Announces the Lender Optional Election Assignment for HECMs with FHA Case Numbers assigned prior to August 4, 2014: provides a possible mechanism for non-borrowing spouses on older HECMs to remain in the home after the borrower's death. Includes provisions for same-sex partners where marriage was not an option at closing. **Modifies 14-07**
15-06	2/26/15	Delays effective date for financial assessment and property charge funding requirements until 4/27/15.

MORTGAGEE LETTER 96-15 -**Home Equity Conversion Mortgage (HECM) Insurance Program - Changes in Program Requirements**

Property eligibility is expanded to include two- to four-family properties in which the borrower occupies one of the units.

Note that the maximum claim amount on a two-, three-, or four-unit property is the lesser of the appraised value of the property or the maximum mortgage amount allowed under Section 203(b)(2) of the National Housing Act for a **one-family** residential unit in the area. The one-family limit is to be used for the maximum claim calculation in order to minimize the conversion of equity attributable to the income-producing portion of the property.

Effective Date: April 10, 1996

Mortgagee Letter 97-15- Home Equity Conversion Mortgage (HECM) Insurance Program - Implementation of Final Rule and Other Information

- PRINCIPAL LIMIT DEFINITION: The new definition of "principal limit" provides that, after the first month, **the principal limit increases each month thereafter at a rate equal to one-twelfth of the mortgage interest rate in effect at that time, plus one-twelfth of one-half percent per year (MIP).** HECMs prior to this had principal limits increasing at the expected rate, rather than the note rate.

- MONTHLY PAYMENT CALCULATIONS: For monthly payment calculations (as well as servicing fee set-aside calculations) the expected average mortgage rate is still to be used in the formulas as the interest rate projection into the future.

- FEE FOR CHANGE IN PAYMENT OPTION: The fee for a change in payment option is presently $20.00.

- LIFE ESTATE PROVISIONS: A HECM may be insured and remain in force even if no eligible borrower has any interest in the property greater than a life estate. If an eligible borrower holds only a life estate when the mortgage is executed, all holders of any future interest in the property (remainder or reversion) will also be required to execute the mortgage to ensure that the mortgage is secured by a fee simple interest. A holder of a future interest does not execute the note or loan agreement and does not have the rights to loan proceeds of other borrowers. A borrower who held a fee simple title when the mortgage was executed is permitted to subsequently convey his or her interest in the property, as long as a life estate is retained.

- PREPAYMENT (24 CFR 206.209): Borrower is permitted to prepay "at any time, regardless of any limitations stated in the mortgage."

Effective Date: April 24, 1997

Mortgagee Letter 98-3- **Servicing Fee Cap Monthly Adjustable Loans**

HUD Handbook 4235.1 REV-1, paragraph 1-12, established a monthly servicing fee cap of $30.00 for fixed rate or annually adjustable HECM loans. There was no limit set on the servicing fees that lenders could charge for monthly adjustable loans. Effective 30 days from the date of this Mortgagee Letter, the maximum servicing fee that may be charged for monthly adjustable HECM loans is $35.00. Lenders are permitted to charge this fee if the cost has not already been included in the borrower's mortgage interest rate.

Effective Date: January 7, 1998

Mortgagee Letter 99-2- HECM Consumer Protection Measures

The senior homeowner must receive a full disclosure of all costs, including estate planning, financial advice and other services that are related to the mortgage, but are not required to obtain a HECM loan. Senior homeowners must be informed that if the information provided by these services can be obtained for minimal or no charge, then the costs cannot be financed with HECM proceeds.

The final rule is designed to protect senior homeowners in the HECM program from becoming liable for payment of excessive fees for third party services that may have little or no value and are not necessary.

Requirements for HECM Counselors: Effective February 18, 1999, a HECM program counselor must discuss with the senior homeowner whether they have signed a contract or an agreement with an estate planning service firm that requires a senior homeowner to pay a fee on or after closing. Counselors must inform the senior homeowner that these services are unnecessary to obtain a HECM loan and are ineligible for payment from HECM proceeds. The counselor must annotate this information on the Counselor's Certificate**.**

Requirements for HECM Lenders: For HECM applications signed on or after February 18, 1999, the lender must provide the borrower with a Good Faith Estimate and inquire whether the loan proceeds will be used to pay any cost associated with estate planners as outlined in the rule and provide any explanation or clarification for the use of the HECM proceeds. The lender must inform the borrower that these services are unnecessary to obtain a HECM loan and are ineligible for payment from HECM proceeds. Although the borrower has received a Good Faith Estimate, the lender must clearly state to the borrower which charges are required to obtain the mortgage and which are not. If the senior homeowner requests up-front funds of 25% or more of the principal limit, the lender must make sufficient inquiry at closing to confirm that the HECM proceeds will not be used for payments to or on behalf of an estate planning service firm.

Effective Date: February 18, 1999

<u>Mortgagee Letter 00-10-</u> Revisions to the Home Equity Conversion Mortgages (HECMs) Program

Increase in Loan Origination Fee: The origination fee amount will now be limited to the greater of $2000 or 2 percent of the maximum claim amount on the reverse mortgage. The financed origination fee is now the full amount that the borrower can pay for the origination and underwriting of the mortgage and must also include the full amount of any mortgage broker fee or loan correspondent fee. The borrower is not permitted to pay any additional origination fees of any kind to a mortgage broker or loan correspondent.

Counseling Certificates: The Certificate of HECM Counseling includes a 180-day expiration period. Provided the homeowner applies for a HECM within 180 days of signing the certificate, there is no need to obtain an updated certificate. Further, when the loan is being applied for by more than one homeowner, as long as at least one homeowner's signature on the certificate is within the 180-day expiration period, the lender may consider the counseling certificate as being valid for all borrowers on the loan.

Effective Date: March 8, 2000

<u>Mortgagee Letter 03-16-</u> Interest Rate Lock-Ins

Mortgage lenders are allowed set the expected interest rate for HECMs at the time the loan application is signed by the borrower rather than on the date of closing. This interest rate “lock-in” provision, which mortgage lenders may offer on each HECM application for 60 days, will eliminate confusion and unexpected reductions to a HECM borrower’s principal limit when market interest rates increase during the interim between loan application and loan closing.

Effective Date: September 24, 2003

<u>Mortgagee Letter 04-18:</u> Refinancing Existing HECMs

New legislation authorizes FHA to permit refinancing of existing HECMs and to collect a lower upfront mortgage insurance premium for the refinanced HECM. The initial MIP for refinancing an existing HECM may not exceed 2 percent of the increase in the maximum claim amount (i.e., the difference between the maximum claim amount for the new HECM loan and the maximum claim amount for the existing HECM being refinanced). Therefore the initial MIP is set at 2 percent of the increase in the maximum claim amount.

All HECM lenders must provide the Anti-Churning Disclosure form, to ensure that the borrower(s) is not being induced to refinance his existing HECM without benefit to the borrower(s) and/or solely for the benefit of the Lender. To ensure that the HECM refinance will benefit the borrower, the Lender shall provide to the borrower(s) its best estimate of:

1) The total cost of the refinancing to the borrower; and
2) The increase in the borrower’s principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the HECM that is being refinanced.

In addition, to ensure that the borrower is provided with information to assist in understanding the amount of new funding that will be available after closing costs and other fees associated with refinancing the existing HECM, the lender shall provide a best estimate of funds available to the borrower minus any closing costs and other fees.

Counseling for HECM refinance:
For HECM refinance transactions, HUD will waive this requirement and allow a borrower to opt out of the HECM Housing Counseling Requirement only if all three of the following conditions are met:

1) The borrower has received the required HUD Anti-Churning Disclosure form (attached to this Mortgagee Letter),
2) The increase in the borrower's principal limit (as estimated by the lender and provided to the borrower in Block #2 of the Anti-Churning Disclosure form) exceeds the total cost of the refinancing by an amount equal to five (5) times the cost of the transaction (Block #1 on Anti-Churning Disclosure Form), and
3) The time between the closing on the original HECM that is to be refinanced and the application for refinancing does not exceed 5 years, even if less than five years have passed since a previous refinancing.

Principal Limit Floor:
The revised software does not affect the expected rate, but rather it restricts the principal limit factors on those loans with expected rates of less than 5.5 percent to those factors, which would result if the expected rates were 5.5 percent. FHA's actuarial pricing model that produced the HECM principal limit factors produces unrealistically high factors with expected rates below 5.5 percent due to interactions with the model's other pricing assumptions. Without this change, HECM loans written at expected rates below 5.5 percent could produce inordinate losses for the FHA-insurance fund.

Effective Date: April 23, 2004

Mortgagee Letter 04-25: Home Equity Conversion Mortgage (HECM) Program -- Clarification of HECM Counseling Requirements

This Mortgagee Letter addresses:

a) When a potential borrower must be referred for counseling;
b) The acceptable listing of entities eligible to provide HECM counseling to which a client must be referred;
c) The topics that must be covered in a counseling session;
d) The types of counseling that are permissible;
e) Acceptable means of documenting that a potential HECM borrower has received counseling;
f) The counselor's responsibility for referring potential borrowers to Federal Housing Administration (FHA)-approved HECM lenders; and
g) How to notify the Department of Housing and Urban Development of concerns regarding the services of a HECM lender or HECM counselor.

Effective Date: June 23, 2004

<u>Mortgagee Letter 04-48</u>- HECM Counseling Requirements Simplified

This FHA Mortgagee Letter:

a) provides guidance on face-to-face interview requirements for HECM borrowers
b) provides additional guidance regarding when telephone counseling is permissible and what entities may provide telephone counseling;
c) simplifies the identification of eligible HECM counseling agencies; and
d) describes HUD's creation of and ongoing support for the AARP Network of expert HECM counselors.

Effective Date: December 30, 2004

<u>Mortgagee Letter 05-44</u> - Expanded National HECM Counseling Network

This Mortgagee Letter expands the network of counselors permitted to provide face-to-face and telephone HECM counseling nationally in order to meet the growing demand for this specialized counseling. In addition to AARP network, MMI and NFCC counselors are permitted to offer nationwide telephone counseling. The ML also announces HUD's plans to create a roster of exam-qualified counselors, with testing beginning in 2006.

Effective Date: November 1, 2005

<u>Mortgagee Letter 06-06</u>- Line of Credit Payment Option for HECMs in Texas

Announces new availability of line of credit payment plans for Texas borrowers, as a result of a constitutional amendment passed in Texas, and explains changes in loan documents, rules for disbursements and mortgage acceleration.

Effective Date: March 17, 2006

<u>Mortgagee Letter 06-20</u>- Subordinate Liens and State and Local Court-Ordered Judgments and Judgment Liens

Clarifies that FHA permits existing liens to be subordinated to the first and second HECM liens. Also provides FHA guidance on the processing of HECM loan applications when a prospective HECM borrower is a person against whom a state or local court-ordered money judgment has been entered and remains unpaid.

Subordinate Liens: FHA policy permits an existing lien of record against real estate, which serves as collateral for an FHA-insured HECM loan, if the following two conditions are satisfied.

1. The subordinate lien does not intervene between the first and second HECM liens.

2. A lien against a HECM borrowers property, which is subordinate to the FHA- insured HECM first and second liens, cannot arise or be connected with obtaining a HECM loan. Once a HECM loan is endorsed, however, the HECM borrower is not restricted from seeking a home equity loan, or engaging in another type of real estate financing transaction which would require an additional lien to be subordinated to the HECM first and second liens.

State and Local Court Judgments and Judgment Liens

A judgment is a court's final determination of the rights and obligations in a case. A money judgment is a judgment for a specific sum of money and is subject to immediate execution, whereas a judgment lien is a lien imposed against the judgment debtor's property. A judgment lien gives the judgment creditor the right to seize a debtor's assets (i.e., real property) to secure a judgment, or sell the assets to satisfy the judgment.

A prospective HECM borrower is not required to use HECM proceeds or satisfy an unpaid state or local court-ordered **judgment** prior to closing. However, a HECM lender has the option of requiring the borrower to satisfy the judgment before closing. If a judgment becomes a judgment lien after HECM closing, then the judgment lien must be made subordinate to the first and second HECM liens.

A **judgment lien** must either be subordinated to the HECM first and second liens, or be satisfied prior to closing.

Federal Judgments and Debts

FHA policy requires either that the Federal judgment or debt be paid-in-full or that a satisfactory repayment plan be made with the Federal agency. The HECM borrower does not have to satisfy the total Federal judgment or debt outstanding to be eligible to receive a HECM loan if he or she has entered into a satisfactory repayment plan with the Federal agency owed.

In addition, a prospective HECM borrowers credit report must be reviewed to check for any claims, defaults or debts to the Federal government, and any existing debts against the real estate that will serve as the collateral for the FHA-insured HECM loan. Any delinquent Federal debts or liens against the real estate, which will serve as collateral for the FHA- insured HECM loan, must not be in excess of the borrower's net principal limit unless the borrower has a separate source of funds from which to draw. Liens against the real estate must be removed or subordinated to the first and second HECM liens.

Effective Date: August 16, 2006

<u>Mortgagee Letter 06-22-</u> Extension of Principal Limit Rate Lock

Extends the expected interest rate "lock-in" provision for HECMs to 120 days (from 60 days). The expected interest rate and principal limit are locked when the lender takes the initial application. However, the "lock-in" period for counting the 120 days starts on the day that the FHA case number is assigned. In addition, FHA will continue to permit the "float down" option whereby the principal limit may be recalculated at closing if the expected interest rate has declined and is now lower than at initial application. Lenders are not permitted to charge a fee for the lock-in rate nor the float down option.

Effective Date: August 31, 2006

Mortgagee Letter 06-25- HECM Counseling Requirements

Who Must Receive HECM Counseling

Counseling Requirements for the Non-Borrower Spouse

To ensure that the non-borrower spouse of a prospective HECM borrower understands the implications of a HECM, and the risks posed by the non-borrowing spouse quitclaiming to the prospective HECM borrower his/her interest in the real estate, which will serve as the security for the HECM, FHA recommends that the HECM borrower's spouse receive HECM counseling. This includes:

a) a spouse, who eligible for a HECM and is currently on the title for the real estate that will serve as the security for the FHA-insured HECM, but will be removed from the title;
b) a spouse, who is ineligible to receive a HECM, because she/he is under 62 years of age but is on the title for the property that will serve as the security for the FHA-insured HECM; and
c) a spouse who is currently not on the title for the real estate.

In the first two cases described above, the non-borrower spouse should quitclaim his/her interest in the property to the prospective HECM borrower prior to the HECM closing.

Counseling Requirements for Persons with a Reversionary or Remainder Interest, Trustees and Trust Beneficiaries

If a HECM borrower holds a life estate in the property that will serve as the security for the FHA-insured HECM, persons with a reversionary or remainder interest in that property also must execute the HECM mortgage.

FHA will insure a HECM on property held in the name of the trust and beneficiaries/HECM borrowers. All beneficiaries of the trust should be eligible HECM borrowers at the time of origination and until the mortgage is released. Contingent beneficiaries of the trust, who will neither receive any benefit from the trust nor have any control over trust assets until the beneficiaries/HECM borrowers are deceased, need not be eligible HECM borrowers.

Current trust beneficiaries or individuals who are eligible HECM borrowers and seeking a HECM loan must be provided HECM counseling.

However, a contingent beneficiary, an individual who will neither receive any benefit from the trust nor have any control over trust assets until the beneficiaries/HECM borrowers are deceased or the mortgage is released, does not have to be provided HECM counseling.

The trustee must also sign the mortgage. But the trustee is not required to attend counseling unless the trustee is also the beneficiary/HECM borrower.

While counseling is not required for persons with a reversionary or remainder interest in the real estate, or trustees and trust beneficiaries who are not HECM borrowers, FHA strongly encourages that these individual seek HECM counseling.

Counseling Requirements for a Prospective HECM Borrower's Children

The children of a prospective HECM borrower, who do not qualify for a HECM, but who currently reside on the real estate, or who are on the title for the real estate that will serve as the security for the FHA-insured HECM, but will be removed from title prior to closing, are not required to receive HECM counseling.

New HECM Counseling Certificate: The revised counseling certificate includes a statement that the counselor has explained to the prospective HECM borrower that the HECM will become due and payable when no remaining eligible borrowers reside at the real estate, which serves as the security for the FHA-insured HECM, or when an obligation of the HECM borrower under the HECM is not performed.

Preventing Mortgage Fraud Against HECM Borrowers

It has come to HUD's attention that HECM borrowers are increasingly becoming targets of mortgage fraud scams. In an effort to warn HECM borrowers of these potential fraud schemes, HUD advises HECM counselors to discuss the potential of mortgage fraud with their clients. Counselors are to explain the standard ways in which HECM borrowers can access their loan proceeds. Counselors should warn clients against signing over their funds to loan officers or other parties involved in the mortgage transaction.

Effective Date: September 28, 2006

Mortgagee Letter 07-06- Existing Property Eligibility Requirements

Clarifies the FHA definition of ***existing*** properties that may serve as security for FHA Home Equity Conversion Mortgages (HECM).

For the HECM program, FHA defines "existing properties" as those where construction has been completed and the property is habitable. Lenders are required to ensure that the property, when used as collateral for the HECM, meets the following existing property requirements:

- Serves as the principal residence of the borrower;
- Construction is complete and the property is habitable;
- HECM proceeds are not used to acquire the property; and
- Any loan that financed the construction and/or purchase of the home is satisfied and the HECM assumes the first lien position.

Effective Date: April 12, 2007

<u>Mortgagee Letter 07-08</u>- Face-To- Face Interviews

FHA will now allow prospective HECM borrowers the option to meet face-to-face with the lender and/or HECM counselor or to participate in both loan origination and counseling activities by telephone. Regardless of whether a counseling session is completed face-to-face or via telephone, a HECM counseling certificate must be signed by both the counselor and the prospective borrower and included in the associated lender's file.

Effective Date: April 27, 2007

<u>Mortgagee Letter 07-13</u>- Adjustable Rate Mortgages – Addition of LIBOR Index

Adds the use of both the1-Month LIBOR index and the 1-Month Constant Maturity Treasury (CMT) index for calculating the interest rate adjustments on the monthly adjusting HECM. The Also permits the 1-Year LIBOR index for calculating the interest rate adjustments on the annually adjusting HECM. The 10-Year LIBOR swap rate shall be used to calculate the Expected Interest Rate on LIBOR- indexed HECMs.

The existing CMT indices will remain acceptable for HECM ARMs.

Eligible Index Types		
HECM ARMs	**Periodic Adjustments**	**Expected Average Mortgage Interest Rate**
Monthly Adjustable	1-Month CMT	10-Year CMT
	1-Year CMT	10-Year CMT
	1-Month LIBOR	10-Year LIBOR swap
Annually Adjustable	1-Year CMT	10-Year CMT
	1-Year LIBOR	10-Year LIBOR swap

Effective Date: October 12, 2007

<u>Mortgagee Letter 08-08-</u> Fixed Interest Rates on HECMs

Clarifies and reminds lenders that:

- Fixed interest rate HECMs may be open or closed-ended credit;
- The expected average mortgage interest rate used to calculate the principal limit on a fixed interest rate HECM and the HECM Note rate must be identical;
- The monthly servicing fee for a fixed interest rate HECM can be up to $30.00; and
- HECM borrowers can change payment plan options during the term of the mortgage as long as the mortgage balance is less than the principal limit but may not change from a fixed to an adjustable rate without refinancing.

Effective Date: March 28, 2008

<u>Mortgagee Letter 08-12</u>- HECM Counseling Fees

Agencies participating in HUD's Housing Counseling Program may charge a fee for HECM counseling services as long as the cost is reasonable and customary, does not create a financial hardship for the client, and meets the other requirements of the regulation. The housing counseling agency must make a determination about a client's ability to pay, which should include factors including, but not limited to, income and debt obligations. The counseling file of each client charged fees should include documentation demonstrating that the cost does not create a financial hardship.

A client must not be turned away because of an inability to pay. Moreover, the housing counseling agency may not withhold counseling or the Certificate of HECM Counseling based on failure to pay.

Effective Date: May 6, 2008

<u>Mortgagee Letter 08-14</u>- HECM Program - Non FHA Approved Mortgage Brokers

Loan origination must be performed by FHA approved entities which include: (1) an FHA-approved loan correspondent and sponsor; (2) an FHA-approved lender through its retail channel; or (3) an FHA-approved lender working with another FHA-approved lender.

A non-approved entity or third party may provide more <u>limited services only</u> and be compensated for those limited services under the circumstances described in this Mortgagee Letter and applicable FHA and RESPA regulations.

<u>Required Activities for FHA-Approved Entities</u>

For FHA-insured loans, including HECMs, <u>only</u> FHA-approved entities may be compensated for performing these services:

- Taking information from the borrower and filling out the loan application;
- Analyzing the prospective borrower's eligibility for a reverse mortgage;
- Collecting financial information, if applicable, and other related documents that are part of the application process;
- Initiating/ordering verification of deposits or assets, if applicable;
- Initiating/ordering requests for mortgage and other loan verifications;
- Initiating/ordering appraisals;
- Initiating/ordering inspections or engineering reports;
- Providing disclosures (truth in lending, good faith estimate, others) to the borrower;
- Assisting the borrower in understanding and resolving adverse property conditions;
- Ordering legal documents;
- Determining whether the property is located in a flood zone or ordering such service; and
- Participating in the loan closing.

Eligible Activities for Non-Approved Entities

FHA's HECM regulations permit a non-approved entity or third party to provide educational-type origination services (generally known in the reverse mortgage lending industry as "Advisor" services) under limited circumstances. A non-approved entity or third party must be "engaged independently by the homeowner," and there must be "no financial interest between the mortgage broker and the lender." In addition, the fee paid to the non-approved entity or third party must be "included as part of the origination fee" paid to the lender or loan correspondent.

A non-approved entity or third party may not fill out or process the loan application, and may not collect additional documentation from the prospective borrower, or close the loan.

HECM and RESPA regulations permit a non-approved entity or third party to be compensated for educating prospective borrowers about the reverse mortgage lending process, advising the borrower about different types of loan products available, demonstrating how closing costs and payment options could vary under each product, and maintaining regular contact with the lender to keep the borrower apprised of the status of the loan application. Such services would be in addition to, and not as a substitution for, reverse mortgage counseling which is provided by a HUD-approved housing counseling agency.

Effective Date: May 16, 2008

Mortgagee Letter 08-24- New Requirements on Mortgage Originators

A HECM mortgage originator or any other party that participates in the origination of a FHA insured HECM mortgage

(1) shall not participate in, or be associated with, or employ any party that participates in or is associated with, any other financial or insurance activity; or
(2) shall maintain firewalls and other safeguards designed to ensure that
    a. individuals participating in the origination of a HECM mortgage have no involvement with, or incentive to provide the borrower with, any other financial or insurance product; and
    b. the borrower shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

Effective Date: September 16, 2008

Mortgagee Letter 08-28: Prohibition on Lender Funded HECM Counseling

Lenders can no longer pay HUD-approved counseling agencies, directly or indirectly, for counseling services through either a lump-sum payment or on a case-by-case basis.
An example of prohibited indirect funding is Lenders funneling payment for HECM counseling through a nonprofit, foundation, association or any other entity or organization that is a branch of, affiliated with or associated with a lending institution.

Effective Date: September 29, 2008

<u>Mortgagee Letter 08-34</u>- HECM Origination Fee – New Limits

The loan origination fee limit will be the greater of $2,500 ***or*** two percent of the maximum claim amount of the mortgage, up to a maximum claim amount (MCA) of $200,000, ***plus*** one percent of any portion of the maximum claim amount that is greater than $200,000. Lenders may accept a lower origination fee when appropriate. The total amount of the loan origination fee may not exceed $6,000.

Effective Date: October 31, 2008

<u>Mortgagee Letter 08-35</u>- Nationwide HECM Mortgage Limits

The Housing and Economic Recovery Act of 2008 (HERA) established a national mortgage limit for all HECMs. Effective for all HECMs insured on or after the date of this Mortgagee Letter, the national mortgage limit is **$417,000** (with exceptions for areas in Hawaii).

<u>Maximum Claim Amount</u>

In accordance with Section 255(g) of the National Housing Act, as amended, the maximum claim amount cannot exceed the maximum loan limit established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence. Thus, the maximum claim amount will be the lesser of the appraised value or the national mortgage limit for a <u>one family residence</u>. This applies to all one-to-four unit properties. Neither the estimate of closing costs nor the initial mortgage insurance premium is used in the calculation of the maximum claim amount.

Effective Date: November 6, 2008

<u>Mortgagee Letter 08-38</u>- Clarification regarding borrower's recourse for repayment of HECM loan debt and termination of a HECM mortgage

Policy clarification regarding the requirements for repayment of Home Equity Conversion Mortgages (HECMs) and for termination of a HECM mortgage.

Specifically, HUD Handbook 4235.1 REV-1, Home Equity Conversion Mortgages, provides in Paragraph 1-3C, that:

The HECM is a "non-recourse loan". This means that the HECM borrower (or his or her estate) will never owe more than the loan balance or value of the property, whichever is less; and no assets other than the home must be used to repay the debt.

Some program participants mistakenly infer from this language that a borrower (or the borrower's estate) could pay off the loan balance of a HECM for the lesser of the mortgage balance or the appraised value of the property while retaining ownership of the home. This is not correct and is not the intended meaning of the quoted provision. Non- recourse means simply that if the borrower (or estate) does not pay the balance when due, the lender's remedy is limited to foreclosure and the borrower will not be personally liable for any deficiency resulting from the foreclosure. (For additional guidance please reference 24 CFR 206.27(b) (8)).

Most situations regarding the termination of a HECM mortgage fall into the following general categories:

1. If the mortgage is not due and payable, and the borrower desires to retain ownership of the property, the mortgage debt may be repaid in full at any time.

2. If the mortgage is due and payable and the borrower (or estate) desires to retain ownership of the property, the mortgage debt must be repaid in full. Lenders may assist the borrower (or estate) in obtaining other financing to pay off the HECM loan in full.

3. Whether or not the mortgage is due and payable the borrower may, at any time, sell the property for at least the lesser of the mortgage debt or the appraised value.

4. If the mortgage is due and payable and the borrower (or estate) will not be retaining ownership of the property, the property may be sold for at least the lesser of the unpaid mortgage balance or 95% of appraised value.

In any circumstance where a lender agrees to the acceptance of less than the full mortgage balance, such sale of the property by the borrower (or the borrower's estate) should be an arm's length transaction. An arm's length transaction is characterized by the following

1. the absence of a relation between the buyer and seller;
2. a selling price and other conditions that would prevail in an open market environment;
3. transaction costs paid by the seller that are considered both reasonable and customary for the market in which the property is located; and
4. the adherence to ethical standards of conduct by all parties involved in the HECM short sale transaction, including the borrowers (or the estate), lenders and appraisers.

Effective Date: December 5, 2008

<u>Mortgagee Letter 09-07</u>- Loan Limit Increases for FHA

Under ARRA, the national FHA loan limit for HECM will increase from $417,000 to $625,500 (from 100 percent to 150 percent of the conforming limit). Special exception areas will have the same $625,500 limit as all other areas.

Effective Date: February 24, 2009

<u>Mortgagee Letter 09-10-</u> Clarification of HECM Counseling Issues

Clarifies and/or reiterates:

1. FHA requirement for the prospective borrower to initiate the request for counseling;
2. requirements for lenders to provide a list of counseling agencies to prospective HECM borrowers;
3. requirement for counselors to review and document a client's unique financial situation; and
4. use of the new Certificate of HECM Counseling.

Request for HECM Counseling

As stated in ML 04-25, "[b]efore, during, or after the counseling session is completed, ***the lender may not contact a counselor or counseling agency to refer a client***; discuss a client's personal information, including the timing or scheduling of the counseling; or request information regarding the topics covered in a counseling session." HUD wants to reiterate that HECM counseling must be provided by an independent third party that is neither directly or indirectly associated with the mortgage transaction.

Prospective borrowers must initiate communication with the counseling agency on their own, without the assistance of the lender. It is very important that the prospective borrower contact a counseling agency on his or her own terms, when he or she is comfortable commencing the counseling process.

HUD is aware of instances in which a lender, or lenders, have dialed a counseling agency's phone number and then handed the phone to the borrower to schedule counseling, or the lender entered the borrower's contact information into a web-based system which automatically put that borrower's name in a queue to be called by a counselor. These two examples run counter to our requirement that the borrower must take the initiative to contact a counseling agency when and if he or she is prepared to pursue the HECM. .

List of HECM Counseling Agencies

Lenders are required to provide every client with a list of no fewer than ten (10) HUD- approved counseling agencies that can provide HECM counseling, five of which must be in the local area and/or state of the prospective HECM borrower with at least one agency located within a reasonable driving distance for the purpose of face-to-face counseling. The lender must provide a list of HUD-approved counseling agencies in the prospective borrower's geographic area so that he/she can choose and receive face-to- face counseling. The other five agencies must be:

- National Foundation for Credit Counseling (NFCC) – 1-866-698-6322
- Money Management International (MMI) – 1-877-908-2227
- Consumer Credit Counseling Service of Atlanta - (CCCS of Atlanta) –1-800-251-2227
- AARP –1-800-209-8085
- National Council on Aging (NCOA) will be placed on the list beginning April 1, 2009.

These national intermediaries and multi-state organizations have exam qualified counselors that can provide telephonic counseling to clients nationwide.

Budget Analysis and HECM Counseling

HECM counselors are required to review a client's unique financial situation during a HECM counseling session. In order to conduct this review, a counselor must document a client's budget based on financial information (e.g. income, assets, debts, monthly expenses) provided by the client. A budget analysis by the counselor is necessary in order to meet the statutory requirement, Section 255 of the National Housing Act, which mandates that counselors evaluate and discuss appropriate alternatives to a HECM.

New HECM Certificate

As a result, HUD has updated Form HUD-92902, Certificate of HECM Counseling to provide a space to record how the session will be paid, - either "Upfront Fee for Counseling Session" or "Financed Fee for Counseling Session" - and a box to check if the fee has been waived.

Effective Date: March 27, 2009

Mortgagee Letter 09-11- HECM for Purchase Program

The Federal Housing Administration (FHA) defines "HECM for Purchase" as a real estate purchase where: title to the property is transferred to the HECM borrower; the borrower will occupy the property as a principal residence; and, at the time of closing, the HECM first and second liens will be the only liens against the property. HECM borrowers must occupy the property within 60 days from the date of closing. Lenders are required to ensure all outstanding or unpaid obligations incurred by the prospective borrower, in connection with the HECM transaction, are satisfied at closing.

PRINCIPAL RESIDENCE

HECM borrowers may have only one principal residence at any one time. Current HECM borrowers that plan to sell their existing residence and use the HECM for purchase program to obtain a new principal residence must pay off the existing FHA-insured mortgage before the HECM for Purchase mortgage can be insured.

When prospective borrowers under the HECM for Purchase Program intend to retain their existing home as a rental property, lenders must ensure they have sufficient income to:

1. maintain the costs associated with the new home financed with the HECM for Purchase (i.e.: taxes, insurance, maintenance);
2. satisfy the monetary investment for the HECM for purchase transaction; *and*
3. continue to make the mortgage payment and tax and insurance payments on the existing mortgage.

The intent of this guidance is to prevent the practice known as "buy and bail" where the homebuyer purchases, for example, a more affordable dwelling with the intention to cease making payments on the previous mortgage.

This guidance applies solely to a principal residence being vacated in favor of another principal residence and is not applicable to existing rental properties found on the tri-merged credit report and confirmed by tax returns (Schedule E of form IRS 1040).

ELIGIBLE PROPERTY TYPES

Only properties where construction is completed, as defined in ML 2007-06, are eligible for FHA insurance under the HECM for Purchase program. Loan proceeds may be used to satisfy outstanding payment obligations associated with a land contract, contract for deed or other similar purchase arrangements that will ensure the property, which will be used as collateral for the HECM, meets FHA's title requirements. The HECM must be on real estate held in fee simple, or on a leasehold under a lease for not less than 99 years which is renewable, or under a lease having a remaining period of not less than 50 years beyond the date of the 100th birthday of the youngest borrower.

INELIGIBLE PROPERTY TYPES

The following property types are ineligible for FHA insurance under the HECM for Purchase program:

- Cooperative units;
- Newly constructed principal residences where a Certificate of Occupancy or its equivalent has not been issued by the appropriate local authority;
- Boarding houses;
- Bed and breakfast establishments;
- Existing manufactured homes built before June 15, 1976; and
- Existing manufactured homes built after June 15, 1976 that fail to conform to the Manufactured Home Construction Safety Standards, as evidenced by affixed certification labels (e.g. data plate and HUD certification label) **and/or** lack a permanent foundation as required in HUD's Permanent Foundations for Manufactured Housing Guide **or** homes that are installed or occupied previously at another site or location.

PROPERTY FLIPPING

Prospective borrowers should be alert to efforts to coerce them into obtaining a reverse mortgage as part of a purchase contract obligation, or purchasing a distressed home in need of substantial repairs but being sold at or above market rate, or schemes involving temporary rental arrangements.

As such, HECM lenders must take steps to ensure that:

a. only current owners of record may sell properties that will be financed using FHA-insured mortgages;
b. any resale of a property may not occur 90 or fewer days from the last sale to be eligible for FHA financing; and
c. for resales that occur between 91 and 180 days where the new sale price exceeds 100% of the previous sale price, FHA will require additional documentation validating the property's value.

REPAIR AND PROPERTY SET ASIDES

Properties being purchased using the HECM for Purchase program must meet FHA's minimum property requirements. For purchase transactions where major property deficiencies threaten the health and safety of the homeowner and/or jeopardize the soundness and security of the property, all repairs must be completed by the seller prior to closing. Appraisers must complete the appraisal report as "**Subject To**" the completion of these repairs.

Major Property Deficiency Examples:

- No running water
- Leaking roof
- No primary heating source

- Inadequate electrical systems (including lighting)
- Inoperable doors and windows (inhibited ingress and egress)
- State or local code violations

HECM borrowers will continue to have the option of electing to have the lender set aside funds from their monthly payments or by charging such funds to the line of credit for payment of property charges such as ground rent, homeowner association fees, taxes, hazard insurance, etc.

MAXIMUM CLAIM AMOUNT CALCULATION

For purchase mortgages only, the maximum claim amount will be the least of:

1. the appraised value;
2. sale price; or
3. FHA mortgage limit for a one family residence. This applies to all one-to- four unit properties.

MONETARY INVESTMENT

At closing, HECM borrowers must provide a monetary investment which will be applied to satisfy the difference between the HECM principal limit and the sale price for the property, plus any HECM loan related fees that are not financed into the loan, minus the amount of the earnest deposit. HECM borrowers may choose to provide a larger investment amount in order to retain a portion of the available HECM proceeds for future draws.

FUNDING SOURCES

HECM borrowers must use cash on hand or cash from the sale or liquidation of the borrower's assets for the required monetary investment. The monetary investment requirement can also be met by the use of approved funding sources as defined in HUD Handbook 4155.1 REV-5, section 2-10, with the exception of the following funding sources which may not be used:

- Sweat Equity
- Trade Equity
- Rent Credit
- Cash or its equivalent, in whole or in part, from the following parties, before, during or after loan closing:
    - The seller or any other person or entity that financially benefits from the transactions, or
    - Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in the previous bullet.

FHA prohibits seller contributions (also known as "seller concessions"), the use of loan discount points, interest rate buy downs, closing cost down payment assistance, builder incentives, gifts or personal property given by the seller or any other party involved in the transaction. This includes customary charges that are normally paid on behalf of the borrower by the seller.

VERIFICATION OF FUNDING SOURCES

Lenders will be required to verify the source of all funds prior to closing.

GAP FINANCING

HECM borrowers may not obtain a bridge loan (also known as “gap financing”) or engage in other interim financing methods to meet the monetary investment requirement or payment of closing costs needed to complete the purchase transaction. This restriction includes subordinate liens, personal loans, cash withdrawals from credit cards, seller financing and any other lending commitment that cannot be satisfied at closing.

Gap Financing Example

A prospective HECM borrower completes the required reverse mortgage counseling and receives an estimate stating the required monetary investment could be $25,000. The prospective HECM borrower has $20,000 in liquid assets but is short the remaining $5,000. The prospective HECM borrower cannot take $5,000 from a credit card or obtain interim financing in order to deposit the money into his/her banking account in anticipation of being required to bring this amount to closing. However, the prospective HECM borrower may withdraw the $5,000 from an insurance policy or retirement plan.

ENHANCED COUNSELING

HUD-approved housing counseling agencies that have been approved to provide reverse mortgage counseling must counsel those who anticipate using the HECM for Purchase option on all topics covered in this Mortgagee Letter and other HUD requirements and issuances.

RIGHT OF RESCISSION

In most cases the right of rescission will not be applicable to HECM for purchase transactions. However, there may be instances when the loan would be rescindable. For example, if the borrower intends to finance a balloon payment due under a land sale contract, the three day right of rescission would be applicable.

CLOSING GUIDANCE

Lenders are required to ensure the property, when used as collateral for the HECM, meets the following property requirements:

- Will serve as the principal residence of the HECM borrower.
- In the case of newly built home, construction is complete and a certificate of occupancy or its equivalent has been issued.
- Any construction loan financing for the property, which will serve as the collateral for the HECM loan, is satisfied and the HECM liens will be in first and second lien positions and, at the time of closing, no other liens against the property exist.

Effective Date: March 27, 2009

<u>Mortgagee Letter 09-21</u>- Refinancing of Existing HECMs

<u>REFINANCING EXISTING LOANS</u>

Initial Mortgage Insurance Premium

FHA will collect a reduced initial MIP in the amount of 2 percent of the increase in the maximum claim amount (i.e., the difference between the maximum claim amount for the HECM refinance and the maximum claim amount for the existing HECM being refinanced).

The reduced initial MIP only applies when the property that serves as collateral for FHA insurance remains the same. Therefore, HECM borrowers who terminate their HECM and purchase a new property using a HECM for Purchase transaction are not eligible for a reduction in the initial MIP on the new property.

Anti-Churning Disclosure Requirement

This form ensures that the borrower is not being induced to refinance his/her existing HECM without benefit to the borrower and/or solely for the benefit of the lender.

To ensure that the HECM refinance will benefit the borrower, the lender shall provide the borrower its best estimate of:

1. the total cost of the refinancing to the borrower; and
2. the increase in the borrower's principal limit as measured by the estimated initial principal limit on the HECM refinance ***less*** the current principal limit on the existing HECM. The "current principal limit" is the remaining loan amount the borrower could withdraw from the existing HECM.

In addition, to ensure the borrower is provided with information to assist in understanding the amount of new funding that will be available after deducting closing costs and other fees associated with refinancing the existing HECM, the lender shall provide a best estimate of funds available to the borrower minus any closing costs and other fees.

Housing Counseling Requirements

The HECM Program requires all HECM borrowers to receive counseling from an independent third party entity. For HECM refinance transactions, borrowers can waive and opt out of the HECM counseling requirement only <u>if all three</u> of the following conditions are met:

1. The borrower has received the required HECM Anti-Churning Disclosure form;
2. The increase in the borrower's principal limit exceeds the total cost of the HECM refinance by an amount equal to five (5) times the cost of the transaction (Block #1 on Anti-Churning Disclosure Form); and
3. The time between the closing on the existing HECM and the application for refinancing does not exceed five years.

In all cases where the borrower opts out of HECM counseling, the lender must include an estimate of the increase in the borrower's principal limit in the FHA case binder to document this condition for the waiver has been met.

Effective Date: June 30, 2009

Mortgagee Letter 09-34- (HECM) – Principal Limit Factors

This Mortgagee Letter announces a new set of principal limit factors (PLFs) for the Federal Housing Administration (FHA) HECM program, to assist with the viability of the program. The new principal limit factors must be used for all HECMs for which the FHA case number is assigned on or after October 1, 2009.

Effective Date: September 23, 2009

Mortgagee Letter 09-47- Standardization and Roster Final Rule

Provides guidance to counselors and lenders regarding the HECM Counselor Roster final regulation. This Final Rule establishes

- testing standards to qualify individuals as HECM counselors eligible to provide HECM counseling, and
- a roster of eligible HECM counselors.

Note: Only those counselors on the HECM Roster can provide HECM counseling to potential HECM borrowers.

Eligibility for HECM Counselor Roster

To be placed on the HECM Counselor Roster and remain eligible, a counselor must

- be employed by a(n)
  - HUD-approved housing counseling agency
  - affiliate of a HUD-approved intermediary, or
  - state housing finance agency
- have successfully passed a standardized HECM exam administered by HUD or a party selected by HUD
- have received training and education related to HECMs within the prior two years
- have access to technology that enables HUD to track the results of the counseling offered to each HECM client
- not be listed on
  - General Service Administration's Excluded Parties List System (EPLS)
  - HUD's Limited Denial of Participation (LDP) List, or
  - HUD's Credit Alert Interactive Response System (CAIVRS)
- receive HECM training and education every two years, and
- retake the HECM exam every three years.

Note: Counselors who have taken the exam anytime prior to October 2, 2009 will not have to retake the exam to apply and be placed on the Roster provided they meet all other eligibility requirements. They will have to retake the exam prior to their three year anniversary date of joining the Roster.

FHA Connection and the HECM Counselor Roster

HECM counselors will have to use FHA Connection to apply to HUD for placement on the Roster. Each agency will be required to have at least one Agency Coordinator who will also have to use FHA Connection to facilitate the placement of counselors on the Roster. All Roster applicants and Application Coordinators must apply through the FHA Connection at https://entp.hud.gov/clas for a user ID. Faxed or mailed applications will not be accepted.

Maintenance of Counselor's Profile on HECM Counselor Roster
All counselors must maintain their profiles on the HECM Counselor Roster, including updates to their

- completed continuing education courses
- employer, and
- contact information.

HECM counselors will update the HECM Roster within five (5) days of any changes to their profile.

Reasons for Removal from HECM Counselor Roster
HUD can remove counselors from the Roster for cause, which may include failure to

- comply with education and training requirements
- respond to HUD inquiries and requests for documentation within a reasonable time
- comply with applicable fair housing and civil rights requirements
- comply with applicable statutes, regulations or HUD requirements
- provide information to clients on
  - options other than HECMs
  - the financial implications of a HECM
  - the tax consequences of a HECM, and
  - any other information required by HUD or requested by the applicant
  - maintain registration, license or certification requirements of a state or local authority, or
  - perform satisfactorily in providing counseling to HECM applicants.

IMPORTANT: Counselors may also be removed from the Roster for providing misrepresentations or fraudulent statements; for promoting, representing or recommending any specific lender; or for any other reason HUD determines serious enough to justify an administrative action.

HECM Counseling Certificates
Counselor will now generate HUD-92902, HECM Counseling Certificate, in FHA Connection and print them for the counselor's and client's signatures.

Effective Date: November 6, 2009

<u>Mortgagee Letter 09-49-</u> Subordinate Liens

This Mortgagee Letter iterates guidance issued under Mortgagee Letter 2006-20 addressing FHA requirements for secured subordinate financing under the Home Equity Conversion Mortgage (HECM) Program.

I. PROHIBITED SUBORDINATE LIENS

There shall be no outstanding or unpaid obligations, either unsecured or secured, incurred by the HECM borrower in connection with the HECM transaction, except in cases involving repairs to the property or mortgage servicing charges.

For example, a homeowner has an existing forward mortgage and seeks HECM financing to pay off that mortgage and some other debts. The HECM proceeds, however, will be insufficient to cover a payoff of the forward mortgage, HECM closing costs and other debts. In such a case, if the borrower, in order to close the HECM transaction, obtains subordinate financing which then gives rise to a third or other subordinate lien against the property, the subordinate financing would violate § 206.32(a), because it is made in connection with the HECM transaction. Therefore, any excess balance due on an existing lien must be paid in full, forgiven, or otherwise extinguished prior to or at closing of the HECM loan transaction.

II. ALLOWABLE SUBORDINATE LIENS AT HECM ORIGINATION

The following subordinate liens are allowed.

1. State and Local Court Judgments and Judgment Liens

FHA does not require a prospective HECM borrower to satisfy an unpaid or local court-ordered judgment prior to or at closing, although the lender may impose such a requirement. Liens against the real estate resulting from outstanding state or local court judgments must be satisfied and removed or subordinated to the HECM first and second liens at closing.

2. Federal Judgments and Debts

A Federal judgment or debt must be paid-in-full or a satisfactory repayment plan between the prospective borrower and the Federal agency owed must be in place prior to closing of the HECM. In addition, a prospective HECM borrower's credit report must be reviewed to check for any claims, defaults or debts owed to the Federal government, and any existing debts against the real estate that will serve as collateral for the HECM. Any delinquent Federal debts or liens against the real estate must not be in excess of the borrower's net principal limit, unless the borrower has a separate source of funds from which to draw and pay those debts. Liens against the real estate resulting from outstanding Federal obligations must be satisfied and removed, or subordinated to the first and second HECM liens at closing.

III. LIEN PRIORITY AND ACCESS TO OTHER FINANCING

It is the lender's responsibility to ensure that the first and second HECM liens are the first and second liens of record, and that other liens, where permitted, do not intervene between the first and second HECM liens.

The borrower may seek a home equity loan, or another type of real estate financing transaction, after a HECM is endorsed for insurance by the FHA. Liens required by the additional financing must be subordinated to the HECM first and second liens.

Effective Date: November 18, 2009

<u>Mortgagee Letter 10-34-</u> Introducing HECM Saver; Mortgage Insurance Premiums and Principal Limit Factor Changes for HECM Standard

FHA designed HECM Saver as a second initial mortgage insurance premium (MIP) option for the purpose of lowering upfront loan closing costs, for borrowers who want to borrow a smaller amount than what would be available with a HECM Standard. For all HECM case numbers assigned on or after October 4, 2010, borrowers may select either HECM Saver or HECM Standard as an initial MIP. The HECM Saver has an Initial MIP of 0.01% (one one-hundredth of one percent).

This Mortgagee Letter provides policy guidance for HECM Saver and HECM Standard by describing:

1. The amount of initial and monthly MIP due to the Secretary;
2. The availability of all existing program features for both options;
3. How to calculate initial MIP due on HECM refinance transactions;
4. How to access new principal limit factor (PLF) tables;
5. Changes to FHA Connection; and
6. How to manage pipeline loans.

Effective Date: September 21, 2010

<u>Mortgagee Letter 11-01</u> - HECM Property Charge Loss Mitigation

Servicing procedures relating to HECM borrowers who fail to pay property charges, such as property taxes, hazard insurance and homeowners association and condominium fees. Includes information on acceptable repayment plans and requirement that servicers refer delinquent borrowers to HECM Property Charge Loss Mitigation counselors for optional counseling.
Effective Date: January 3, 2011

<u>Mortgagee Letter 11-09 -</u> Waiver of HECM Counseling Fees and Activities Included in the Time Recorded Portion of the HECM Counseling Certificate

Counseling agencies choosing to charge HECM fees should not collect a fee at the time of the counseling session from a client whose income is below 200 % of the Federal Poverty level. Agencies may charge these clients a HECM counseling fee at closing provided the client has been advised during the counseling session of the amount of the fee. Clients seeking waivers will have to provide documentation at the counseling session that their income is at or less than 200% of poverty.

Counseling agencies may charge more than $125 for HECM counseling. HUD has determined that counseling agencies may establish a fee structure for HECM counseling, as long as the fee is reasonable and customary, and does not exceed a level commensurate with the counseling services that are provided. Clients must not be turned away for inability to pay.

Only the actual time spent meeting with the client, in person or by telephone, providing counseling may be recorded on Form HUD 92902, Certificate of HECM Counseling. Other time spent on the client, such as intake, putting together the information packet, follow-up and any other time other than actual counseling time cannot be included on the Certificate of HECM Counseling.

Effective date: March 6, 2011

Mortgagee Letter 11-16: Rescission of Mortgagee Letter 2008-38— Borrower's recourse for repayment of HECM debt

HUD's intent in issuing ML 2008-38 was to supplement and explain provisions contained in the regulations at 24 CFR §206.125 and HUD Handbook 4235.1 (Home Equity Conversion Mortgages). Since there has been some uncertainty regarding the guidance in that ML, HUD is rescinding ML 2008-38, effective as of the date of this ML.

New guidance on topics related to the regulations at 24 CFR Part 206 and Handbook 4235.1 will be issued in the future. In the interim, lenders should refer to the regulations at 24 CFR Part 206 and the provisions in Handbook 4235.1 for guidance.

Effective date: April 5, 2011

Mortgagee Letter 11-26 – Expands List of Intermediaries approved to provide nationwide HECM telephone counseling

The national and regional intermediaries that must always be included on the list provided to borrowers will include those Intermediaries awarded HECM counseling grant funds by HUD. Note that the referenced list could potentially change each year depending on which agencies or Intermediaries are awarded grants by HUD. HUD grant awards are typically made in January although may be other times during the year.

In addition to the Intermediaries receiving HECM counseling grant funds, the list must include at least: five agencies within the local area, state or both of the prospective borrower one of the local agencies should be located within a reasonable driving distance for the purpose of face-to-face counseling.

Note: In cases where HECM counseling is not available in a particular local area or state or both, lenders must determine which agencies are most conveniently located to the borrower and provide prospective borrowers no less than 5 agencies which provide HECM counseling. For example, currently there are no HECM counselors in Delaware; however, there are HECM counselors in nearby jurisdictions such as Maryland and Pennsylvania. The Department also reminds lenders that they are prohibited from steering a prospective borrower to a particular counseling agency for counseling.

Effective Date: May 1, 2011

Mortgagee Letter 11-31: Revised Form HUD 92902: Certificate of HECM Counseling, and Clarification of Counseling Guidance

Revisions to the HECM Counseling Certificate:

- Specific data field for attorney-in-fact (AIF) holding the Power of Attorney (POA) name and signature line
- HECM Saver has been added as one of the options counselors will present to clients
- Agency Tax Identification Number has been replaced with Agency Housing Counseling System Identification number.
- HECM for Purchase Certification by homebuyer

Signatures by an AIF: In situations where a POA is being utilized, the name of the AIF will be entered at the top of the Certificate along with the name of the homeowner. The AIF must sign the bottom of the Certificate in the space provided. Note: The datafields for the POA will be used either to insert the name of any person holding and exercising a durable power of attorney, or of a court-appointed conservator or guardian.

Who must attend counseling and sign the certificate: All owners shown on the property deed (or legal representative, in cases involving documented lack of competency) and a non-borrowing spouse must personally receive counseling. The Certificate must be signed and dated by both the counselor, all owners shown on the property deed (or legal representative for cases involving documented lack of competency), and non-borrowing spouse, if any.

Transferring counseling certificates and/or case numbers to a new lender: If the borrower seeks to change lenders, HECM Certificate numbers can be associated with a new case number by entering the certificate number on the Case Number Assignment screen or the Insurance Application screen in FHA Connection (FHAC). As long as the Certificate is valid, the system will update so the certificate is associated with only the new case number. Existing case numbers may be transferred, in FHAC, by one approved lender to another without regard to Certificate expiration dates.

Effective Date: September 25, 2011

Mortgagee Letter 13-01: Consolidation of Pricing Options and Principal Limit Factors for Fixed Interest Rate Mortgages

The Fixed Rate Standard loan is eliminated. For all fixed-rate HECM loans, lenders shall designate HECM Saver as the initial MIP and use the HECM Saver principal limit factors to determine the amount of funds available to the borrower. For HECM Saver, the initial MIP, which is collected at the time of closing, will remain at 0.01 percent (0.01% or 0.0001) of the maximum claim amount. The annual MIP for HECM Saver will remain at an amount of 1.25 percent (1.25%) of the outstanding loan balance. Borrowers may still use the HECM Standard initial MIP option, but only with adjustable interest rate mortgages.

Effective Date: April 1, 2013

Mortgagee Letter 13-27: Changes to the Home Equity Conversion Mortgage Program Requirements
Mortgagee Letter 13-28: Financial Assessment and Property Charge Guide
Mortgagee Letter 13-33: Home Equity Conversion Mortgage Program's Mandatory Obligations, Life Expectancy Set-Aside Calculation, and Purchase Transactions
Mortgagee Letter 13-45: Delay in Effective Date for Home Equity Conversion Mortgage (HECM) Financial Assessment Requirements and Funding Requirements for the Payment of Property Charges

(Note: Since these MLs were entirely superseded by ML 14-21 and 22, a full summary is not provided here.)

Major changes

- Introduced initial and first 12-month disbursement limits;
- Introduced new Single Disbursement Lump Sum payment option and did away with the old fixed rate lump sum full draw;
- Initial mortgage insurance premiums now based on amount of first 12-month disbursement ;

- Removed the HECM Saver option
- Initial mortgage insurance premium calculation for refinance transactions demonstrated;
- New Principal Limit factors;
- Instituted financial assessment requirements; and
- Announced funding requirements for the payment of property charges based on the financial assessment.

Mortgagee Letter 14-07: Non-Borrowing Spouse

Announces changes in the HECM program to permit a Non-Borrowing Spouse to defer repayment of the HECM loan after the death of the borrowing spouse, provided certain requirements are met.

Changes to Due and Payable Status for Married Borrowers: For any HECM with a case number issued after 8/4/2014, in order to be eligible for FHA insurance, the HECM must contain a provision deferring the due and payable status that occurs because of the death of the last surviving borrower, if a borrower was married at the time of closing and the Non-Borrowing Spouse was identified at the time of closing. Specifically, the HECM documents must contain a provision deferring due and payable status until the death of the last surviving Non-Borrowing Spouse or until another listed event occurs.

Changes to Principal Limit Factors: Where a HECM borrower has identified a Non-Borrowing Spouse, the lender must base the Principal Limit on the age of the youngest borrower or Non-Borrowing Spouse. Lenders will be required to use Factor Tables based on the age of the youngest Borrower or Non-Borrowing Spouse, if applicable.

Definitions:

"Non-Borrowing Spouse" is defined as the spouse, as determined by the law of the state in which the spouse and borrower reside or the state of celebration, of the HECM borrower at the time of closing and who also is not a borrower.

"Deferral Period" is defined as the period of time following the death of the last surviving borrower during which the due and payable status of a HECM is further deferred based on the continued satisfaction of the requirements for a Non-Borrowing Spouse under this ML and all other FHA requirements.

"Principal Residence" is defined as the dwelling where the borrower and, if applicable, Non-Borrowing Spouse maintains his or her permanent place of abode, and typically spends the majority of the calendar year. A person may have only one Principal Residence at any one time. The Property shall be considered to be the Principal Residence of any borrower (or NBS) who is temporarily in a health care institution provided the residency in a health care institution does not exceed twelve consecutive months.

Qualifications for the Non-Borrowing Spouse: In order for the Deferral Period to apply to a Non-Borrowing Spouse, the Non-Borrowing Spouse must

1. Have been the spouse of a HECM borrower at the time of loan closing and have remained the spouse of such HECM borrower for the duration of the HECM borrower's lifetime;
2. Have been properly disclosed to the lender at origination and specifically named as a Non-Borrowing Spouse in the HECM documents; and
3. Have occupied, and continue to occupy, the property securing the HECM as the Principal Residence of the Non-Borrowing Spouse.

Requirements for Deferral Period: In the event the last surviving borrower dies before a Non-Borrowing Spouse, the due and payable status will be deferred for as long as a Non-Borrowing Spouse continues to meet all the qualifying attributes stated in the above section. In addition, such Non-Borrowing Spouse must satisfy and continue to satisfy the following:

1. Within ninety days from the death of the last surviving HECM borrower, establish legal ownership or other ongoing legal right to remain (e.g., executed lease, court order, etc.) in the property securing the HECM;
2. After the death of the last surviving borrower, ensure all other obligations of the HECM borrower(s) contained in the loan documents continue to be satisfied; and
3. After the death of the last surviving borrower, ensure that the HECM does not become eligible to be called due and payable for any other reason.

Should a Non-Borrowing Spouse fail to meet any of the qualifying attributes or should any of the requirements for deferral cease to be met, the Deferral Period of the due and payable status shall cease and the HECM will become immediately due and payable as a result of the death of the last surviving borrower.

Non-Availability of HECM Proceeds: While the due and payable status may be deferred, as provided above, the HECM is not assumable. Because of this non-assumability, the proceeds of the HECM will not be available to any Non-Borrowing Spouse during a Deferral Period. This includes any funds in Life Expectancy Set-Asides for property charges.

Accruing Costs Continue: Interest, mortgage insurance, and servicing fees continue to accrue and be added to the loan balance throughout the deferral period.

Ability to Sell Unaffected for Borrower and Estate/Heirs: The borrower maintains the ability to sell the property, whether or not the mortgage is due and payable, for at least the lesser of the outstanding balance or the appraised value. Further, if the mortgage is due and payable, the borrower maintains the ability to sell the property for at least the lesser of the outstanding balance or 95% of the appraised value or present the lender with a deed-in-lieu.

If the mortgage is due and payable by reason of the last surviving borrower's death, the borrower's estate and/or the borrower's heir(s) have the ability to "sell" the property for at least the lesser of the outstanding balance or 95% of the appraised value. Nothing in this ML, or the existence of a Non-Borrowing Spouse under this ML, may be construed as interrupting or interfering with the ability of the borrower or the borrower's estate or heir(s) to dispose of the property if they are otherwise legally entitled to do so.

Certifications from Borrower and Non-Borrowing Spouse: Both the borrower and any non-borrowing spouse must sign certifications at closing, attesting to their marriage, residency in the home, and awareness of the provisions of the loan regarding deferral of repayment. They must also certify residency of both the borrower and the non-borrowing spouse, throughout the life of the loan and during any deferral period.

Effective Date: August 4, 2014

Mortgagee Letter 14-10: Prohibition on Misleading or Deceptive Program Descriptions or Advertising and Prohibition on Restriction of Borrower's Freedom of Choice

Reminds lenders of their responsibility to provide accurate and complete information to clients regarding all available products and payment options, not omitting information to steer clients to a particular product.

Prohibits lenders from requiring the borrower to take minimum draws at closing or thereafter, or otherwise restricting the borrower's freedom of choice regarding the amount of their loan advances.

Prohibits misleading advertising, including the use of government logos or statements that the lender's products are endorsed by FHA.
Effective Date: June 18, 2014

Mortgagee Letter 14-11: Limit on Insurability of Fixed Interest Rate Products under the HECM Program

Fixed Rate Products: FHA will only insure fixed interest rate reverse mortgages where the mortgage limits the borrower to:

- A single, full draw to be made at loan closing; and
- Does not provide for future draws by the borrower under any circumstances, including any unused Repair Set-Aside funds.

Lenders shall use the Single Disbursement Lump Sum payment option for all fixed interest rate HECMs.

The principal limit on fixed rate loans will continue to grow, but the borrower will not have access to any future loan proceeds after closing.

Announces new model note, mortgage, loan agreement, and repair rider forms specifically for fixed rate products.

Adjustable Rate Products: FHA will only insure adjustable interest rate reverse mortgages where the payment plan option is either:

- Tenure;
- Term;
- Line of Credit;
- Modified Tenure; or
- Modified Term.

The Single Disbursement Lump Sum payment option shall not be used for adjustable interest rate HECMs.

Effective Date: June 25, 2014

Mortgagee Letter 14-12 : New Principal Limit Factors

Announces new principal limit factors for all HECM loans and expands principal limit factor tables to include ages down to 18, for the purposes of calculating loans based on the age of a younger non-borrowing spouse.

Effective Date: August 4, 2014

Mortgagee Letter 14-21: Revised Changes to HECM Program Requirements

Revises and consolidates policies on seasoning of pre-existing liens, initial disbursement limits, mandatory obligations, MIP structure, financial assessment and credit analysis, life expectancy set-asides. Supersedes ML 13-27 and 13-28, and modifies ML 14-11. The following are highlights and excerpts.

Seasoning Requirement for Pre-existing Liens: Lenders may only permit the payoff of existing non-HECM liens using HECM proceeds if the liens have been in place longer for 12 months or resulted in less than $500 cash to the borrower, whether at closing or through cumulative draws, prior to the date of the initial HECM loan application.

Reimbursement for Repairs Completed by the Borrower: Required repairs that are estimated to cost less than 15% of the maximum claim amount can be completed after loan closing using a Repair Set-Aside. For fixed and adjustable interest rate HECMs, the lender may reimburse the borrower for the actual cost of materials from the Repair Set-Aside (with receipts and after work has been inspected), but not for labor carried out by the borrower.

Disbursement Limits:

Adjustable Rate HECMs: The Initial Disbursement Limit is the maximum disbursement to the borrower allowed at loan closing and during the First 12-Month Disbursement Period. It is the greater of 60% of the Principal Limit; or the sum of Mandatory Obligations, plus an additional 10% percent of the Principal Limit. The Initial Disbursement Limit shall not exceed the Principal Limit amount established at loan closing.

Fixed Interest Rate HECMs: The Borrower’s Advance means the funds advanced to borrower at closing which may not exceed the greater of 60% of the Principal Limit; or Mandatory Obligations, plus an additional 10% of the Principal Limit. The sum of all advances permitted under the mortgage cannot exceed the Principal Limit. The borrower may bring other available funds to closing to bring the sum of all anticipated advances within the Principal Limit.

Mandatory Obligations:

Mandatory Obligations for HECM traditional and refinance transactions include:

- Initial MIP;
- Loan origination fee;
- HECM counseling fee;
- Reasonable and customary amounts, but not more than the amount actually paid by the lender for any of the following items:
  - Recording fees and recording taxes, or other charges incident to the recordation of the insured mortgage;
  - Credit report;
  - Survey, if required by the lender or the borrower;
  - Title examination; o Lender's title insurance;
  - Fees paid to an appraiser for the initial appraisal of the property
- Repair Set-Asides;
- Repair administration fee;
- Delinquent Federal debt;
- Amounts required to discharge existing liens on the property;
- Customary fees and charges for warranties, inspections, surveys, engineer certifications;
- Funds to pay contractors who performed required repairs as a condition of closing;
- The total amount of property tax and flood and hazard insurance charges scheduled for payment during the First 12-Month Disbursement Period from a Fully-Funded Life Expectancy Set-Aside.
- Property tax, flood and hazard insurance payments required by the lender to be paid at loan closing;
- Other charges as authorized by the Secretary; and
- For adjustable interest rate HECMs:
  - The total amount of property charge payments scheduled for payment by the lender from the borrower's creditline or withheld from monthly payments during the First 12-Month Disbursement Period; and
  - The total amount of semi-annual disbursements scheduled to be made during the First 12-Month Disbursement Period to the borrower from a Partially-Funded Life Expectancy Set-Aside.

Mandatory Obligations for HECM for Purchase Transactions:

- Initial MIP;
- Loan origination fee;
- HECM counseling fee;
- Reasonable and customary amounts, but not more than the amount actually paid by the lender for any of the following items:
  - Recording fees and recording taxes;
  - Credit report;
  - Survey, if required by the lender or the borrower;
  - Title examination;
  - Lender's title insurance;
  - Fees paid to an appraiser for the initial appraisal of the property
- Delinquent Federal debt;
- Fees and charges for real estate purchase contracts, warranties, inspections, surveys, engineer certifications;

- The total amount of property tax and flood and hazard insurance charges scheduled for payment during the First 12-Month Disbursement Period from a Fully-Funded Life Expectancy Set-Aside;
- Property tax, flood and hazard insurance payments required by the Lender to be paid at loan closing;
- The amount of the principal limit that is advanced towards the purchase price of the subject property;
- Other charges as authorized by the Secretary; and
- For adjustable interest rate HECMs:
  - o The total amount of property charge payments scheduled for payment by the lender from the borrower's creditline or withheld from monthly payments during the First 12-Month Disbursement Period; and
  - o The total amount of semi-annual disbursements scheduled to be made during the First 12-Month Disbursement Period to the borrower from a Partially-Funded Life Expectancy Set-Aside.

Mortgage Insurance Premium Structure:

- HUD charges an initial MIP of 0.50 percent (0.50%) of the Maximum Claim Amount (MCA) when the borrower's Initial Disbursement Limit or the Borrower's Advance is 60% or less of the Principal Limit.
- HUD charges an initial MIP of 2.50 percent (2.50%) of the MCA when a borrower's Initial Disbursement Limit or the Borrower's Advance is greater than 60% of the available Principal Limit.
- Where the borrower elects to take an Initial Disbursement Limit or Borrower's Advance of 60% or less and HUD charges an initial MIP of 0.50%, the sum of disbursements made during the First 12-Month Disbursement Period must not exceed 60% of the Principal Limit.
- The existing annual MIP rate for all HECMs is 1.25%.

Financial Assessment:

Details about the financial assessment are in the HECM Financial Assessment and Property Charge Guide, which is an attachment to ML 14-22.

The financial assessment performed by the lender will include:
- performing the credit history/property charge payment history and cash flow/residual income analysis;
- documenting and verifying credit, income, assets and property charges;
- evaluating extenuating circumstances and compensating factors;
- evaluating the results of the Financial Assessment in determining eligibility for the HECM;
- determining whether a Life Expectancy Set-Aside will be required and whether the Set-Aside must be fully or partially funded

Credit Analysis and Credit Report Prior to Counseling:

Lenders must perform a credit history analysis for each prospective borrower to determine if the borrower has demonstrated the willingness to meet their financial obligations by analyzing each borrower's credit and property charge history.

FHA will permit lenders to order a credit report prior to the completion of HECM counseling if the lender wishes to perform a preliminary credit review of the borrower's financing obligations. Lenders may only collect the cost of the credit report at loan closing. If the HECM does not close, the borrower may not be charged.

Cash Flow Analysis:

Lenders must perform a cash flow/residual income analysis to determine the capacity of the borrower to meet his or her documented financial obligations with his or her documented income.

Life Expectancy Set-Asides:

This Mortgagee Letter provides for a single Life Expectancy Set-Aside that may be fully-funded, partially-funded, or not required, depending upon the results of the Financial Assessment. A borrower not otherwise required to fund a Fully-Funded Life Expectancy Set-Aside may elect to fully-fund, but may not change this option once they have chosen it

The Fully-Funded Life Expectancy Set-Aside is available for both adjustable and fixed interest rate HECMs when required by the lender based on the results of the Financial Assessment or if the lender does not require a Life Expectancy Set-Aside and the borrower elects to have one.

The Partially-Funded Life Expectancy Set-Aside is only available for an adjustable interest rate HECM when required by the lender based on the results of the Financial Assessment.

Projected Cost of Property Charges:

The projected cost of property charges that will be required over the life expectancy of the youngest borrower shall be calculated based on:

- The sum of the current property taxes and hazard and flood insurance premiums;
- A factor to reflect increases in tax and insurance rates;
- The HECM expected average mortgage interest rate; and
- The life expectancy of the youngest borrower (not including a Non-Borrowing Spouse).

If a Fully-Funded Life Expectancy Set-Aside is required, it will be equal to the projected amount above.

If a Partially-funded Life Expectancy Set-Aside is required, the amount is based on a calculation of the gap in residual income and may not exceed the projected cost of property charges defined above.

Voluntary Property Charge Funding Options for Adjustable Rate HECMs:

If the lender does not require a Life Expectancy Set-Aside, a borrower who selects an adjustable interest rate HECM may:

- Elect to have a Fully-Funded Life Expectancy Set-Aside; or
- Elect to have the lender pay such charges using funds from the line of credit or withheld from monthly payments; or
- Elect to be responsible for independent payment of all property charges.

Any voluntary election to have funds withheld by the lender to pay property charges cannot be cancelled by the borrower.

Voluntary Property Charge Funding Options for Fixed Rate HECMs

If the lender does not require a Life Expectancy Set-Aside, a borrower with the fixed interest rate HECM may:

- Elect to have a Fully-Funded Life Expectancy Set-Aside; or
- Elect to be responsible for independent payment of all property charges.

Any voluntary election to have funds withheld by the lender to pay property charges cannot be cancelled by the borrower.

Borrower with a Fully-Funded Life Expectancy Set-Aside must be informed that:

- Funds will be used to pay the taxing authority or insurance carrier directly;
- The lender is responsible for making timely payments to the taxing authority or insurance carrier when funds are sufficient;
- The projected amount of funds required to cover the allowed property charges over the estimated life expectancy of the youngest borrower may be insufficient to cover property charges for the full length of that specified amount of time;
- No funds will be available during any applicable Deferral Period for an eligible Non-Borrowing Spouse;
- The borrower is responsible for the payment of all property charges over the life of the loan when the Set-Aside is used up.

Borrower with a Partially-Funded Life Expectancy Set-Aside must be informed that:

- The borrower will receive semi-annual payments from the Set-Aside, which must be used to pay the taxing authority and/or insurance carrier;
- The borrower is responsible for making timely payments to the taxing authority and/or insurance carrier over the life of the loan;
- The projected amount of funds required to cover defined property charges over the estimated life expectancy of the youngest borrower and the income assumptions used to project semi-annual distributions to the borrower may be insufficient to cover property charges for the full length of that specified amount of time;
- No funds will be available during any applicable Deferral Period for an eligible Non-Borrowing Spouse;
- The borrower will no longer receive semi-annual payments and will continue to be responsible for the payment of all property charges over the life of the loan when funds are insufficient or the balance of the Set-Aside is zero; and
- Life Expectancy Set-Aside funds are exhausted or the annual analysis shows that the remaining funds will not be sufficient to pay the next year’s semi-annual distributions

If the Fully-Funded Life Expectancy Set-Aside is exhausted and the borrower fails to pay property charges:

The lender must use the available Principal Limit to pay the outstanding property charge amount in full and charge the borrower’s account. In addition, within 30 days of the lender receiving notification that a property charge payment is outstanding, the lender must communicate the following, in writing:

- Notify the borrower that funds were advanced from the Principal Limit and no funds remain in the Set-Aside to cover future property charge payments;

- Provide a 30 day period for the borrower to respond to the lender explaining the circumstances that led to the non-payment;
- Recommend the borrower speak with a HUD-Approved Housing Counselor to receive free assistance in exploring viable alternatives to comply with the terms of the mortgage; and
- Explain funds were disbursed from the Principal Limit, thus reducing the amount of HECM proceeds that will be available for future draws.

If the Partially-Funded Life Expectancy Set-Aside is exhausted and the borrower fails to pay property charges:

If a borrower with a Partially-Funded Life Expectancy Set-Aside fails to make property charge payments when due and funds remain in the Set-Aside, then the lender must:

- Immediately suspend future semi-annual payments to the borrower from the Partially-Funded Life Expectancy Set-Aside. Scheduled and unscheduled payments from the borrower's payment option may continue;
- Disburse funds from the Partially-Funded Life Expectancy Set-Aside to pay the full amount owed for the past due property charge;
- Within 30 days of the lender receiving notification that a property charge payment is outstanding, notify the borrower, in writing, that funds were advanced from the Set-Aside to pay the outstanding property charge;
- Provide a 30 day period for the borrower to respond to the lender explaining the circumstances that led to the non-payment; and
- Recommend the borrower speak with a HUD-Approved Housing Counselor to receive free assistance in exploring viable alternatives to comply with the terms of the mortgage.

Based on the circumstances documented by the borrower, the lender may either:

- Require the borrower to repay the full amount of funds advanced from the Partially-Funded Life Expectancy Set-Aside by the lender to the taxing authority or/and insurance provider so that upon the lender's receipt of reimbursed funds, the semi-annual Partially-Funded Life Expectancy Set-Aside payments to the borrower are restarted; or
- Continue the suspension of semi-annual payments to the borrower indefinitely and require the borrower to make future property charge payments. The remaining funds will then be used to pay future property charge payments in the event the borrower fails to make the payment.

If the Partially-Funded Life Expectancy Set-Aside is exhausted and the borrower fails to make property charge payments when due, then the lender must use funds available in the Principal Limit to pay the outstanding property charge amount in full and charge the borrower's account. In addition, within 30 days of the lender receiving notification that a property charge payment is outstanding, the lender must communicate the following, in writing:

- Notify the borrower that funds were advanced from the Principal Limit and no funds remain in the Set-Aside to cover future semi-annual payments;
- Provide a 30 day period for the borrower to respond to the lender explaining the circumstances that led to the non-payment;
- Recommend the borrower speak with a HUD-Approved Housing Counselor to receive free assistance in exploring viable alternatives to comply with the terms of the mortgage; and
- Explain funds were disbursed from the Principal Limit, thus reducing the amount of HECM proceeds that will be available for future draws.

Unused Life Expectancy Set-Aside Funds during a Deferral Period for an Eligible Non-Borrowing Spouse:

During a Deferral Period, no funds of any kind may be disbursed, even if funds remain in a Life Expectancy Set-Aside.

Unused Life Expectancy Set-Aside Funds When the Loan is Due and Payable:

When the loan is due and payable, regardless of the borrower's payment plan, any funds that remain in a Life Expectancy Set-Aside shall not be disbursed to the borrower, estate, or non-borrowing spouse.

Effective Dates: varies for different provisions of the ML

Mortgagee Letter 14-22: HECM Financial Assessment and Property Charge Requirements

Publishes the Revised HECM Financial Assessment and Property Charge Guide as an attachment to the ML. (Very long and detailed document, written for underwriters, which will not be summarized here.)

Effective Date: March 2, 2015

Mortgagee Letter 15-02: Policy Guidance and Certifications for Eligible and Ineligible Non-Borrowing HECM Spouses and Seasoning Requirements Guidance

- Defines a new type of Non-Borrowing Spouse, termed "Ineligible Non-Borrowing Spouse," and provides guidance and model certification language lenders must use when there is an Ineligible Non-Borrowing Spouse.
- Provides new model certification language that lenders must use at origination and throughout ongoing HECM servicing for instances where there is an Eligible Non-Borrowing Spouse. The certification language replaces language in Mortgagee Letter 2014-07.
- Provides new model Mortgage, Note and Loan Agreement language.
- Provides for a 30 day cure to reinstate a Deferral Period.
- Provides clarification and additional documentation for the "Seasoning Requirements for Existing Non-HECM Liens" Section of Mortgagee Letter 2014-21.

"Ineligible Non-Borrowing Spouse" means a Non-Borrowing Spouse who does not meet the Qualifying Attributes requirements defined in ML 2014-07 for a Deferral Period. [Note: This is usually going to be because s/he does not live in the subject property at the time of closing.]

- A Non-Borrowing Spouse that is ineligible at application because he or she does not satisfy the Qualifying Attributes requirements for a Deferral Period may not elect to be eligible.

"Eligible Non-Borrowing Spouse" means a Non-Borrowing Spouse who meets the Qualifying Attributes requirements defined in ML 2014-07 for a Deferral Period.

- A Non-Borrowing Spouse that meets the Qualifying Attributes requirements at application for a Deferral Period is an Eligible Non-Borrowing Spouse and may not elect to be ineligible.
- An Eligible Non-Borrowing Spouse may become an Ineligible Non-Borrowing Spouse should any of the Qualifying Attributes cease to be met during the loan term.

- A Non-Borrowing Spouse's failure to meet and continue to meet the Qualifying Attributes cannot be cured; therefore, once a Non-Borrowing Spouse is determined to be ineligible, he or she cannot later become eligible for a Deferral Period.

Principal Limits:

When determining the Principal Limit, lenders may not use the age of any Ineligible Non-Borrowing Spouse. At origination, lenders must base the Principal Limit on the age of the youngest borrower or Eligible Non-Borrowing Spouse.

In addition, where a HECM borrower has identified an Ineligible Non-Borrowing Spouse, the lender must also disclose the amount of mortgage proceeds that would have been available under the HECM if he/she were an Eligible Non-Borrowing Spouse.

NBS provisions effective January 12, 2015 (optional) or March 9, 2015 (required)

Mortgagee Letter 15-03: Mortgagee Optional Election Assignment for Home Equity Conversion Mortgages (HECMs) with FHA Case Numbers assigned prior to August 4, 2014.

Provides an alternative to foreclosure for some Non-Borrowing Spouses on pre-2014 loans, at the option of the lender, and if the NBS meets stringent tests. The following are excerpts.

Where a deceased borrower is survived by a Non-Borrowing Spouse, a lender may elect to either:
1. Foreclose in accordance with the contract as endorsed; or
2. Utilize the Mortgagee Optional Election (MOE) Assignment. [Note: This means that the HECM is immediately assigned to HUD rather than being held until the balance reaches 98% of Maximum Claim Amount. The lender gets paid off at the time of the assignment.]

An "Eligible Surviving Non-Borrowing Spouse" for the purposes of this ML means a Non-Borrowing Spouse of a HECM Borrower where the HECM was assigned an FHA Case Number prior to August 4, 2014 and who:
1. Was either:
    a. legally married - as determined by the law of the state in which the spouse and borrower reside(d) or the state of celebration - to the HECM borrower at the time of loan closing and who remained married to the HECM borrower until the HECM borrower's death; or
    b. engaged in a committed relationship with the borrower akin to marriage but was prohibited, at the time of HECM loan origination, from legally marrying the HECM borrower based on the gender of both the borrower and Non-Borrowing Spouse, but was legally married prior to the death of the borrower, as determined by the law of the state in which the spouse and borrower reside(d) or the state of celebration, to the HECM borrower, and remained married until the death of the borrowing spouse;
2. Currently resides and resided in the property secured by the HECM as his or her principal residence at origination of the HECM and throughout the duration of the HECM borrower's life; and
3. Who has or is able to obtain - within 90 days following the death of the last surviving borrower - good, marketable title to the property or a legal right (e.g., executed lease, court order, etc.) to remain in the property for life.

Repaying the HECM:

An Eligible Surviving Non-Borrowing Spouse may elect to satisfy the HECM and retain the property securing the HECM for the lesser of the unpaid principal balance or 95% of the property's appraised value.

Further, after the death of the last surviving borrower, the property securing the HECM may be sold by the borrower's estate and/or the borrower's heir(s) (regardless of the presence of any Eligible Surviving Non-Borrowing Spouse) for the lesser of the unpaid principal balance or 95% of the property's appraised value.

Lender's timelines:

1. A lender must make and notify HUD of its election within the later of
   - 90 days following the issuance of this Mortgagee Letter or
   - 30 days following the servicer receiving notice of the last surviving borrower's death
   - or in such additional time as may be authorized by HUD in writing,

2. Within 30 days after the lender's election, the lender must provide notice as applicable based on the election made under this Mortgagee Letter:
   - If the lender elects to enforce its contractual rights, the lender must inform the Eligible Surviving Non-Borrowing Spouse and the borrower's estate that it will be provided a period not to exceed six months to elect to purchase or to market and sell the property in accordance with this Mortgagee Letter.
   - If the lender elects to apply the MOE Assignment Deferral Period and assign the HECM, the lender must provide the requirements for assignment contained in this Mortgagee Letter to the Eligible Surviving Non-Borrowing Spouse and borrower's estate.

3. Within 30 days after the lender's election, the lender must determine whether the Non-Borrowing Spouse and the HECM loan meet the eligibility requirements for this election. If, after the assessment, the lender determines that the HECM loan is ineligible, the MOE Assignment Deferral Period ends and the lender must proceed with foreclosure in accordance with the provisions of the regulations.

4. If the lender chooses to assign the loan, the assignment must happen within 90 days of their election or within 180 days of this Mortgagee Letter, whichever is later.

A lender may elect instead to enforce its original loan agreement with the borrower, and not take the option of assigning the loan to HUD, in which case the loan proceeds to payoff or foreclosure under the usual timelines.

MOE Assignment

A lender who has made the MOE Assignment election, may only assign a HECM loan that satisfies, within 90 days after the MOE Assignment election or within 180 days of the publication date of this Mortgagee Letter, whichever is later, the following requirements:

1. There is an Eligible Surviving Non-Borrowing Spouse;
2. The current unpaid principal balance is less than, or equal to, the Maximum Claim Amount and either:
   a. The Eligible Surviving Non-Borrowing Spouse would have had a Principal Limit Factor ("PLF") greater than or equal to the PLF of the HECM borrower spouse (Factor Test), or
   b. The Eligible Surviving Non-Borrowing Spouse's PLF would have resulted in a current principal limit that is greater than or equal to the current unpaid principal balance (Principal Limit Test). (A payment may be made to reduce the unpaid principal balance in order to meet the requirements under the Principal Limit Test.);
3. The Eligible Surviving Non-Borrowing Spouse agrees to certify annually that he or she continues to satisfy all eligibility requirements;
4. The HECM is not in default or eligible to be called due and payable for any other reason;
5. There are no allegations or claims that would invalidate the HECM or any such allegations or claims have been judicially resolved in favor of the lender;
6. The lender has taken all steps necessary to ensure the HECM remains a valid and legally enforceable first lien under state law in accordance with this Mortgagee Letter and no Statute of Limitations or other barrier exists to the exercise of rights to gain good and marketable title under the mortgage;
7. The lender agrees to indemnify the Secretary for any loss incurred by the Secretary as a result of any impediment to the Secretary obtaining good and marketable title, unless such loss is solely due to acts of the Secretary after assignment; and
8. The lender has obtained all required information, certifications, and agreements from any Eligible Surviving Non-Borrowing Spouse and any other necessary party as set forth in this Mortgagee Letter.

Ineligible loans:

No HECM with unpaid property charges or that is otherwise eligible to be called due and payable for any reason other than the death of the last surviving borrower is eligible for the MOE Assignment.

HECMs with active loss mitigation plans:

A HECM loan that is subject to a pre-existing loss mitigation repayment plan for unpaid property charges must be brought current on all property charges within 90 days following the death of the last surviving borrower or within 180 days of this Mortgagee Letter, whichever occurs later.

Where to find Principal Limit Factors for past years and ages younger than 62:

The lender must use HUD's website at:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/hecm
to locate the Principal Limit Factors (PLF) Table, applicable to the date the HECM was originated and the Eligible Surviving Non-Borrowing Spouse's age at the time the HECM was originated to calculate the PLF and Principal Limit Test.

Effective Date: January 29, 2015

Mortgagee Letter 15-09: – Life Expectancy Set-Aside Growth Rate and Clarification to Section 3.98 of the HECM Financial Assessment and Property Charge Guide

Defines the Life Expectancy Set-Aside Growth Rate:

The Life Expectancy Set-Aside (LESA) is used for the payment of property taxes, and hazard and flood insurance premiums, and will increase each month at a rate equal to one-twelfth of the sum of the mortgage interest rate (Note Rate), plus the annual mortgage insurance premium rate (currently 0.0125 or 1.25%), from the date the loan is funded. [Note: the same compounding rate or growth rate that is applied to the loan balance and the creditline.]

Clarification to Section 3.98 of the Guide:

Clarifies that lenders are to determine whether the borrower's property taxes (not property charges) exceed 10% of gross income, because these borrowers are more likely to default.

Effective Date: April 27, 2015