

KEY HECM MORTGAGEE LETTERS

Letters that are no longer valid are not included in this document

Mortgagee 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96-41	8/3/96	Improves eligibility for condominiums – NO LONGER VALID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%; revises legal documents; permits life estates
98-3	1/7/98	Establishes monthly servicing cap of \$35 for HECMs with monthly adjustable interest
99-2	2/18/99	Explains and transmits 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
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 packet)
03-16	09/24/03	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
04-18	04/23/04	Provides guidance regarding implementation of new procedures related to the refinancing of existing HECMs
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. – SUPERCEDED BY HUD HECM COUNSELING PROTOCOL
04-48	12/30/04	Provides clarification and simplification of ML 2004-25. – SUPERCEDED BY HUD HECM COUNSELING PROTOCOL
05-44	11/01/05	Announces expanded network of HECM counselors approved by HUD to provide face-to-face and telephone HECM

		counseling nationally.
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.
06-22	08/31/06	Extends the expected interest rate “lock-in” provision for HECMs to 120 days (from 60 days).
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. – SUPERCEDED 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.
07-08	4/27/07	Eliminates face-to-face 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 parameters for fixed rate HECM loans.
08-12	5/6/08	Provides guidance to counseling agencies re: charging fees for HECM counseling. – SUPERCEDED 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”.
08-24	09/16/08	Implements consumer safeguards prohibiting cross-selling of other financial or insurance products in connection with a HECM transaction.
08-28	9/29/08	Prohibition on lender-funded HECM counseling.
08-33	10/20/08	HECM for Purchase program implementation and rules
08-34	10/31/08	Limits HECM origination fee
08-35	11/6/08	Creates nationwide HECM mortgage limit, replacing 203(b) limits.
08-38	12/5/08	Changes interpretation of non-recourse limit when home is to be retained by borrower or estate.
09-07	02/24/09	Increases nationwide HECM mortgage limit to \$625,500 until

		12/31/2009.
09-10	03/27/09	Clarification of Home Equity Conversion Mortgage counseling issues (referral process, budgeting requirement)
09-11	3/27/09	HECM for Purchase Program
09-21	6/30/09	HECM: Technical correction regarding refinancing of existing loans that have been assigned to HUD
09-34	9/23/09	(HECM) – Reduction of Principal Limit Factors
09-44	10/23/09	Debenture Interest Calculation for HECM
09-47	11/6/09	HECM Counseling Standardization and Roster Final Rule
09-49	11/18/09	Guidance regarding permissibility of subordinate liens in conjunction with HECM loans.
10-07	3/1/10	Revisions to the HECM Loan Agreement
10-34	9/21/10	HECM Saver; Mortgage Insurance Premiums and Principal Limit Factor Changes for HECM Standard
11-01	1/4/11	Home Equity Conversion Mortgage Property Charge Loss Mitigation

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

The Department is pleased to announce that the President signed Public Law 104-120 on March 28, 1996, amending Sections 255(d)(3) and (g) of the National Housing Act to implement changes in the Home Equity Conversion Mortgage (HECM) Insurance program. The HECM program, commonly referred to as the FHA Reverse Mortgage program, is designed to enable elderly homeowners to convert the equity in their homes to monthly streams of income and/or lines of credit. The following changes, which are effective immediately, will expand the program and make it available to more elderly homeowners:

1. The mortgage insurance authority is extended to September 30, 2000.
2. The mortgage insurance authority is increased to a maximum of 50,000 units. (A total of 15,000 cases have closed as of February 1996.)
3. Property eligibility is expanded to include two- to four-family properties in which the mortgagor 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

The purpose of this Mortgagee Letter is to advise lenders about changes resulting from the Final Rule that was published on September 17, 1996. Changes in that Final Rule were effective October 17, 1996, with the exception of the change in definition of "principal limit", which is effective on May 1, 1997. Copies of the Final Rule and subsequent, related Federal Register publications are attached to this Mortgagee Letter as Attachments 1, 2, and 3.

1. "PRINCIPAL LIMIT" DEFINITION The definition of "principal limit" in the regulations, 24 CFR 206.3, has been revised for all HECM loans executed on or after May 1, 1997. The new definition 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 annum . . ." For HECM loans executed prior to May 1, 1997, the principal limit definition remains as stated in the original loan documents. Specifically, the principal limit on

loans executed prior to May 1, 1997 will continue to increase each month at a rate equal to one-twelfth of the expected average mortgage interest rate, plus one-twelfth of one-half percent per annum. This new definition is found in Attachment 3, the Federal Register publication from March 19, 1997, which corrected the revised definition in previous publications.

2. **MONTHLY PAYMENT CALCULATIONS** The new definition of principal limit does not change the way that monthly payment calculations are made. The instructions in Chapter 5 of HUD Handbook 4235.1 REV-1 regarding calculation of monthly payment amounts are unchanged by the implementation of this final rule. Furthermore, the monthly payment formula shown in Appendix 22 of HUD Handbook 4235.1 REV-1 is also unchanged by this final rule. 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. Although the monthly payment and set-aside formulas remain unchanged, the rule does affect the inputs required in the HECMOD calculation software (see below).
3. **HECM CALCULATION SOFTWARE (Version 6.3)** The new HUD HECM worksheet software used to calculate the loan payments to the borrower is Version 6.3. This software will be used for mortgages executed on or after May 1, 1997. The major change between Version 6.3 and the previous edition is that the HECMOD module which is used to modify an existing payment plan now reflects the new definition of principal limit. The new version of HECMOD can be used edition is that the HECMOD module which is used to modify an existing payment plan now to modify the payment plans of all HECM loans, regardless of the date of execution. The user of HECMOD 6.3 is now required to enter the principal limit as of the effective date of the payment plan modification using the definition of principal limit that applies to that loan. For example, if the borrower were seeking a modification effective on May 31, 1997 the servicer of the loan would enter the principal limit as of May 31, 1997. Regardless of which regime governs the growth, the loan servicer enters the current principal limit figure manually into the HECMOD input screen. Program participants can obtain a copy of the HECM worksheet diskette at a cost of \$5.00 per copy by contacting HUD User (800) 245-2691 or (301) 251-5154. Local HUD offices may also copy the software and distribute it to the HECM mortgagees in their area, if resources are available.
4. **FEE FOR CHANGE IN PAYMENT OPTION** The fee for a change in payment option is presently \$20.00. Although the Final Rule revised the payment provisions in 24 CFR 206.26, the Secretary has not authorized a change to the \$20.00 fee.
5. **CHANGES TO LEGAL DOCUMENTS** Changes have been made to the following legal documents: Model Mortgage form Fixed Rate Note Adjustable Rate Note Second Mortgage Fixed Rate Second Note Adjustable Rate Second Note Home Equity Conversion Loan Agreement Notice to Borrower Attachment 4 lists the changes in detail and includes some miscellaneous changes, as well as those resulting from the recent Final Rule.

6. LIFE ESTATE PROVISIONS Regulatory changes permit mortgages to be insured and remain in force even if no eligible mortgagor has any interest in the property greater than a life estate. If an eligible mortgagor 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 mortgagors. The regulatory changes also permit a mortgagor who held a fee simple title when the mortgage was executed to subsequently convey his or her interest in the property, as long as a life estate is retained. These changes to 24 CFR 206.27(c) and 206.35 were published in the Final Rule in Attachment 1.
7. PREPAYMENT (24 CFR 206.209) The prepayment section of the regulations was revised to eliminate the former requirements that a borrower prepay only on the first of the month (if a monthly payment mortgage) or with two weeks notice to the lender (if a pure line of credit), with the lender otherwise being able to collect extra interest to cover the remainder of the month after the prepayment date, or for two extra weeks. The revised section now permits the borrower to prepay "at any time, regardless of any limitations stated in the mortgage." Revised language for legal documents is in Attachment 4.
8. TRUSTEE IN SECOND DEED OF TRUST Where allowed by state law and acceptable to the HUD official responsible for single family programs in the appropriate HUD Field Office, a generic description of a trustee under a second deed of trust may be used, rather than naming a specific HUD individual. The following generic description of a trustee in a second deed of trust is acceptable: Senior Official with responsibility for Single Family Mortgage Insurance Programs in the Department of Housing and Urban Development Field Office with jurisdiction over the Property described below, or a designee of that Official. This language refines provisions previously provided in Mortgagee Letter 95-54 .
9. TITLE INSURANCE POLICY This letter clarifies that the intent of the title insurance language in paragraph 6-11(I)(2) in Handbook 4235.1 was to advise that HUD did not require title insurance coverage of 150 percent of the maximum claim amount (MCA) but, in fact, required a minimum of 100 percent of the MCA. The sentence, therefore, would state that "Notwithstanding this larger amount for the purpose of recordation, HUD only requires that the title insurance policy obtained be at least equal to the maximum claim amount, NOT 150 percent of that amount."
10. DOCUMENTATION REQUIRED TO BE SUBMITTED BY DIRECT ENDORSEMENT LENDERS FOR ENDORSEMENT Attachment 5 lists documents that must be submitted by DE lenders to receive insurance endorsement for HECMs. Note that this is the same list as attached to a Mortgagee Letter recently issued or soon to be issued on "Single Family Loan Production - Credit Policy Issues." Originals of the second note and recorded second mortgage should be sent to and

retained by the appropriate HUD Field Office, Asset Management Branch Please note that Appendices 3A and 4A, the Underwriter's and Mortgagee's certifications attached to Mortgagee Letter 95-54 , are not required to be submitted to HUD in DE cases.

11. CORRECTION TO REGULATION CITATION IN FINAL RULE Two references in Item 14 of the Final Rule from September 17, 1996 (Attachment 1, p. 49033) about the addition of a new paragraph (e), should correctly refer to Sec. 206.45, rather than 206.47.
12. FUTURE MORTGAGEE LETTER Additional guidance related to HECM loans is planned for a subsequent mortgagee letter.

Effective Date: April 24, 1997

Mortgagee Letter 98-3- Home Equity Conversion Mortgage (HECM) Insurance Program - Servicing Fee Cap Monthly Adjustable Loans

The purpose of this Mortgagee Letter is to establish a servicing fee cap for monthly adjustable HECM 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. In response to concerns raised about problems with excessive servicing fees being charged on monthly adjustable HECMS, the Department has decided to establish a maximum amount that lenders can charge for these fees. Therefore, 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. This servicing cap applies only to loans closed on or after the effective date of this Mortgagee Letter. 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-Implementation of the Final Rule - HECM Consumer Protection Measures

On October 21, 1998, the President signed legislation that amended Section 225(d) of the National Housing Act (12 U.S.C 1715z -20(d)). This amendment mandated certain disclosure requirements and prohibited unnecessary funding or excessive costs associated with obtaining a Home Equity Conversion Mortgage (HECM). The legislation required that, within 90 days of the enactment date of the law, HUD publish a final rule requiring that the senior homeowner 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. The final rule governing Home Equity Conversion Mortgages, Consumer Protection Measures Against Fees, was published on January 19, 1999, in the *Federal Register* and is effective on February 18, 1999. A copy of this rule is attached to this Letter and also can be viewed on the Internet at: http://www.access.gpo.gov/su_docs/aces/aces140.html

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 Mortgagees

For HECM applications signed on or after February 18, 1999, the mortgagee 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 mortgagee 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 mortgagee 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 mortgagee 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. The HECM application must be annotated to document that the mortgagee has made inquiry.

Effective Date: February 18, 1999

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

The Department is continuing its efforts to both promote the HECM program and deliver this valuable product more efficiently to seniors. Recently, Congress converted the HECM program from a temporary program to a permanent one and also increased the

number of HECM loans that FHA can insure to 150,000. Congress also increased the maximum mortgage amounts available under this program.

This Mortgagee Letter implements a number of changes to the HECM program to increase its availability and further streamline the process for mortgage lenders. These changes are effective immediately.

Increase in Loan Origination Fee

Must Cover Mortgage Broker or Loan Correspondent Fee

FHA permits a lender to charge a loan origination fee agreed upon by the borrower and lender. However, we are now capping the amount of the origination fee that can be charged the borrower and also permitting the borrower to finance the entire amount of the 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.

Lenders are reminded that a mortgage broker fee can be included as part of the origination fee only if the mortgage broker is engaged independently by the homeowner and that a mortgage broker's fee is prohibited if there is any financial interest between the mortgage broker and lender. A copy of the agreement between the borrower and the mortgage broker to pay the broker fee must be submitted along with the loan application and other documents in the binder submitted to FHA.

Consequently, the Home Equity Conversion Mortgage Loan Agreement section 2.2.1 is amended to: 2.2.2.1. Loan Advances shall be used by Lender to pay, or reimburse Borrower for, closing costs listed in the Schedule of Closing Costs (Exhibit 2) attached to and made a part of this Loan Agreement, provided that Loan Advances will only be used to pay origination fees in an amount not exceeding the greater of \$2,000 or 2 percent of the maximum claim amount, nor shall the Lender charge the Borrower an origination fee in excess of this amount.

Counseling Certificates

In all circumstances the borrower must receive reverse mortgage counseling. 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. In addition, those borrowers that received the counseling more than 180 days previously but do not believe that a second session would be useful may also waive the expiration date in writing.

Face-to-Face Interview Requirement

In Mortgagee Letter 98-15 (March 16, 1998), FHA eliminated the face-to-face interview requirement. Those rules, which affected forward mortgages insured by FHA, now also apply to reverse mortgages under the HECM program provided that the homeowner has at least had a face-to-face interview with a HUD-approved reverse mortgage counseling agency. In other words, a face-to-face interview with an acceptable counseling agency may substitute for a face-to-face interview with the mortgage lender. However, please note that the above telephone counseling provided by Fannie Mae cannot also substitute for the lender's face-to-face interview. With or without a face-to-face interview, the lender remains completely accountable for positively identifying the applicant and assuring that the homeowner is eligible based on his or her age for the HECM loan.

Revised Appraisal Disclosure Requirements Mortgagee Letter 99-18 announced numerous changes to FHA's appraisal requirements. Please note, however, that the "Importance of Home Inspections" form is not required to be provided on HECM loans.

Effective Date: March 8, 2000

Mortgagee Letter 03-16- Home Equity Conversion Mortgage (HECM)-Interest Rate Lock-Ins

As part of the Department of Housing and Urban Department's continuing efforts to assist senior homeowners, the Federal Housing Administration (FHA) will now allow for 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. This Mortgagee Letter revises the instructions found in the section "Requirements for Closing" contained in Chapter 6, page 6-7 of HUD Handbook 4235.1 REV 1. 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.

Similar to interest rate "lock-in" provisions on forward mortgages insured by the FHA, HECM borrowers using FHA's HECM product will have the comfort of knowing that the interest rate cannot increase during the interest rate lock-in period and, thus, reduce the amount of proceeds available to them. In addition, mortgage lenders offering HECMs will no longer need to recalculate the principal limit on the day of settlement. Mortgagees are not allowed to charge a fee for a "lock-in" rate. This Mortgagee Letter is effective immediately.

Effective Date: September 24, 2003

Mortgagee Letter 04-18 Refinancing Existing Home Equity Conversion Mortgages (HECM) and Revision to the HECM Calculation Software—Single Family

This Mortgagee Letter informs Mortgagees and Housing Counseling Agencies that provide HECM Counseling of statutory changes to the Federal Housing Administration (FHA) HECM Program and revisions to the HECM Calculation Software. The Mortgagee Letter provides guidance regarding implementation of new procedures related to the refinancing of existing HECMs. In order to comply with the statutorily mandated “anti-churning disclosure” requirement, only borrowers with refinance loan applications dated on or after April 26, 2004 are eligible to refinance under FHA’s new authority.

Effective Date: April 23, 2004

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

The purpose of this Mortgagee Letter is to clarify the housing counseling requirements of the HECM program. Specifically, this Mortgagee Letter addresses:

- a) When a potential mortgagor 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 mortgagors 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.

All of the policies covered by this Mortgagee Letter are included in various policy documents, including Section 255 of the National Housing Act, 24 CFR 206.41, Mortgagee Letters 00-10 and 00-39, and Handbook 4235.1, REV 1. This Mortgagee Letter clarifies and consolidates the FHA’s requirements. Given that some mortgagees and counseling agencies were confused about FHA’s requirements and were not complying with the policies stated in this Mortgagee Letter, FHA will provide mortgagees and counseling agencies time to bring their operations into compliance. Therefore, all of the policies stated in this Mortgagee Letter take effect 30 days after the publication date.

Effective Date: June 23, 2004

Mortgagee Letter 04-48- Home Equity Conversion Mortgage (HECM) Counseling Requirements Simplified

The purpose of this Mortgagee Letter is to provide additional guidance to the Federal Housing Administration (FHA) approved mortgagees and the Department of Housing and Urban Development's approved housing counseling agencies serving prospective HECM borrowers. Mortgagee Letter 04-25, "Clarification of HECM Counseling Requirements," elicited questions and comments from lenders and counselors. To ensure that all seniors pursuing HECM loans are able to obtain high-quality HECM counseling in a timely manner, 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 American Association of Retired Persons (AARP) Foundation Network of expert HECM counselors.

Effective Date: December 30, 2004

Mortgagee Letter 05-44 - Home Equity Conversion Mortgage (HECM) Program – Expanded National HECM Counseling Network

The purpose of this Mortgagee Letter is to announce an expanded network of HECM counselors approved by the Department of Housing and Urban Development (HUD) to provide face-to-face and telephone HECM counseling nationally.

Increasing demand for HUD's HECM product by senior citizens, the fastest growing segment of the population, has put pressure on the counseling industry to meet the demand for the required counseling. Specifically, 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.

Effective Date: November 1, 2005

Mortgagee Letter 06-06- Home Equity Conversion Mortgage Program – Line of Credit Payment Option for Texas- Single Family

Effective for all Home Equity Conversion Mortgages (HECM) closed on or after

March 1, 2006, the Federal Housing Administration (FHA) will permit borrowers in Texas to choose a line of credit payment option. The provisions contained in this Mortgagee Letter will replace previously issued guidance found in Mortgagee Letter 00-09, ML 00-34, and ML 00-39 on the same topics.

On March 8, 2000, in ML 00-09, FHA announced that only certain payment options were available for HECM loans originated in the State of Texas. At that time, the Texas Constitution: 1) restricted the line of credit payment option, thereby limiting homeowners to 3 payment plan options (lump sum at closing, term and tenure) and 2) placed special restrictions on mortgage acceleration due to non-occupancy and homeowner's refusal to allow the lender to inspect the property.

On November 8, 2005, voters in Texas ratified an amendment to the Constitution to authorize line of credit advances under home equity reverse mortgages. With the amendment being ratified on November 23, 2005, elderly homeowners now have the flexibility to select from five (5) HECM payment options, which are currently available to all HECM borrowers. The five HECM payment options are:

1. Tenure (regular monthly payments so long as HECM borrower occupies the property)
2. Term (regular monthly payments for a specific period of time selected by HECM borrower)
3. Line of Credit (unscheduled advances at the HECM borrower's request)
4. Modified Tenure (combination of tenure and line of credit payment options)
5. Modified Term (combination of term and line of credit payment options)

The Constitutional amendment prohibits certain practices in extending lines of credit in reverse mortgage lending 1) borrowers are prohibited from using a credit card, debit card, preprinted solicitation checks or similar devices to obtain an advance; 2) after the extension of credit is established, lenders cannot charge or collect a transaction fee solely in connection with any debit or loan advance; and 3) lenders cannot unilaterally amend the terms of the document administering the extension of credit.

Forms

Lenders must adapt all forms to ensure compliance with existing FHA requirements, and Texas Constitution and statutes. Lenders should:

- Insert line of credit language that was deleted in 2000;
- Insert the prohibition on HECM borrowers using a credit card, debit card, preprinted solicitation checks, or similar devices to obtain an advance;
- Insert the prohibition against lenders charging or collecting a transaction fee solely in connection with any debit or loan advance; and
- Insert the prohibition against lenders unilaterally amending the terms of the document administering the extension of credit.

The validity and enforceability of the mortgage and note will depend on compliance with state law and therefore HUD emphasizes the need for a lender to adapt the mortgage and note, accordingly. FHA strongly encourages lenders to seek counsel's advice that State law has been considered and that any necessary changes to the instruments have been made.

Disbursements by Lender

Lenders can disburse payments at any time on behalf of the borrower when the borrower elects to require the lender to use loan advances for payment of property charges consisting of taxes, hazard insurance premiums, ground rents, and special assessments or when repairs are completed after closing and the property has been inspected by a HUD-approved inspector. In addition, lenders can disburse payments for the protection of their interest at any time. Events that trigger the disbursement of payments in order to protect the HECM lender's interest include, but are not limited to: the HECM borrower's failure to pay property taxes, the HECM borrower's failure to pay ground rents, the HECM borrower's failure to pay flood insurance, and the HECM borrower's failure to pay hazard insurance premiums.

Refinancing an Existing HECM Loan

HECM borrowers must refinance their existing FHA insured HECM loan to take advantage of the line of credit payment option. The lender should also inform HECM borrowers about reasonable and customary charges that are acceptable to FHA, thereby providing a safeguard against equity stripping, which FHA strictly prohibits.

Acceleration of the Mortgage

Although the constitutional amendment now permits the line of credit payment option, special restrictions on mortgage acceleration due to non-occupancy and borrower's refusal to allow the lender to inspect the property are still in effect. The reasons for accelerating the debt have not changed, however, we are providing the exact language of the Texas Constitution (Article XVI, Section 50 (k)(6)(C)) for your convenience.

Foreclosures

Lenders are reminded that there are specific foreclosure procedures for HECMs within the State of Texas; therefore, lenders should follow the requirements and instructions outlined in the Texas Constitution (Article XVI, sections 50 (a)(6) and (7)). Foreclosure procedures should be placed under the non-uniform covenants of the Deed of Trust forms. The form should use the foreclosure procedures paragraph of the current approved Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) form (including language regarding payment of costs such as attorney's fees) as a guide with any necessary adaptation to conform to FHA instructions and applicable law. Any special language or notices required by applicable law should appear following the non-uniform covenants using the Fannie Mae and Freddie Mac form as a guide.

Effective Date: March 17, 2006

Mortgagee Letter 06-20-Home Equity Conversion Mortgage Program: Subordinate Liens and State and Local Court-Ordered Judgments and Judgment Liens

This Mortgagee Letter clarifies and reiterates that under the Home Equity Conversion Mortgage (HECM) Program the Federal Housing Administration (FHA) permits existing liens to be subordinated to the first and second HECM liens. This Mortgagee Letter 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

Current 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. It is the mortgagee's responsibility to ensure that the first and second mortgages are the first and second liens of record, and that other liens do not intervene between the first and second mortgage.
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. FHA regulations at 24 CFR 206.32(a) provide that there shall be no outstanding or unpaid obligations incurred by the HECM borrower in connection with the HECM transaction. Once a HECM loan is endorsed, however, the HECM mortgagor 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

Several HECM lenders have inquired whether a prospective HECM borrower against whom a judgment has been entered, and remains unsatisfied, must satisfy that judgment prior to the HECM closing even though the judgment has not resulted in a judgment lien against the borrowers real property. A judgment is a courts 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 debtors property. A judgment lien gives the judgment creditor the right to seize a debtors assets (i.e., real property) to secure a judgment, or sell the assets to satisfy the judgment. In accordance with FHA policy, a prospective HECM borrower is not required to use HECM proceeds or satisfy an unpaid state or local court-ordered judgment prior to closing. In cases where an unpaid state or local court-ordered judgment results in a judgment lien against the real estate, which will

serve as the collateral for the HECM loan and the judgment lien will not be subordinated to the HECM first and second liens then it must be satisfied prior to closing.

A HECM mortgagee, however, has the option of requiring that a prospective HECM borrower satisfy an unpaid state or local court-ordered judgment even though the judgment has not resulted in a judgment lien against the borrowers real estate. In the event that a state or local court-ordered judgment against a HECM borrower is not satisfied prior to the HECM closing and subsequently that judgment results in a judgment lien against the real estate, that judgment lien must be made subordinate to the HECM first and second liens.

Federal Judgments and Debts

In the case of a Federal judgment or debt, current 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 borrowers 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

Mortgagee Letter 06-22- Home Equity Conversion Mortgage (HECM) Program: Extension of Principal Limit Rate Lock

Effective immediately, the Federal Housing Administration (FHA) is extending the expected interest rate "lock-in" provision for HECMs to 120 days (from 60 days). The expected interest rate is used to calculate the principal limit for HECMs and is established based upon the date in which the initial loan application is signed by the borrower. FHA will grant an automatic 60-day extension for all HECM loans currently in process but not yet closed. The provisions within this Mortgagee Letter will be consistent with average processing times and current practices being used by the reverse mortgage industry.

This Mortgagee Letter replaces and rescinds Mortgagee Letter 2003-16. The provisions of this Mortgagee Letter also revise the instructions found in section "Requirements for Closing" contained in Chapter 6 of HUD Handbook 4235.1 REV-1.

Consistent with existing policy, the expected interest rate and principal limit are locked when the mortgagee 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.

Mortgagees 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- Home Equity Conversion Mortgage Program: Home Equity Conversion Mortgage Counseling Requirements

The purpose of this Mortgagee Letter is to clarify housing counseling requirements for prospective Home Equity Conversion Mortgage (HECM) borrowers. This Mortgagee Letter clarifies who must receive HECM counseling, and what activities a HECM lender may perform prior to a prospective HECM borrower receiving HECM counseling.

All of the policies covered by the Mortgagee Letter are included in various policy documents, including Section 255 of the National Housing Act, 24 CFR 206.41, HUD Handbooks 4235.1 REV-1 (HECM Handbook); 7610.1 REV-4 (Housing Counseling Handbook); and Mortgagee letters 04-25, 00-39 and 00-10. This mortgagee letter clarifies the policy documents as they relate to HECM counseling. This mortgagee letter also outlines additional activities that a mortgagee may perform prior to counseling and therefore supplements the activities outlined in Mortgagee Letter 04-25.

Who Must Receive HECM Counseling

To be eligible for insurance under section 255 of the National Housing Act (NHA) (12 USC 1715z-20), a HECM must have been executed by a mortgagor who has received counseling by a third party other than the HECM lender. NHA Section 255(f) and FHA regulations at 24 CFR 206.41 provide what information a counselor must discuss with a prospective HECM borrower.

FHA has received several inquiries from HECM lenders, prospective HECM borrowers, and housing counselors regarding the provision of HECM counseling for prospective HECM borrowers, their spouses, children, and persons with a reversionary or remainder interest in the real estate, which will serve as the security for an FHA-insured HECM.

This Mortgagee Letter discusses counseling for the following parties:

- (1) The non-borrower spouse of a prospective HECM borrower.
- (2) A trustee, trust beneficiaries, or persons with a reversionary or remainder

interest.

(3) The children of a prospective HECM borrower(s).

Counseling Requirements for the Non-Borrower Spouse

It has been brought to FHA's attention that spouses of prospective HECM borrowers have quitclaimed their interest in real estate, which will serve as the security for an FHA-insured HECM, when the spouse of the prospective HECM borrower has chosen not to seek, or is ineligible for, an FHA-insured HECM.

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 is currently on the title for the real estate that will serve as the security for the FHA-insured HECM and is eligible for a HECM, but instead 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.

During counseling, all parties must be made aware that the FHA-insured HECM cannot be assumed by the non-borrower spouse upon the HECM borrower's death, or change of primary residence. In other words, the HECM becomes due and payable upon the HECM borrower's death, or when the real estate, which serves as the security for the FHA-insured HECM, is no longer the primary residence of the HECM borrower.

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

Under FHA regulations at 24 CFR section 206.35, 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. The referenced "reversionary or remainder interest" is an interest in the real estate that will serve as the security for the FHA-insured HECM.

FHA will insure a HECM on property held in the name of the trust and beneficiaries/HECM borrowers according to the provisions described in the HECM Handbook 4235.1, Rev.1 and ML 93-22. The HECM Handbook and ML 93-22 provide, in part, that 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. Persons with a reversionary or remainder interest in the real estate, or trustees and trust beneficiaries, who do not attend HECM counseling should nonetheless be familiar with the program requirements for the FHA-insured HECM.

HECM counseling may be made available by a HUD-approved housing counseling agency, if requested by persons with a reversionary or remainder interest, or trustees and trust beneficiaries. Persons with a reversionary or remainder interest, or trustees and trust beneficiaries may go to a HUD-approved housing counseling agency of their choice. Counseling for these individuals does not have to take place at the same agency that provided HECM counseling to the HECM borrower. If a person with a reversionary or remainder interest in the real estate or trustees and trustee beneficiaries that are not HECM borrowers receives HECM counseling, they will not sign the HECM certificate.

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. Although counseling for the child of a prospective HECM borrower is not required, it is permissible, and HECM counseling will be made available by a HUD-approved housing counseling agency, if requested by the child. Counseling for the children of a prospective borrower does not have to take place at the same agency that provided HECM counseling to the borrower.

Activities Permitted Prior To Counseling

FHA will now permit lenders to use automated valuation models (AVMs) to perform a preliminary estimation of the value of the real estate that will serve as security for the FHA-insured HECM. The AVM, however, does not take the place of the FHA appraisal. Regardless of whether or not a prospective borrower closes on a HECM, the prospective borrower should not be charged a fee(s) for the AVM.

In addition, a HECM lender may order a preliminary title search prior to the prospective HECM borrower receiving counseling. However, the prospective HECM borrower may choose to seek counseling prior to or after the lender orders a preliminary title search. In other words a prospective HECM borrower does not have to wait until the HECM lender orders and reviews the preliminary title search to receive counseling.

The costs associated with the preliminary title search will be paid at closing. If a prospective HECM borrower does not proceed to closing on the HECM, the borrower may not be charged for this service.

New HECM Counseling Certificate

The HECM counseling certificate has been revised. Attached is a copy of the revised form. This form is available on HUD Clips at www.hudclips.org. 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. HUD has learned of a recent fraud scheme involving loan officers originating HECMs and arranging to keep the HECM borrower's loan proceeds. In one case the loan officer arranges for the title company to pay the loan proceeds through two checks. One check is sent to the senior and the other is kept by the loan officer. In another case loan officers are convincing seniors that a standard procedure in the HECM origination process is to sign over the loan proceeds to the loan officer for future disbursement to the HECM borrower. In these cases the loan officer may make a few payments but then keeps the balance of the funds. 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. While this type of fraud does not happen in the majority of HECM transactions, HUD believes it is important to educate prospective HECM borrowers about how to avoid becoming victims of fraud schemes.

Effective Date: September 28, 2006

Mortgagee Letter 07-06- Home Equity Conversion Mortgage Program: Existing Property Eligibility Requirements

This Mortgagee Letter clarifies the Federal Housing Administration's (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. For example, if the prospective borrower occupies a property that has been recently constructed, lenders can ensure that construction is complete and habitable by reviewing the Certificate of Occupancy, or its equivalent, that has been issued by the local jurisdiction. Therefore, 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

Mortgagee Letter 07-08- Home Equity Conversion Mortgage Program: Face-To-Face Interviews

This Mortgagee Letter informs Federal Housing Administration (FHA) approved lenders and Department of Housing and Urban Development (HUD) approved housing counseling agencies that 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 loan origination and counseling activities by telephone. This new policy is effective immediately.

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

Mortgagee Letter 07-13- Home Equity Conversion Mortgage Program: Adjustable Rate Mortgages – Addition of LIBOR Index

The Federal Housing Administration is pleased to announce that the Department of Housing and Urban Development published a final rule in the Federal Register at 72 FR 40048 amending regulations at 24 CFR 203.49(b) to permit FHA to insure all forward adjustable rate mortgage (ARM) loan products using the 1-Year London Interbank Offered Rate (LIBOR) as an acceptable index option.

In addition, this final rule amended HUD’s regulation at 24 CFR 206.3 to add the use of both the 1-Month LIBOR index and the 1-Month Constant Maturity Treasury (CMT) index for calculating the interest rate adjustments on the monthly adjusting Home Equity Conversion Mortgage (HECM). The final rule 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.

These new options are effective for mortgages insured on or after the date of this Mortgagee Letter. While FHA expects that the market will determine the degree of usage of the LIBOR indices, the existing CMT indices will remain acceptable for 1-, 3-, 5-, 7-, and 10-Year forward ARMs, and for HECM ARMs.

Index Consistency

The two index types, CMT and LIBOR, cannot be commingled. As an example, under the HECM program, when a particular index type (LIBOR or CMT) is chosen to calculate the Expected Interest Rate, it must also be used to calculate the periodic interest rate changes.

Index Availability and Utilization

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

Index Availability

The new regulation permits the use of the 1-Month CMT for calculating interest rate adjustments on monthly adjusting HECM ARMS. The weekly averages of the 1-Month, 1-Year, and 10-Year CMT indices and the 10-Year LIBOR swap rate are published Mondays (or the following business day if a holiday) in the Federal Reserve Board Statistical Release H.15 at <http://www.federalreserve.gov/releases/h15/current>. The weekly averages of the 1-Month and 1-Year CMT are available in the “Treasury

constant maturities” section of the H.15 while the 10-Year LIBOR swap rate is available in the “Interest rate swaps” section.

The source of the 1-Month and 1-Year LIBOR indices is *The Wall Street Journal* as published on the first business day of each week, which is Monday, or Tuesday if Monday is a non-publishing day. Should the Federal Reserve begin publishing these 1-Month and 1-Year LIBOR indices in H.15, then lenders must use the H.15 as the source for these LIBOR rates. However, unless and until the 1-Month and 1-Year LIBOR indices are issued in the H.15, *The Wall Street Journal*, as published on the first business day of each week (Monday, or Tuesday if Monday is a non-publishing day) is the source for these LIBOR indices. The published LIBOR index figure shall be rounded to three digits to the right of the decimal point.

Calculating the Expected Interest Rate, Initial Interest Rate, and Principal Limit Locks: Pre-closing

When locking-in the Expected Interest Rate, calculating Principal Limits, establishing the Initial (accrual) Interest Rate, or closing a HECM loan, the CMT indices and the weekly average of the 10-Year LIBOR swap rate as shown in the H.15 release are effective the next day after they are published, until the day after the H.15 is published the following week. The 1-Month and 1-Year LIBOR rates as published in *The Wall Street Journal* on the first business day of each week are effective the next day after they are published, until the day after the rates are published the following week.

Lenders may continue to offer the lock-in features described in Mortgagee Letter 06-22, however, if a borrower chooses or is offered an index and/or a margin different from that chosen or offered at application, the Expected Interest Rate used to calculate the Principal Limit shall be the new margin chosen or offered, plus the index as applicable, as of the application date or the date of closing, whichever is lower.

Effective Date: October 12, 2007

Mortgagee Letter 08-08- Home Equity Conversion Mortgages - Fixed Interest Rate

This Mortgagee Letter provides guidance to FHA-approved lenders choosing to offer a fixed interest rate Home Equity Conversion Mortgage (HECM). Specifically, this Mortgagee Letter 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.

Open-Ended/Closed-Ended Credit

Fixed interest rate HECMs may be either open or closed-ended credit. The Note and Loan Agreement must reflect whether the HECM is open or closed-ended credit. FHA also reminds lenders that they are permitted to make the necessary and appropriate modifications to HECM legal documents to ensure compliance with FHA requirements as well as other Federal, State and local laws.

Fixed Mortgage Interest Rate

Lenders offering fixed interest rate HECMs are reminded that the “expected average mortgage interest rate” used to determine the principal limit must be the same as the HECM note interest rate and set simultaneously. For example, if a lender offers a line-of-credit payment plan with an interest rate of seven percent (7%) fixed then the interest rate (i.e., the “expected average mortgage interest rate”) used to calculate the principal limit, and the HECM note rate must both be set at seven percent (7%).

Monthly Servicing Fee and Post Closing Changes

The allowable monthly servicing fee for fixed interest rate HECMs can be up to \$30.00, if the cost has not already been included in the borrower’s Note interest rate. Lenders may not charge any other fee for servicing responsibilities associated with the mortgage unless the charge has been authorized by the Secretary. For example, lenders may charge up to \$20.00 for post-closing payment plan changes.

Borrowers may not change from a fixed interest rate payment plan to an adjustable interest rate payment plan unless they elect to refinance their existing mortgage.

Effective Date: March 28, 2008

Mortgagee Letter 08-12- Home Equity Conversion Mortgage (HECM) Program: Counseling Fee

The purpose of this Mortgagee Letter is to provide guidance regarding reasonable Home Equity Conversion Mortgage (HECM) counseling fees that may be charged in light of these regulations.

In accordance with the regulations at 24 CFR 214.313, the Federal Housing Administration (FHA) has determined that 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. HUD recommends that the housing counseling agency have written procedures in place for determining ability to pay. Such procedures should support that a determination is based on objective criteria, and not a subjective determination. The counseling file of each client charged fees should include documentation demonstrating that the cost does not create a financial hardship.

Agencies must inform clients of the fee structure in advance of providing services. 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.

Appropriate Charges

Based on feedback from reverse mortgage counseling providers and cost data collected by HUD, HUD has determined that a HECM counseling fee of \$125 per counseling session constitutes a reasonable and customary fee, and does not exceed a level so as to be generally commensurate with the education and counseling services that are typically provided. As provided in 24 CFR 214.313(c)(3), agencies may not impose fees upon clients for the same portion of or for an entire service that is already funded with HUD Housing Counseling grant funds.

The fee charged may not be excessive and must be commensurate with services actually performed. Should the cost of providing HECM counseling be less than \$125, the maximum amount an agency may charge is the actual cost of counseling. All agencies charging fees for HECM counseling must document, in the client file, the actual cost of providing the counseling.

Related Parties

Agencies participating in HUD's Housing Counseling Program may charge a reasonable and customary fee for HECM counseling to HECM borrowers, and all other related parties including spouses, children, trustees, and trust beneficiaries, that are required to or chose to receive counseling. (Mortgagee Letter 2006-25 provides guidance concerning housing counseling requirements for prospective HECM borrowers, and explains who must receive counseling.) If counseling for related parties takes place separately from the counseling sessions for the HECM borrowers, HUD has determined that a recommended fee of \$125 per session is usually a reasonable and customary fee that may be charged. Unless agreed to by the HECM borrower, fees to counsel related parties cannot be paid out of the HECM loan proceeds. Mortgagee Letter 2006-25 states that related parties may go to a HUD-approved counseling agency of their choice to receive counseling. However, if the potential HECM borrower and related parties request that they all be counseled during the same session, counseling agencies should make every practical effort to do so.

Payment of Counseling Fee

The HECM counseling charges may be paid in any of three ways:

- (1) The HECM counseling client and related parties can pay counseling fees directly to the agency; or
- (2) Lenders may pay HUD-approved counseling agencies for counseling services, through a lump sum or on a case-by-case basis. The Lender payment may be made directly to the counseling agency or disbursed at closing by the settlement agent, as provided in paragraph (3) below. The Lender payment may be made directly to the counseling agency or disbursed at closing by the settlement agent. As required in §214.303(g), counseling agencies must disclose to their clients any funding or relationships with lenders. Lenders that pay agencies for counseling services may seek reimbursement from clients who proceed with the HECM and become HECM borrowers (see 206.31(a)(2)(vii); or
- (3) The cost of HECM counseling can be paid out of a HECM borrower's loan proceeds. Upon agreement of both the lender and the borrower, the closing agent can assume responsibility for remitting payment to the counseling agency that performed the service.

Payment under any of these methods must be reflected in the 800 series on the HUD-1 settlement statement in accordance with HUD's Real Estate Settlement Procedure regulations at 24 CFR part 3500 (see 24 CFR 3500.8).

Mortgagees are reminded that, as explained in Mortgagee Letter 2004-25, the lender may not steer, direct, recommend, or otherwise encourage a client to seek the services of any one particular counseling agency.

Effective Date: May 6, 2008

Mortgagee Letter 08-14- Home Equity Conversion Mortgage Program - Non FHA Approved Mortgage Brokers

This Mortgagee Letter reminds lenders of FHA's policy regarding the use of non FHA-approved mortgage brokers, subsequently referred to as a non-approved entity or third party (i.e., advisor, consultant, mortgage broker) to support the origination of FHA-insured Home Equity Conversion Mortgages (HECM). Loan origination must be performed by FHA approved entities which include: (1) an FHA-approved loan correspondent and sponsor; (2) an FHA-approved mortgagee through its retail channel; or (3) an FHA-approved mortgagee working with another FHA-approved mortgagee. However, FHA policy permits a non-approved entity or third party to assist in the origination of insured loans in certain limited ways, and to receive compensation for such services actually provided under certain limited circumstances.

This Mortgagee Letter describes the ways in which a non-approved entity or third party may support the origination of HECMs and the limited circumstances under which they may be compensated, consistent with both applicable FHA policy and applicable requirements of the federal Real Estate Settlement Procedures Act (RESPA) and its implementing regulations found at 24 CFR Part 3500.

FHA-approved entities are required to complete the full origination process, as described below, in order to be compensated for their services. A non-approved entity or third party may provide more limited services only and be compensated for those limited services under the circumstances described in this Mortgagee Letter and applicable FHA and RESPA regulations.

FHA will not permit an FHA-approved entity to serve in the limited capacity of a non-approved entity or third party.

Required Activities for FHA-Approved Entities

FHA-approved entities must perform certain activities to be compensated. In RESPA Statement of Policy 1999-1(64 Federal Register 10080, 10085, March 1, 1999), HUD identified the following services that are normally performed in the origination of a loan. For FHA-insured loans, including HECMs, only 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. Under 24 CFR 206.31(a)(1), 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 mortgagee.” 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 mortgagee or loan correspondent.

Under this regulation, the non-approved entity or third party may not be compensated for simply referring the mortgage loan application to FHA-approved entities; nor may the non-approved entity or third party perform the origination activities that must be performed by FHA-approved entities. For example, 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.

FHA permits the non-approved entity or third party to provide advisory and educational services to the HECM borrower; and under RESPA, the non-approved entity or third party may receive bona fide compensation for those services. For example, 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. RESPA Statement of Policy 1999-1, addresses the amount of compensation a mortgage broker may receive for such services.

Compensation for Non-Approved Entities

With the HECM, a non-approved entity or third party may be compensated for certain limited services as described in this letter when:

- a. The non-approved entity or third party provides actual services and not simply a referral.
- b. The services are meaningful and do not constitute steering, as described in RESPA Policy Statement 1999-1, or merely delivering a loan with a higher interest rate, as described in RESPA Statement of Policy 2001-1.
- c. The compensation is paid by the borrower directly from the borrower’s own available assets or from HECM loan proceeds. If the payment comes from the HECM proceeds, the amount would be added to the loan balance and disbursed to the broker by the closing agent. In all cases, the amount paid must be included in (subtracted from) the loan origination fee which is capped at the greater of \$2,000 or 2% of the maximum claim amount.
- d. The amount paid is no more than the reasonable value for such services. For example, if the payment bears no reasonable relationship to the market value of the services provided, the excess over the market rate may be used as

- evidence of a compensated referral or unearned fee in violation of section 8(a) or (b) of RESPA and 24 CFR 3500.14.
- e. The final HUD-1 Settlement Statement contains the amount paid and name of the mortgage broker

The signed written agreement between the borrower and non-approved entity or third party, describing the advisory and educational services to be performed and the amount of compensation for each service, is included in the FHA case binder.

Effective Date: May 16, 2008

Mortgagee Letter 08-24- Home Equity Conversion Mortgage (HECM) Program - Requirements on Mortgage Originators

Section 2122 (a) (9) of the Housing and Economic Recovery Act of 2008 (HERA) added Section 255 (n) to the National Housing Act to establish new requirements on HECM mortgage originators. Sections 255 (n)(1) and (n)(2) are described separately below.

Section 255 (n)(1): This section provides that a HECM mortgage originator or any other party that participates in the origination of a FHA insured HECM mortgage shall (1) 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) demonstrate to the Secretary of HUD that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that (i) individuals participating in the origination of a HECM mortgage have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and (ii) the mortgagor 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.

Before providing definitive guidance on Section 255 (n)(1), FHA intends to seek comments from the public, including consumer groups, industry participants and other interested parties through appropriate administrative means. This will assist FHA in determining what requirements may already be in existence to address the consumer protections with which this section is concerned; for example, there may be state requirements in existence that govern insurance products. Until such comment is solicited and received, and FHA issues more definitive guidance, FHA advises that mortgagees must not condition a HECM mortgage on the purchase of any other financial or insurance product, and should strive to establish, consistent with the new law, firewalls and other safeguards to ensure there is no undue pressure or appearance of pressure for a mortgagor to purchase another product of the mortgage originator or mortgage originator's company.

Section 255 (n)(2): This section requires that all parties that participate in the origination of a mortgage to be insured under FHA's HECM program must be approved

by the Secretary. This requirement means that loan origination must be performed by FHA approved entities including: (1) a FHA-approved loan correspondent and sponsor; (2) a FHA approved mortgagee through its retail channel; or (3) a FHA-approved mortgagee working with another FHA-approved mortgagee.

Consequently, Mortgage Letter 2008-14, which provided guidance regarding the ways in which a non-approved entity or third party may participate and be compensated, is rescinded, effective on October 1, 2008. Beginning with case number assignments made on or after that date, only FHA-approved mortgagees, as described above, may participate and be compensated for the origination of HECMs to be insured by FHA.

Effective Date: September 16, 2008

Mortgage Letter 08-28- Prohibition on Lender Funded Home Equity Conversion Mortgage (HECM) Counseling

This Mortgage Letter informs Federal Housing Administration (FHA) approved Mortgagees and Department of Housing and Urban Development (HUD) approved housing counseling agencies that lenders are no longer permitted to pay for HECM counseling on behalf of potential borrowers. This new statutory requirement is effective immediately. This ML rescinds paragraph (2) of the section entitled Payment of Counseling Fee in ML 2008-12.

Section 2122 of the "Housing and Economic Recovery Act of 2008" (HERA) (Pub. L. No. 110-289), enacted July 30, 2008, requires that the HECM mortgage must be executed by a mortgagor who received adequate counseling from an independent third party that is not either directly or indirectly associated or compensated by a party involved in 1) originating or servicing the mortgage; 2) funding the loan underlying the mortgage; or 3) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product.

No Permissible Method for Payments

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.

Funding for Other Housing Counseling Services

Lenders may continue to pay for other types of housing counseling not associated with the HECM program, including pre-purchase and foreclosure prevention counseling, under certain conditions, as addressed in 24 CFR Part 214, regulations for HUD's Housing Counseling Program.

These transactions and relationships, as well as any other financial relationship between the counseling agency and any industry participant, must be disclosed to the counseling recipient.

Effective Date: September 29, 2008

Mortgagee Letter 08-34- HECM Origination Fee – New Limits

The Housing and Economic Recovery Act of 2008 established new limits on the loan origination fee that may be charged for a Federal Housing Administration (FHA) Home Equity Conversion Mortgage (HECM). Therefore, for all HECMs where the FHA case number is assigned on or after the date of this mortgagee letter, 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.

Origination Fee Limit Examples

- Minimum of \$2,500
- 2% of MCA up to \$200,000
- Additional 1% of MCA > \$200,000
- Maximum amount of \$6,000

Example 1	Example 2	Example 3
Maximum Claim Amount \$100,000	Maximum Claim Amount \$300,000	Maximum Claim Amount \$417,000
Origination Fee Limit \$2,500	Origination Fee Limit \$5,000	Origination Fee Limit \$6,000
Calculation 2% of \$100,000 = \$2,000 Origination Fee = the greater of \$2,000 or \$2,500	Calculation 2% of \$200,000 = \$4,000 1% of \$100,000 = \$1,000 Total \$5,000	Calculation 2% of \$200,000 = \$4,000 1% of \$217,000 = \$2,170 Total \$6,170 Origination Fee may not exceed \$6,000

Effective Date: October 31, 2008

Mortgagee Letter 08-35- HECM Mortgage Limits - Effective Immediately

The Housing and Economic Recovery Act of 2008 (HERA) established a national mortgage limit for all Home Equity Conversion Mortgages (HECM), insured under Section 255 of the National Housing Act, to be set in conformance with section 305(a)(2) of the Federal Housing Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)). Effective for all HECMs insured on or after the date of this Mortgagee Letter, the national mortgage limit is **\$417,000**.

Special Exceptions for Certain Areas of Hawaii

Section 214 of the National Housing Act permits mortgage limits for all areas of Alaska, Guam, Hawaii and the Virgin Islands to exceed the mortgage limit by up to 150%. The new HECM national mortgage limit of \$417,000 effectively raises the mortgage limit in all of these areas except 1) Hilo, Hawaii; 2) Honolulu, Hawaii; 3) Kapa, Hawaii; and 4) Kahului-Wailuku, Hawaii. Enforcement of the new national mortgage limit would effectively reduce the mortgage limits in these areas; therefore, they will continue to operate under the current mortgage limits as shown below.

MSA Name	MSA Code	County Name	County Code	State	One-Family
HILO, HI (MICRO)	25900	HAWAII	001	HI	\$470,250
HONOLULU, HI (MSA)	26180	HONOLULU	003	HI	\$544,185
KAPAA, HI (MICRO)	28180	KAUAI	007	HI	\$544,185
KAHULUI-WAILUKU, HI (MICRO)	27980	MAUI	009	HI	\$544,185

The rates shown for these areas are based on current mortgage limits and are subject to change upon publication of newly calculated mortgage limits which will be published in a new mortgagee letter in the near future. Re-calculation of loans

Lenders must use the national mortgage limit and calculate the loan origination fee using limitations established by HERA, and new policy guidance issued by FHA, when re-calculating HECM loans that did not close prior to October 13, 2008.

Maximum Claim Amount

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 one family residence. 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

Mortgagee Letter 08-38- Home Equity Conversion Mortgages (HECMs) – Clarification regarding borrower’s recourse for repayment of HECM loan debt and termination of a HECM mortgage

The purpose of this Mortgagee Letter is to provide a 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 mortgagee’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 mortgagee 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), mortgagees and appraisers.

Effective Date: December 5, 2008

Mortgagee Letter 09-07- Loan Limit Increases for FHA

This Mortgagee Letter provides information on Federal Housing Administration (FHA) single family loan limits that have changed as a result of the American Recovery and Reinvestment Act of 2009 (ARRA) signed into law on February 17, 2009. These limits are effective for those loans for which credit is approved in calendar year (CY) 2009 and will remain in effect until December 31, 2009.

Home Equity Conversion Mortgages:

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). HECM loan mortgagors do not undergo the same procedures for credit approval as do mortgagors for forward mortgages. FHA does not deem the credit approval process to be complete until the HECM loan is closed. Therefore, HECM loans closed on or after the date of this Mortgagee Letter are subject to the higher maximum dollar amounts.

In those areas, the maximum claim payable by FHA is 150 percent of the Freddie Mac conforming limits. To avoid potential cases where a claim could be less than the national limit, as adjusted for the special exception areas, HUD had decided **not** to make the adjustment. Therefore, these few special exception areas will have the same \$625,500 limit as all other areas.

FHA will, for a limited time, allow HECM loans that received case number assignments but did not close prior to the effective date of this mortgagee letter to be closed using either the old limit that was used to originally calculate the loan, or the new limits as prescribed herein. An option will be made available in FHA Connection for the lender to choose which rate to use. This option will be available until April 30, 2009.

Effective Date: February 24, 2009

Mortgagee Letter 09-10- Home Equity Conversion Mortgage Program: Clarification of Home Equity Conversion Mortgage Counseling Issues

The purpose of this Mortgagee Letter (ML) is to clarify several issues regarding Home Equity Conversion Mortgage (HECM) counseling requirements for prospective HECM borrowers. Specifically, this ML clarifies and/or reiterates: (a) the Federal Housing Administration (FHA) requires the prospective borrower to initiate the request for counseling; (b) requirements for lenders to provide a list of counseling agencies to prospective HECM borrowers; (c) requirement for counselors to review and document a client's unique financial situation; and (d) use of the new Certificate of HECM Counseling.

All of the policies covered by this ML are included in various sources, including Section 255 of the National Housing Act, 24 CFR parts 206 and 214, HUD Handbooks 4235.1 REV-1 (HECM Handbook); 7610.1 REV-4 (Housing Counseling Handbook); and Mortgagee Letters 04-25, 04-48, 00-39, 00-10, 06-25 and 08-12. This ML clarifies the policy documents as they relate to 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. A toll-free number will be available on HUD's website at <http://www.hud.gov/offices/hsg/sfh/hcc/hccprof18.cfm>

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

ML 2008-12 clarifies conditions under which potential borrowers may be charged fees for HECM counseling. As a result, HUD has updated Form HUD-92902, Certificate of HECM Counseling. The revised certificate provides 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. To access and view the updated form HUD-92902, go to the following link: <http://www.hud.gov/offices/adm/hudclips/forms/files/92902.pdf>.

Effective Date: March 27, 2009

Mortgagee Letter 09-11- HECM for Purchase Program

On October 20, 2008, the Federal Housing Administration (FHA) published Mortgagee Letter (ML) 2008-33, announcing the Home Equity Conversion Mortgage (HECM) for Purchase program which allows qualifying seniors to use HECM proceeds for the purchase of a new principal residence. Since its publication, the reverse mortgage industry has sought additional guidance concerning HECM purchase transactions. This

ML contains a compilation of guidance issued under ML 2008-33 and new guidance for the HECM for Purchase program and, therefore, supersedes ML 2008-33.

The Federal Housing Administration (FHA) defines “HECM for Purchase” as a real estate purchase where: title to the property is transferred to the HECM mortgagor; the mortgagor 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 mortgagors 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 mortgagor, in connection with the HECM transaction, are satisfied at closing.

PRINCIPAL RESIDENCE

In accordance with regulatory requirements found at 24 CFR 206.3, HECM mortgagors may have only one principal residence at any one time. Current HECM mortgagors that plan to sell their existing residence and use the HECM for purchase program to obtain a new principal residence must payoff the existing FHA-insured mortgage before the HECM for Purchase mortgage can be insured.

When prospective mortgagors 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 (ie: 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. Those requirements, as provided in section 255(b)(4) of the National Housing Act and

implemented in the HECM regulations at 24 CFR 206.45, provide, in part, that 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 mortgagor.

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 mortgagors 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. Lenders providing HECM financing for purchase transactions must comply with FHA regulations at 24 CFR 203.37a and guidance provided in ML 2006-14.

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. Additional appraisal guidance can be found in ML [2005-48](#) and Revised Appendix D of Handbook 4150.2 CHG-1.

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 mortgagors 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

The maximum claim amount is used to determine the principal limit and mortgage insurance premium for FHA-insured mortgage transactions. 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. Neither the estimate of closing costs nor the initial mortgage insurance premium is used in the calculation of the maximum claim amount.

MONETARY INVESTMENT

The principal limit will be calculated in accordance with HECM regulations at 24 CFR 206.3, HUD Handbook 4235.1 REV-1, and applicable MLs. At closing, HECM mortgagors 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 mortgagors may choose to provide a larger investment amount in order to retain a portion of the available HECM proceeds for future draws. A set of Required Investment Examples is contained in the attachment to this ML to assist lenders with the calculation.

FUNDING SOURCES

HECM mortgagors must use cash on hand or cash from the sale or liquidation of the mortgagor'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. Supporting documentation, as specified in section 2-10 of HUD Handbook 4155, REV-5, must be provided in the FHA case binder. Failure to provide the necessary documentation may result in a notice of rejection, delay of endorsement and administrative action.

GAP FINANCING

Consistent with existing regulatory requirements at 24 CFR 206.32(a), HECM mortgagors 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 mortgagor completes the required reverse mortgage counseling and receives an estimate stating the required monetary investment could be \$25,000. The prospective HECM mortgagor has \$20,000 in liquid assets but is short the remaining \$5,000. The prospective HECM mortgagor 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 mortgagor may withdraw the \$5,000 from an insurance policy or retirement plan.

MORTGAGE INSURANCE PREMIUMS

In accordance with regulatory requirements at 24 CFR 206.105 and 206.111, lenders are required to remit an initial mortgage insurance premium of 2 % of the maximum claim amount within 15 days of closing.

REFINANCING AND EXISTING UPFRONT MORTGAGE INSURANCE PREMIUM (MIP)

The HECM refinance authority is only applicable when the property that serves as collateral for FHA-insurance remains the same. Therefore, existing HECM mortgagors who participate in a HECM for Purchase transaction are ineligible for a reduction of the upfront MIP and lenders must enter the transaction into FHA Connection as a new HECM.

SUSPENSIONS AND DEBARMENTS

Lenders must examine HUD's Limited Denial of Participation List (LDP) and the General Services Administration's (GSA) Excluded Parties List System to determine if the name of any party to the transaction including, but not limited to, the seller, real estate agent, or builder, appears on either list. The reverse mortgage will not be eligible for mortgage insurance if the name of any party to the transaction appears on either list.

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 mortgage 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 mortgagor intends to finance a balloon payment due under a land sale contract, the three day right of rescission would be applicable. FHA does not have purview over right of rescission requirements found in Regulation Z, 12 CFR Part 226. FHA strongly encourages lenders to seek an outside counsel's opinion to assure compliance with all applicable Federal or State laws.

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 mortgagor.
- 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.

Lenders originating HECM for purchase transactions are responsible for determining whether a particular HECM loan is open or closed-end credit. In accordance with 24 CFR 206.43, lenders must comply with the regulatory disclosure requirements.

Effective Date: March 27, 2009

Mortgagee Letter 09-21- Home Equity Conversion Mortgage Refinancing of Existing Loans

This Mortgagee Letter reiterates and clarifies policy guidance that mortgagees must use when refinancing existing HECM mortgages.

REFINANCING EXISTING LOANS

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 mortgagors 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

It was brought to our attention that, in some instances, the terminology in the Anti-Churning Disclosure and Exhibit attached to ML 2004-18 caused confusion when calculating the cost of the HECM refinance. The *Anti-Churning Disclosure Requirement* section of this ML and the attached Exhibit define terms to eliminate any confusion.

The official HUD form HUD-92901 "Home Equity Conversion Mortgage (HECM) Anti-Churning Disclosure" is attached to this mortgagee letter. The Anti-Churning Disclosure form must be signed by the mortgagor and be included in the FHA case binder. This form ensures that the mortgagor is not being induced to refinance his/her existing HECM without benefit to the mortgagor and/or solely for the benefit of the mortgagee.

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

- 1) the total cost of the refinancing to the mortgagor; and
- 2) the increase in the mortgagor'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 mortgagor could withdraw from the existing HECM.

In addition, to ensure the mortgagor 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 mortgagee shall provide a best estimate of funds available to the mortgagor minus any closing costs and other fees.

The mortgagee is responsible for determining whether a particular HECM loan is an open-end or closed-end line of credit, and whether the RESPA or TILA and Regulation Z disclosure requirements are applicable to the transaction. Requirements follow:

Housing Counseling Requirements

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

- 1) The mortgagor has received the required HECM Anti-Churning Disclosure form;
- 2) The increase in the mortgagor'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 mortgagor opts out of HECM counseling, the mortgagee must include an estimate of the increase in the mortgagor's principal limit in the FHA case binder to document this condition for the waiver has been met. Further clarification is included in Exhibit 1, attached, which illustrates how to calculate the total cost of HECM refinance. The exhibit also illustrates how to determine whether the counseling requirement may be waived.

Information Provided to Mortgagees Originating HECM Refinance Loans

The originating mortgagee of a HECM refinance must contact the current HECM Servicer and obtain the following information.

- Maximum claim amount for the existing HECM.
- The current principal limit of the existing HECM.
- The payoff amount for the existing HECM.

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.

Principal Limit Factor Table

FHA is making the new factor table available on HUD's web site, to assist lenders, counselors, and other involved in FHA's reverse mortgage program with immediate implementation of this program change. The new table may be uploaded or copied from the site directly into any reverse mortgage technology systems or tool used to support the HECM program. The new PLF table is posted on the following web site:

<http://www.hud.gov/offices/hsg/sfh/hecm/hecmhomelenders.cfm>

Effective Date: September 23, 2009

Mortgagee Letter 09-47- Standardization and Roster Final Rule

Purpose

This Mortgagee Letter 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

FHA Connection will now play a new role in the HECM Counseling Program. 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. HECM Counselor Roster counselors must begin using the system-generated HECM Counseling Certificates immediately after they have received their FHA Connection ID and are placed on the Roster.

Lenders will access information on the client’s HECM Counseling Certificate by entering the ID number in the upper right hand corner of HUD-92902 into FHA Connection. Lenders will not verify a counseling agency using the agency’s EIN.

Note: Non-FHA Connection generated HECM Counseling Certificates will not be accepted by lenders if they are dated after October 2, 2009. The requirements of MLs 2004-25, 2006-25, and 2009-10 regarding HECM certificates remain in effect.

Effective Date: November 6, 2009

Mortgagee Letter 09-49- Home Equity Conversion Mortgage Program: 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

HECM regulations at 24 CFR 206.32(a) require that there shall be no outstanding or unpaid obligations, either unsecured or secured, incurred by the HECM mortgagor in connection with the HECM transaction, except in cases involving repairs to the property required under 24 CFR 206.47, or mortgage servicing charges permitted under 24 CFR 206.207(b), or both.

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 mortgagor to satisfy an unpaid or local court-ordered judgment prior to or at closing, although the mortgagee 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 mortgagor and the Federal agency owed must be in place prior to closing of the HECM. In addition, a prospective HECM mortgagor'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 mortgagor's net principal limit, unless the mortgagor 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 mortgagee'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 mortgagor 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

Mortgagee Letter 10-07- Revisions to Model Home Equity Conversion Mortgage (HECM) Loan Agreement (Loan Agreement) and Fannie Mae Form 1009, Residential Application for Reverse Mortgages (Fannie Mae Form 1009)

This Mortgagee Letter informs lenders and HECM counselors of

- Revisions to the model HECM Loan Agreement (HECM Loan Agreement);
- Revisions to the model HECM Loan Agreement Exhibits; and
- Revisions to Fannie Mae Form 1009, Residential Loan Application for Reverse Mortgages (Fannie Mae Form 1009).

Effective Date: March 1, 2010

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

The U.S. Department of Housing and Urban Development (HUD), Federal Housing Administration (FHA) is pleased to announce a second option for the Home Equity Conversion Mortgage (HECM) Program. FHA designed HECM Saver as a second initial mortgage insurance premium (MIP) option for the purpose of lowering upfront loan closing costs, for mortgagors 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, mortgagors may select either HECM Saver or HECM Standard as an initial MIP.

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.

Pipeline of HECMs

All loans that have not closed and the FHA case number was assigned as of October 3, 2010, may be processed using an initial premium of 2 percent (2%), a monthly premium of 0.50 percent (0.50%) and the fiscal year 2010 principal limit factor table. The lender need not change the principal limit calculation or re-disclose to the mortgagor since there is no change to the amount of the HECM loan proceeds the mortgagor will receive.

However, FHA will permit mortgagors with case numbers that were assigned on or before October 3, 2010, but the loan has not closed, to convert to HECM Saver. Conversions to HECM Saver will change the amount of the mortgagor's initial MIP and principal limit amount, thus requiring re-disclosure. Mortgagees must update the "ADP Code" and "Housing Program" data fields located on the Case Number Assignment Screen in FHA Connection in order to convert a loan to a HECM Saver.

Effective Date: September 21, 2010

Mortgagee Letter 11-01 - Home Equity Conversion Mortgage Property Charge Loss Mitigation

Subject Matter: 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

Additional Information:

- Read entire mortgagee letter at [HUD Website](#)
- See handouts from [Webex Training Session](#)