U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

October 20, 2008

MORTGAGEE LETTER 2008-33

TO: **ALL APPROVED MORTGAGEES**
ALL HUD-APPROVED HOUSING COUNSELING AGENCIES

SUBJECT: Home Equity Conversion Mortgage (HECM) for Purchase Program

The Housing and Economic Recovery Act of 2008 (HERA) provides HECM mortgagors with the opportunity to purchase a new principal residence with HECM loan proceeds. Section 2122(a)(9) of HERA amends section 255 of the National Housing Act to authorize the Department of Housing and Urban Development (HUD) to insure HECMs used for the purchase of a 1- to 4-family dwelling unit. Accordingly, eligible mortgagors now have the opportunity to purchase a principal residence with HECM loan proceeds. HECM for purchase transactions, for which the FHA case number is assigned on or after January 1, 2009, must satisfy existing program requirements and the provisions of this Mortgagee Letter.

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, which the mortgagor will occupy 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.

Eligible Property Types

Only properties where construction is completed, as defined in Mortgagee Letter 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 purchasing 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 residence 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.

Property Flipping

Prospective mortgagors should be alert to efforts to coerce them into obtaining a reverse mortgage as part of a purchase contractual obligation, or purchasing a distressed home in need of substantial repairs but being sold at or above market rate.

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 sales price exceeds 100% of the previous sales price, FHA will require additional documentation validating the property's value. Lenders providing HECM financing for purchase transactions must comply with guidance provided in Mortgagee Letter 2006-14.

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.

Monetary Investment

Consistent with existing policy, the maximum claim amount and principal limit will continue to be calculated in accordance 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 sales price for the property, plus any HECM loan related fees that are not financed or offset by other allowable FHA funding sources. HECM mortgagors may choose to provide a larger investment amount in order to retain a portion of the available HECM proceeds for future draws.

Required Investment Examples

Example #1		**Example #2**		**Example #3**	
Appraised Value/MCA*	$300,000	Appraised Value/MCA*	$300,000	Appraised Value/MCA*	$300,000
Sales price	$300,000	Sales price	$325,000	Sales price	$280,000
Principal Limit**	$199,500	Principal Limit**	$199,500	Principal Limit**	$199,500
Minus Loan Fees	$ 15,500	Minus Loan Fees	$ 15,500	Minus Loan Fees	$ 15,500
Avail. HECM proceeds	$184,000	Avail. HECM proceeds	$184,000	Avail. HECM proceeds	$184,000
Req. Investment	$116,000	Req. Investment	$141,000	Req. Investment	$ 96,000

* Appraised Value/MCA is defined as the maximum claim amount and is used to determine the principal limit which is the lesser of the appraised value or the FHA national mortgage limit. The principal limit is the maximum amount available to the HECM mortgagor.
** Assumes the age of the youngest HECM mortgagor is 67 and a principal limit factor of .665 for a 5% expected average mortgage interest rate.

In each example above, loan fees are deducted from the principal limit of the HECM. However, it is not required that loan fees be deducted from HECM proceeds. The mortgagor may pay loan fees as part of the required monetary investment and use all HECM proceeds toward the purchase transaction.

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.

Verification of Funding Sources

Lenders will be required to verify the source of all funds prior to closing. A verification of deposit, along with the most recent bank statement, may be used to verify savings and checking accounts. If there is a large increase in an account, or the account was opened recently, the lender must obtain a credible explanation of the source of those funds. Such documentation must be provided in the FHA case binder. Failure to provide the necessary documentation may result in a notice of rejection and delay of endorsement.

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 their banking account in anticipation of being required to bring this amount to closing. However, the prospective HECM mortgagor may obtain the $5,000 from an allowable FHA funding source.

Enhanced Counseling

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

Right of Rescission

The three-day right of rescission period is not applicable to HECM for Purchase transactions. Therefore, all initial advances may be disbursed on the day of closing by the settlement agent. However, FHA encourages lenders to seek their counsel's opinion to assure compliance with 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.
- 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 a first and second lien position and, at the time of closing, no other liens against the property exist.

Consistent with existing lending practices, lenders 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.

Data Entry

Instructions on how to enter HECM for Purchase transactions into FHA Connection and Insurance Accounting Collection System will be provided in a separate instruction.

<u>Information Collection Requirements</u>

The information collection requirements contained in this Mortgagee Letter were approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). Approval of HECM Program is covered by OMB control number 2502-0524, with disclosures requirements being covered by OMB control numbers 2502-0265 and 2502-0059. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

If you have questions regarding this Mortgagee Letter, please call FHA's Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing-
Federal Housing Commissioner