



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: June 18, 2014

MORTGAGEE LETTER 2014-10

TO: ALL APPROVED MORTGAGEES

Subject Home Equity Conversion Mortgage (HECM) Program - Prohibition on Misleading or Deceptive Program Descriptions or Advertising and Prohibition on Restriction of Mortgagor’s Freedom of Choice

Purpose of Mortgagee Letter This Mortgagee Letter reminds mortgagees of the Federal Housing Administration’s (FHA) requirements prohibiting misleading or deceptive advertising and clarifies that this prohibition extends to misleading or deceptive descriptions of the HECM program.

Additionally, this Mortgagee Letter reminds mortgagees of the full extent of mortgagor choice in the HECM and prohibits the restriction of such choice.

Effective Date All requirements contained in this Mortgagee Letter are effective as of the date of this Mortgagee Letter.

Affected Topics This Mortgagee Letter explains and supplements the mortgagee’s responsibilities under the following authorities:

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| Regulations and Regulatory Mortgage Letters |
| 24 CFR § 206.25 |
| Mortgagee Letter 2013-27 |
| Mortgagee Letter 2013-33 |
| Mortgagee Letter 2013-41 |
| Mortgagee Letter 2014-11 |
| Handbook and Mortgage Letters |
| Mortgagee Letter 2011-17 |
| Handbook 4060.1 REV-2, Paragraph 2-17 |
| Handbook 4235.1 REV-1, Paragraphs 1-6 and 5-4 |
| Handbook 4330.1 REV-5, Chapter 13 |

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Background Following the recent changes to the HECM program, the Department has become aware of a variety of marketing and advertising strategies currently employed or being proposed by mortgagees to encourage borrowers to obtain HECMs. Separately, FHA is taking action to address risks in connection with new fixed interest rate HECM products. However, it is necessary to also take steps to mitigate the potential for abuse, largely related to the advertising and presentation of these particular products. FHA is therefore reminding mortgagees of their existing obligations under the HECM program and clarifying certain requirements to protect HECM mortgagors from misleading advertising and the presentation only of particular products rather than the full range of available HECM options.

Prohibition on Misleading Product Descriptions Mortgagees are required to explain in clear, consistent language all requirements and features of the HECM program. Mortgagees must ensure that mortgagors are properly informed of all features available to HECM mortgagors and may not mislead or otherwise cause a mortgagor to believe that the HECM product contains any features or limitations that are inconsistent with FHA's requirements. For example, the mortgagee must explain:

- FHA insures fixed interest rate mortgages, as well as annual and monthly adjustable interest rate mortgages;
- the mortgagor has the ability to change the method of payment under the HECM at any time provided funds are available;
- fixed interest rate mortgages are limited to the Single Disbursement Lump Sum payment option where there is a single, full draw at loan closing and the mortgage does not provide for future draws by the mortgagor under any circumstances;
- adjustable interest rate mortgages provides for five, flexible payment options, and allows for future draws;
- the amount of funds available to the mortgagor is currently determined by the age of the youngest mortgagor, and
- the disbursement of mortgage proceeds during the first twelve-month disbursement period is subject to an initial disbursement limit as determined by requirements set by the Secretary.

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Prohibition on Restriction of Mortgagor's Freedom of Choice

Under the National Housing Act, a mortgagor has the statutory right to select his or her interest rate (fixed or adjustable) at the time the reverse mortgage is originated under the HECM program. On or after the effective date of Mortgagee Letter 2014-11, if the mortgagor selects a fixed interest rate, the mortgagor will receive a Single Disbursement Lump Sum payment option at loan closing, with no future draws available to the mortgagor. If the mortgagor selects an adjustable interest rate on or after the effective date of Mortgagee Letter 2014-11, the mortgagor will be permitted to choose from the following payment options:

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

Additionally, after origination, in connection with any insured HECM providing for future draws, the mortgagor has the ability to change payment plans at any time throughout the life of the loan, provided that funds are available to be withdrawn.

The mortgagor has the right to determine what amount, if any, is to be included in the initial draw, or Borrower's Advance as defined in Mortgagee Letter 2014-11, over and above that which is necessary for the payment of mandatory obligations, up to the maximum permitted by FHA in accordance with 24 CFR § 206.25(a) as amended by Mortgagee Letters 2013-27 and 2013-33. Moreover, pursuant to 24 CFR § 206.25(g), the mortgagee is prohibited from requiring, as a condition of the loan, that any payments exceed a minimum amount.

To ensure mortgagors enjoy the full benefit of their rights under the HECM, mortgagees must ensure that all mortgagors are properly informed of all features of a HECM, and provide a true and accurate description of the mortgagor's full rights related to loan options under the HECM program.

Mortgagees are also prohibited from seeking any agreement from the mortgagor that is inconsistent with the ability of the mortgagor to exercise his or her rights to the fullest extent permitted by law.

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Prohibition on Misleading or Deceptive Advertising

Mortgagees are prohibited from using any misleading or misrepresentative advertising or marketing materials in connection with the HECM program. Mortgagees are prohibited from making any statement or representation that could mislead a mortgagor as to his or her rights under a HECM. Mortgagees may not state or imply that as a result of their approval to participate in FHA programs that any of their products have been endorsed by FHA or HUD.

Mortgagees continue to be responsible for compliance to the marketing and advertising requirements defined in Mortgagee Letter 2011-17.

Advertisement and Marketing Disclaimer

All advertisements or marketing materials used in connection with the HECM program for the purpose of describing and illustrating, to the public the types of loan products offered by the mortgagee must include a disclaimer that clearly informs the public that such materials are not from HUD or FHA and the document was not approved by the Department or Government Agency. The disclaimer must be displayed in a conspicuous location.

Effect of Noncompliance

Mortgagees are responsible for ensuring their branches, employees and agents comply with all FHA requirements. Failure to follow HUD/FHA requirements as outlined in this Mortgagee Letter may result in sanctions, including civil money penalties or administrative action against any person, party, company, firm, partnership or business, including non-FHA-approved institutions and individuals.

Information Collection Requirements

Paperwork reduction information collection requirements contained in this Mortgagee Letter are pending approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) and assigned OMB Control Numbers 2502-0059. Revisions are being made to OMB Control Number 2502-0524. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

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Questions

Any questions regarding this Mortgagee Letter should be directed to the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Carol J. Galante
Assistant Secretary for Housing - Federal Housing Commissioner
