



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

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

April 23, 2015

Mortgagee Letter 2015-10

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**To** All Approved Home Equity Conversion Mortgage (HECM) Servicers

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**Subject** Home Equity Conversion Mortgage (HECM) Due and Payable Policies

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**Purpose** This Mortgagee Letter provides additional guidance on FHA’s policies and timing requirements applicable to Home Equity Conversion Mortgages (HECMs). Specifically, this Mortgagee Letter addresses:

- a requirement for mortgagees to provide HUD notice of a HECM’s “Due and Payable” status;
- a requirement for mortgagees to provide HUD notice of the initiation of foreclosure;
- obtaining required appraisals;
- sales of properties securing defaulted or performing HECM loans;
- extensions available when marketing a HECM for sale and/or participating in Hardest Hit Funds programs; and
- curtailment of debenture interest for missed deadlines.

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**Effective Date** This Mortgagee Letter is effective for all HECM loans that become due and payable on or after July 1, 2015.

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**Affected Policy** The policies in this Mortgagee Letter (ML) clarify, modify or, where they conflict, supersede the following guidance:

- Handbook 4330.1, REV-5, Chapter 13;
- ML 2011-01, *Home Equity Conversion Mortgage Property Charge Loss Mitigation*;
- ML 2009-44, *Home Equity Conversion Mortgage (HECM) Program -- Clarification of Debenture Interest Calculation for HECM Claim Type 21; Claim Filing Instructions for HECM Claim Types 21 and 24*;
- ML 2003-22, *Home Equity Conversion Mortgages (HECMs)–Procedural Guidance*;
- ML 2001-16, *Home Equity Conversion Mortgage Program (HECM) Servicing and Claim Issues*; and
- ML 1994-44, *Claims Instructions for FHA-Insured Home Equity Conversion Mortgages (HECMs)*.

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**“Due and Payable” Status for a HECM with a Case Number Issued before August 4, 2014**

A HECM with a Case Number issued before August 4, 2014, is considered due and payable *without* HUD’s approval if:

- a mortgagor died and the property is no longer the principal residence of at least one surviving mortgagor; or
- a mortgagor conveyed all of their title in the mortgaged property and no other mortgagor retains title to the property.

A HECM with a Case Number issued before August 4, 2014, is considered due and payable *with* HUD’s approval, if one of the following conditions applies:

- no surviving mortgagor maintains the property as their principal residence;
- a mortgagor fails to occupy the property for a period of more than twelve consecutive months because of physical or mental illness, and the property is not the principal residence of at least one other mortgagor; or
- an obligation of the mortgagor under the HECM is not fulfilled.

Notwithstanding the above, for a HECM with a Case Number issued before August 4, 2014, where the last surviving mortgagor is survived by a Surviving Non-Borrowing Spouse, mortgagees must follow the requirements of ML 2015-03 to determine eligibility for “Due and Payable” status.

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**“Due and Payable” Status for a HECM with a Case Number Issued on or after August 4, 2014**

A HECM with a Case Number issued on or after August 4, 2014, is considered due and payable *without* HUD approval if:

- a mortgagor died, the property is no longer the principal residence of at least one surviving mortgagor, and there is no applicable Deferral Period<sup>1</sup>; or
- a mortgagor conveys all of their title in the mortgaged property and no other mortgagor retains title to the property; or
- the Deferral Period for an Eligible Non-Borrowing Spouse<sup>2</sup> ends.

A HECM with a Case Number issued on or after August 4, 2014, is considered due and payable *with* HUD’s approval, if one of the following conditions applies:

- no surviving mortgagor maintains the property as their principal residence;
- a mortgagor fails to occupy the property for a period of more than twelve consecutive months because of physical or mental illness and the property is not the principal residence of at least one other mortgagor; or
- an obligation of the mortgagor under the HECM is not fulfilled.

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<sup>1</sup> Pursuant to ML 2014-07, “Deferral Period” is defined as the period of time following the death of the last surviving mortgagor during which the “Due and Payable” status of a HECM is further deferred based on the continued satisfaction of the requirements for a Non-Borrowing Spouse under ML 2014-07 and all other FHA requirements.

<sup>2</sup> Pursuant to ML 2015-02, “Eligible Non-Borrowing Spouse” means a Non-Borrowing Spouse who meets the Qualifying Attributes requirements defined in ML 2014-07 for a Deferral Period.

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**Definition of  
“Due Date” for  
HECMs**

For HECMs that are due and payable, the “Due Date” is the date when:

- the mortgagee notifies the Secretary that the mortgage became due and payable without HUD’s approval; or
- the Secretary approves the mortgagee’s request to call the mortgage due and payable.

For HECMs with a Case Number issued on or after August 4, 2014, where there is a deferral of “Due and Payable” status for an Eligible Non-Borrowing Spouse, the “Due Date” is the date when the Deferral Period ends.

Notwithstanding the above, for HECMs with a Case Number issued before August 4, 2014, where there is a Surviving Non-Borrowing Spouse, mortgagees must follow the “Due Date” requirements established in ML 2015-03.

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**Using HERMIT**

Mortgagees must use HUD’s Home Equity Reverse Mortgage Information Technology (HERMIT) system to report all servicing actions, and submit requests and required notices to HUD. Mortgagees must upload into HERMIT copies of supporting documentation for all such actions, requests, and required notices.

HERMIT caps the Unpaid Principal Balance of a HECM as of the “Due Date”. All other allowable claim items must be itemized.

Detailed instructions for using HERMIT can be accessed at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/comp/hecm\\_hermit](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/comp/hecm_hermit).

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**Notice to HUD  
for Due and  
Payable  
HECMs**

When HUD approval is required to call a HECM due and payable, mortgagees must submit a due and payable request to the Secretary via HERMIT within **30** days of a HECM becoming eligible for “Due and Payable” status.

Mortgagees must notify the Secretary within **60** days of a HECM becoming due and payable *without* HUD approval or the end of a Deferral Period. The mortgagee must take whatever steps are necessary to ensure they are able to provide such notice.

Where state privacy laws impair a mortgagee’s ability to acquire relevant information about the death of a mortgagor or an Eligible Non-Borrowing Spouse, the mortgagee must:

- notify the Secretary of the “Due and Payable” status within 30 days of the end of the state’s privacy law restriction on the mortgagee’s access to the information; and

- provide the relevant state law and a detailed explanation supporting the delay.

When a mortgage is due and payable as a result of a mortgagor’s death or a Deferral Period ends as a result of an Eligible Non-Borrowing Spouse’s death, the mortgagee may accept verbal notification of the death from the heirs or estate for “Due and Payable” purposes. Mortgagees must still obtain documentation of the death of the mortgagor or Eligible Non-Borrowing Spouse for foreclosure and claim purposes.

The mortgagee must enter the mortgagor’s “Date of Death” and create the appropriate Due and Payable Timeline in HERMIT to provide notice to HUD. The entry of such information in HERMIT will:

- change the loan status to “Due and Payable;” and
- halt future scheduled loan advances in HERMIT as of the date this information is submitted.

For mortgages with a Case Number issued before August 4, 2014, where there is a Surviving Non-Borrowing Spouse, the mortgagee must enter the mortgagor’s “Date of Death” in HERMIT so that payments will be suspended automatically. The mortgagee should then follow the requirements and conditions of ML 2015-03. Where the mortgagee elects the Mortgagee Optional Election (MOE) Assignment, the mortgagee must **not** complete the Due and Payable Timeline. Where the mortgagee does not elect the MOE Assignment *or* after electing the MOE Assignment determines the HECM loan is ineligible for assignment, the mortgagee must complete the appropriate Due and Payable Timeline within 60 days of such election or determination in order to provide HUD the required notification and to change the loan status in HERMIT to “Due and Payable.”

For mortgages with a Case Number issued on or after August 4, 2014, in the event of a Deferral Period, the mortgagee must enter the mortgagor’s “Date of Death” in HERMIT so that payments will be suspended automatically. However, the mortgagee must **not** complete the Due and Payable Timeline until the Deferral Period ends. At the end of the Deferral Period, the mortgagee must complete the appropriate Due and Payable Timeline within 60 days in order to provide HUD the required notification and to change the loan status in HERMIT to “Due and Payable.”

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**Notice to Mortgagor of HECM in “Due and Payable” Status for Reasons Other than Death**

When HUD’s approval is required, the mortgagee must provide the mortgagor(s) with a Due and Payable Notice stating that the mortgagor has 30 days to notify the mortgagee of their intention to either:

- satisfy the HECM;
- sell the property for at least 95% of the appraised value;
- provide the mortgagee with a Deed in Lieu of foreclosure; or

- correct the matter which resulted in the mortgage becoming due and payable.

The Due and Payable Notice must be sent to the mortgagor within 30 days of receiving HUD’s approval to call the HECM due and payable. Mortgagees may vary the actual structure of this Notice, but it must:

1. state that an obligation of the mortgagor has not been met;
2. state that failure of the mortgagor to comply with the terms of the HECM has resulted in the loan becoming due and payable;
3. provide notice of the availability of Housing Counseling; and
4. provide notice of any available loss mitigation options the mortgagee may offer.

**Notice to Mortgagor’s Estate or Heirs of HECMs in “Due and Payable” Status due to End of Deferral Period or Death**

Where a HECM is due and payable as a result of death of the mortgagor or end of a Deferral Period due to death, the mortgagee must provide the mortgagor’s estate, heirs, or other party with legal title to the property securing the HECM with a Due and Payable Notice within 30 days of the death or end of the Deferral Period stating that they may:

- satisfy the HECM;
- sell the property for at least 95% of the appraised value; or
- provide the mortgagee with a Deed in Lieu of foreclosure.

Notwithstanding the foregoing, for mortgages with a Case Number issued before August 4, 2014, where the last surviving mortgagor has died and there is a Surviving Non-Borrowing Spouse, mortgagees must follow the notice requirements in ML 2015-03.

**Notice to Non-Borrowing Spouses with HECMs in a Deferral Period**

Within 30 days of receiving notice of the last surviving mortgagor’s death, the mortgagee must provide to the Eligible Non-Borrowing Spouse a notice including information on:

- the eligibility requirements for a Deferral Period;
- the conditions and requirements for the continuation of a Deferral Period; and
- the ability to cure the default (due to failure to maintain the property *or* failure to pay property charges) in order to be in compliance with the requirements for the continuation of a Deferral Period.

When a Deferral Period ends because an Eligible Non-Borrowing Spouse has become an *Ineligible* Non-Borrowing Spouse, the mortgagee must notify the Non-Borrowing Spouse, within 30 days of the end of the Deferral Period, that:

- the Deferral Period has ended;
- the HECM is due and payable; and
- the mortgagor’s estate, heir, or other party with authority to dispose of the

property may either satisfy the HECM, sell the property for at least the lesser of the outstanding principal balance or 95% of the appraised value, or provide the mortgagee with a Deed in Lieu of foreclosure.

When a HECM is in a Deferral Period, if any other applicable requirements for deferral cease to be met, the mortgagee must notify the Eligible Non-Borrowing Spouse within 30 days that:

- a requirement of the Deferral Period has not been met;
- the Eligible Non-Borrowing Spouse has 30 days to cure; and
- failure to cure within such time will result in the Deferral Period ending and the HECM becoming due and payable.

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**Obtaining  
Required  
Appraisals for  
HECMs in a  
“Due and  
Payable” Status**

Mortgagees must obtain an appraisal of the property no later than 30 days after:

- providing notice that the mortgage is due and payable;
- the mortgagee becomes aware of the death of the last surviving mortgagor; or
- the mortgagor, mortgagor’s estate, heir, or other party with authority to dispose of the property requests an appraisal in connection with a pending sale of the property.

Where there is an applicable Deferral Period, the timeframe to obtain an appraisal may be extended to no later than 30 days after the end of such Deferral Period.

HUD will extend the deadline of obtaining an appraisal where a mortgagee has ordered the appraisal within 30 days of the above events and has received that appraisal no later than 15 days before the foreclosure sale. In any event, on the date of a foreclosure sale, mortgagees must have a current, valid appraisal that was received no later than 15 days before the sale.

If the mortgagee is submitting an appraisal-based claim, the mortgagee must use a valid, unexpired appraisal. If there is not a valid, unexpired appraisal, the mortgagee must order a new appraisal no later than 15 days before the end of the six-month period following the mortgagee’s acquisition of the property.

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**Supporting  
HECM Claim  
Documentation  
for HERMIT**

Before claim submission, mortgagees must upload into HERMIT copies of the following documents:

- all inspection reports from the initial inspection through the sale of the property; and
  - all appraisals received from the date the HECM became due and payable.
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**Satisfaction of a HECM by Payoff** A mortgagee must not file a claim for insurance benefits when the HECM is satisfied.

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**Claim Payment on Short Sale** When a mortgagor sells the property but the sales proceeds are insufficient to satisfy the mortgage, a mortgagee may file a HECM Claim Type 23 (Mortgagor's Short Sale) provided that either:

- the loan was not due and payable and the property was sold for at least the current appraised value; or
- the loan was due and payable and the property was sold for at least 95% of the current appraised value.

The claim will be computed by:

- totaling (1) the mortgage balance (including any accrued interest and mortgage insurance premiums which have been added to the mortgage balance), (2) any accrued interest (at the note rate) which has not been added to the mortgage balance on the date the deed is recorded, and (3) the amount of allowances for items set forth in 24 C.F.R. § 206.129(d)(2)(i) and (iv) as applicable; and
- subtracting the proceeds received from the mortgagor and the amounts for items set forth in 24 C.F.R. § 206.129(d)(3).

Unless the claim is curtailed, the claim will also include an amount equal to the interest allowance which would have been earned from the date the deed is recorded to the date of claim payment.

When the short sale of the HECM property occurs after the initiation of foreclosure, but before the foreclosure sale, the claim may also include items set forth in 24 C.F.R. § 206.129 (d)(2)(ii) and (v), as applicable. In HERMIT, the mortgagee must:

- enter the date the short sale closed in Block 10 (“Date Deed or Assignment Filed for Record or Date of Closing or Appraisal”) on the form HUD-27011, Single-Family Application for Insurance Benefits (claim form);
  - enter the date that the foreclosure was initiated in Block 11 (Date Foreclosure Proceedings (a) Instituted or (b) Date of Deed in Lieu) on the claim form; and
  - explain in the “Mortgagee’s Comments” section of the claim form why any costs referenced in 24 C.F.R. § 206.129 (d)(2)(ii) and (v) were included.
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**Claim Payment on Sale After Death**

When a HECM is extinguished by sale or transfer after death or, if applicable, the end of a Deferral Period, a mortgagee may file a HECM Claim Type 23 provided that the mortgagee receives, in exchange for the extinguishment of such HECM, at least the lesser of:

- the mortgage balance; or
- ninety-five percent (95%) of the current appraised value of the property.

If the mortgagee has complied with all HUD deadlines, debenture interest is paid from the date the deed is recorded to the date of claim payment.

The claim amount is computed by:

- totaling (1) the mortgage balance (including any accrued interest and mortgage insurance premiums which have been added to the mortgage balance (2) any accrued interest (at the note rate) which has not been added to the mortgage balance on the date the deed is recorded, and (3) the amount of allowances for items set forth in 24 C.F.R. § 206.129 (d)(2)(i) and (iv) as applicable; and
- subtracting the proceeds received from the mortgagor's estate or heirs and the amounts for items set forth in 24 C.F.R. § 206.129(d)(3).

When the sale of the HECM property occurs after initiation of foreclosure but before the foreclosure sale, the claim form may also include items set forth in 24 C.F.R. § 206.129 (d)(2)(ii) and (v), as applicable. The mortgagee must use HERMIT to:

- enter the date the sale closed in Block 10 on the claim form;
- enter the date the foreclosure was initiated in Block 11 on the claim form; and
- explain in the "Mortgagee's Comments" section of the claim form why any costs referenced in 24 C.F.R. § 206.129 (d)(2)(ii) and (v) were included.

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**Deadline for Initiation of Foreclosure by Mortgagee**

If a HECM has not been satisfied or the default cured in response to a due and payable notification, the mortgagee must commence foreclosure by taking the first legal action required under ML 2013-38 by the state in which the property is located. The first legal action to initiate foreclosure must occur as follows:

- within six (6) months of the death of the last surviving mortgagor unless there is an applicable Deferral Period;
- within six (6) months from the end of any applicable Deferral Period;
- within six (6) months of the mortgagee's notice to the mortgagor that the HECM is due and payable when the HECM is due and payable for reasons other than death; or
- within such extended time as approved by the Secretary.

Note: Should the state's privacy law restrict the mortgagee's access to



information related to “Due and Payable” status, mortgagees must initiate foreclosure within three (3) months from the date of the expiration of such period. For these cases, the mortgagee is eligible to file a HECM Claim Type 21 (Foreclosure/Deed-In-Lieu). Unless the claim is subject to curtailment, debenture interest is paid from the “Due Date” to the date of claim settlement.

Notwithstanding the above, for a HECM with a Case Number issued before August 4, 2014 where the last surviving mortgagor is survived by a Surviving Non-Borrowing Spouse, mortgagees must follow the foreclosure timeframe requirements in ML 2015-03.

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**Date of  
Marketable  
Title for  
HECM Claims**

For a HECM Claim Type 21, the mortgagee must insert in Block 9 (“Date of Possession and Acquisition of Marketable Title”) on the claim form the later of either:

- the date of possession, when eviction is required;
- the date of the foreclosure sale;
- the date title is obtained by a third-party bidder; or
- the date the Redemption Period, if applicable, has ended.

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**Requests from  
Mortgagors,  
their Estates, or  
Heirs for  
Extensions to  
Market HECM  
Properties or  
Satisfy  
Balances**

Mortgagors or other parties holding legal title (“owners”) to the property may request additional time from the mortgagee to market and sell a property securing a HECM or to satisfy a HECM.

If the owners provide the mortgagee with evidence demonstrating the active marketing of the property (including documentation related to delays in sales or payoffs) or attempts to satisfy the mortgage balance, mortgagees may request from HUD no more than two 90-day extensions to take the first legal action to initiate foreclosure.

Mortgagees may request the 90-day extensions only if additional time is required for the owners to continue to actively market the property or to actively attempt to satisfy the HECM balance.

All requests must be submitted through HERMIT and mortgagees must:

- enter the expiration date of any extension to initiate foreclosure in Block 19 (“Expiration Date of Extension to Foreclose/Assign”) of the claim form; and
  - include in the servicing file documentation evidencing the owners’ active marketing of the property or attempts to satisfy the HECM balance, etc.
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**Mortgagee Extensions for Initiating Foreclosure for HECM Properties**

When the property is not sold or the HECM is not satisfied prior to the mortgagee's deadline to initiate foreclosure, including any approved 90-day extensions to market and sell the property, mortgagees may utilize one additional 90-day extension to commence foreclosure provided that:

- the mortgagor, their estate, or heir was actively marketing the subject property or attempting to satisfy the HECM; and
- the additional time is not to provide the mortgagor, their estate, or heir(s) more time to market and sell the property or to satisfy the HECM balance.

The mortgagee must enter the expiration date of the 90-day extension period in Block 19 of the claim form in HERMIT and note the use of the extension in the "Mortgagee's Comments" section. The servicing file must evidence the mortgagor/estate/heirs' active marketing of the property or attempts to satisfy the HECM balance, etc.

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**Mortgagee Extension for Mortgagor Participation in Hardest Hit Fund (HHF) Programs**

When a mortgagor is receiving funds through a Hardest Hit Fund (HHF) program, mortgagees may request a 45-day extension to the deadline to initiate foreclosure or reasonable diligence in completing foreclosure provided that:

- the mortgagee obtains a copy of the conditional commitment from the State Housing Finance Agency or other entity administering a state's HHF; and
- the mortgagee reviews its servicing file and confirms that the mortgagor's account is still active and due and payable

To submit a request to delay initiation of foreclosure, the mortgagee must:

- email the request to HUD's loan servicing contractor, along with documentation of the mortgagor's participation in the HHF program; and
- upload copies of the request and documentation to the "HERMIT Document" tab.

If foreclosure has already been initiated and/or is resumed, the mortgagee must fully document in HERMIT any delays in foreclosure completion in order to prevent curtailment.

The HHF program funds must be received and applied within the 45 day extension period. When the HHF program funds are received and applied to the HECM loan and the default is cured within such time, the mortgagee must email HUD's loan servicing contractor to request rescission of the HECM Due and Payable approval. The rescission request and supporting documentation must be uploaded to the "HERMIT Document" tab.

When the funds are not received, are not disbursed on behalf of the mortgagor, or do not adequately cure the default within the 45 day extension period, the mortgagee must proceed in accordance with the applicable foreclosure timeframes. The mortgagee must retain documentation regarding

this delay in initiating or completing foreclosure in its servicing file in order to avoid curtailment.

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**Notice to HUD of Initiation of Foreclosure on a HECM**

A mortgagee must provide notice to HUD within 30 days of initiating foreclosure on a HECM. Mortgagees must provide this notice via HERMIT, using the “Loss Mitigation Pre-foreclosure” Timeline and completing the step “Foreclosure Notice Sent to HUD.”

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**Curtailment of Interest for Non-Compliance with HUD HECM Program Requirements**

Causes for curtailment of interest include, but are not limited to, the mortgagee’s failure to:

- timely request due and payable approval from HUD;
- timely provide notice to HUD of the death of the last surviving mortgagor *or* of conveyance of title;
- timely provide the required Due and Payable Notice to the mortgagor, their estate, or heirs, or other party with legal title to the property that the HECM is due and payable;
- comply with the required appraisal time frames;
- timely commence foreclosure, when applicable;
- timely provide notice to HUD after commencing foreclosure, meeting reasonable diligence requirements, or meeting reporting requirements, pursuant to ML 2013-38; and
- timely file claims for payment of insurance benefits.

Mortgagees are responsible for self-curtailing claims for failure to comply with FHA’s regulatory requirements and timeframes of 24 C.F.R. §§ 206.125 and 206.127 except to the extent those timeframes are extended by this ML. In that event, mortgagees are responsible for self-curtailing claims when they fail to comply within the extended time. Mortgagees must state the reason for curtailment in the “Mortgagee Comments” section of the Form HUD-27011 in HERMIT.

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**Information Collection Requirements**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned an OMB Control Number of 2502-0429. 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 may be directed to HUD's National Servicing Center at (877) 622-8525. 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 ML, please visit [www.hud.gov/answers](http://www.hud.gov/answers).

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**Signature**

Edward L. Golding  
Principal Deputy Assistant Secretary for Housing

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