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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: **September 5, 2013**

To: **All FHA-Approved Mortgagees**

Mortgagee Letter 2013-29

Subject **Application of Unused Borrower Funds from an Escrow Account on an Existing Mortgage in FHA-Insured Refinance Transactions**

Purpose The purpose of this Mortgagee Letter is to:

- clarify policy on the application of unused borrower funds from an escrow account on an existing mortgage that are **not sent directly to the borrower,** but applied to a newly originated FHA-insured refinance mortgage;
- remind mortgagees that calculating the maximum mortgage on a streamline refinance transaction starts with the outstanding principal balance of the existing loan, not the payoff amount; and
- provide documentation and submission requirements evidencing borrower authorization for application of unused borrower funds from an escrow account on an existing mortgage.

Applicability and Effective Date The guidance in this Mortgagee Letter applies to all newly originated, FHA-insured refinance mortgages with case numbers assigned on or after November 1, 2013 where unused borrower funds from an existing mortgage that is being refinanced with an FHA-insured mortgage are applied to reduce the payoff amount on the existing mortgage, or for other uses authorized by the borrower, such as a credit toward costs on the newly originated FHA-insured mortgage.

Definition of Unused Borrower Funds The term "Unused Borrower Funds" refers to the remaining borrower funds from an existing mortgage held by the servicing mortgagee in the escrow account after all outstanding real estate taxes, homeowners insurance, annual assessments, and monthly mortgage insurance premiums are satisfied. This term does not apply to repair escrows.

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Calculating the Maximum Mortgage in a Streamline Refinance Transaction

Mortgagees are reminded that when processing an FHA-insured streamline refinance mortgage, the new maximum mortgage amount must always be calculated starting with the **outstanding principal balance** on the existing mortgage, not with the payoff amount for the existing mortgage.

HUD is also taking this opportunity to clarify previously published guidance in Mortgagee Letter 2009-32 and HUD Handbook 4155.1 3.C.2.c regarding Annual Mortgage Insurance Premium (MIP) payments. Mortgagees are permitted to include up to two months of Annual MIP payments in the mortgage amount for all FHA-insured streamline refinance transactions, including streamline refinances without an appraisal.

Affected Topics

Below is a list of sections in HUD Handbooks 4155.1 and 4155.2 that are affected. The changes will be integrated into the FHA Single Family On-Line Handbooks.

HUD Handbook 4155.1, Mortgage Credit Analysis for Mortgage Insurance on One-to-Four Unit Mortgage Loans
4155.1 3.A.1 Introduction, Add Application of Unused Borrower Funds from an Escrow Account on an Existing Mortgage
4155.1 3.A.1 Add new section (m), Application of Unused Borrower Funds from an Escrow Account on an Existing Mortgage to a Newly Originated FHA-insured Refinance Loan
4155.1 3.A.1 Add new section (n), Documentation Requirements for Unused Borrower from an Escrow Account on an Existing Mortgage to a Newly Originated FHA-Insured Refinance Loan
4155.1 3.C.2.c Maximum Insurable Mortgage Calculation for Streamline Refinances Without an Appraisal
4155.1 3.C.2.c Maximum Insurable Mortgage Amount for Streamline Refinances With an Appraisal (after 4/18/2011)
HUD Handbook 4155.2, Lender's Guide to the Single Family Mortgage Insurance Process
4155.2 12.D.1.b Pre-Endorsement Review Approval/Rejection Checklist for HECM
4155.2 12.D.2.b Right Side of Binder Checklist for Non-HECM Files

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Application of Unused Borrower Funds from an Escrow Account on an Existing Mortgage to a Newly Originated FHA-Insured Refinance Loan

Mortgagees processing any FHA-insured refinance mortgage may apply unused borrower funds from an existing mortgage for any purpose authorized by the borrower. For example, the borrower may authorize the mortgagee to apply unused borrower funds from an existing mortgage to reduce the payoff amount on the existing mortgage (also referred to as "netting escrows"); pay closing costs on a new FHA-insured mortgage; buy down the interest rate on the new FHA-insured mortgage; or set up an escrow account on the new FHA-insured mortgage loan. These examples are not all inclusive.

The return of unused borrower funds from an existing mortgage to the borrower at closing is not considered cash back to the borrower.

Documentation Requirements for Unused Borrower Funds from an Escrow Account on an Existing Mortgage to a Newly Originated FHA-Insured Refinance Loan

When the borrower has determined that they want unused borrower funds from an existing mortgage to be applied toward costs related to the new FHA-insured mortgage, the mortgagee processing the new FHA-insured mortgage is required to:

1) Obtain written authorization from the borrower to apply the unused borrower funds from an existing mortgage for any purpose prior to using them. The borrower's written authorization must clearly state the purpose(s) for which the authorization is provided.
2) Include the borrower's written authorization in the Direct Endorsement case binder. Mortgagees are instructed to place the borrower's written authorization on the right side of the case binder directly after the HUD-1 or HUD-1A Settlement Statement.
3) Show a credit and document the purpose on the HUD-1 or HUD-1A Settlement Statement when a mortgagee either applies unused borrower funds from an existing mortgage to the new FHA-insured refinance transaction for the amount authorized to offset settlement charges associated with the new FHA-insured mortgage or establishes the new escrow account.

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Documentation Requirements for Unused Borrower Funds from an Escrow Account on an Existing Mortgage to a Newly Originated FHA-Insured Refinance Loan (continued)	The process for handling the netting of escrows at closing may differ depending upon whether the servicing mortgagee is the same as the originating mortgagee, and whether funds are netted from the payoff amount by the servicing mortgagee or all funds are sent to the closing table. It is up to the servicing mortgagee on the existing mortgage and the mortgagee on the new FHA-insured mortgage to work through the netting and the transfer of funds process to ensure that, depending on the use of funds, that they are accurately reflected on the payoff statement and the HUD-1 or HUD-1A Settlement Statement.
Information Collection Requirements	Paperwork reduction information collection requirements contained in this Mortgagee Letter shall be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) and assigned OMB Control Number 2502-0059. 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.
Questions	Please inquire about information provided in this Mortgagee Letter by contacting the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number via TTY 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