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## HECM Lender/Counselor Conflict of Interest Notice

### **HECM Lender/Counselor Conflict of Interest Notice**

**Issued:** February 4, 2013

**To:** All approved Mortgagees, HUD Approved Housing Counseling Agencies

**Subject:** FHA-approved Reverse Mortgage Lenders and conflicts of interest behavior with HUD-approved HECM Counseling Agencies and other related concerns.

The Department has received reports and concerns regarding FHA-approved Reverse Mortgage Lenders steering potential borrowers to specific Home Equity Conversion Mortgage (HECM) counseling agencies, lender representatives being present or even participating in counseling sessions, and lenders providing advance copies of borrower review questions used by counselors with potential HECM borrowers. This serves as a reminder to both the FHA-approved reverse mortgage lenders and the HUD-approved housing counseling agencies of HUD's guidance and protocols and advises lenders of acceptable behavior in regard to these requirements.

#### Prohibition Against Lender Steering

This is a reminder to all lenders of the prohibition on steering prospective client(s) to specific counseling agencies. HUD Handbook 7610.1, Paragraph 4-11, specifically states; "The lender may not steer, direct, recommend or otherwise encourage a client to seek the services of any one particular counselor or counseling agency. Lenders are required to give every client a list of HECM counseling providers that includes the national intermediaries providing telephone counseling and five agencies in the local area and/or state of the client with at least one of the local agencies located within a reasonable driving distance for face-to-face counseling. The HUD-approved national intermediaries that are approved for HECM counseling are: National Foundation for Credit Counseling, Money Management International, CredAbility, National Council on Aging, ClearPoint Financial Services, HomeFree, Greenpath, Neighborhood Reinvestment Corporation and Springboard. In situations where there are no local counseling agencies within the state the lender must provide contact information for counseling agencies in the closest adjacent state that can provide reverse mortgage counseling.

#### Lender Participation in Counseling Session

Participation by a lender, or their representative, in an individual counseling session is prohibited. Handbook 7610.1 Paragraph 4-17, D, states that only individuals with advocacy interest may, at the client(s) request, participate in the counseling session with clients. Specifically, the handbook citation reads:

"D. Persons with Advocacy Interest. Persons with advocacy interest such as nonmortgagor members of the mortgagor's family, the mortgagor's attorney, a friend or friends of the mortgagor, or staff from a HUD-approved housing counseling agency may attend the housing counseling session if the mortgagor requests it and/or agrees. **Advocacy interests DOES NOT include a representative of the lending entity.**"

#### Lender Providing Counselors Review Questions and Answers

The Department has been advised that some FHA-approved reverse mortgage lenders are providing advance copies of the HECM counselor's review questions with answers to clients prior to attending their mandatory reverse mortgage counseling session. The review questions are a critical part of the counseling to ensure that the client(s) fully understands the HECM loan and how it may be beneficial to their individual situation. Having the lender provide the answers in advance of the session interferes with the counselor's duties to assure that client(s) are fully engaged and understand the complex information being presented in the counseling session.

Lenders are advised to immediately stop providing the counselor review questions with answers to potential HECM clients. Furthermore, any lender or counseling agency with knowledge of this prohibited practice occurring is strongly encouraged to report this behavior to the Office of Housing Counseling via this email address: [housing.counseling@hud.gov](mailto:housing.counseling@hud.gov)

Lenders are reminded that failure to adhere to the requirements outlined in HUD handbooks and mortgagee letters may result in a referral to the Mortgagee Review Board for appropriate sanctions including but not limited to civil money penalties, suspension, and withdrawal of approval to participate in FHA programs.

The full notice can be found at the following site:

[http://portal.hud.gov/hudportal/documents/huddoc?id=ocb\\_ls020213.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=ocb_ls020213.pdf)