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REVERSE MORTGAGES: LEAVING SENIORS AND TAXPAYERS ON THE HOOK?

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UNITED STATES SENATE

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REVERSE MORTGAGES: LEAVING SENIORS AND TAXPAYERS ON THE HOOK?

MONDAY, JUNE 29, 2009

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
University City, MO

The Committee met, pursuant to notice, at 9 a.m. in OCHS Senior Center, 975 Pennsylvania, University City, MO, Hon. Claire McCaskill, presiding.

Present: Senator McCaskill [presiding].

OPENING STATEMENT OF SENATOR CLAIRE McCASKILL

Senator MCCASKILL. Good morning, everyone. Welcome to a— this is a Special Field Hearing for the Senate Special Committee on Aging that we are having today here in St. Louis.

I want to thank Chairman Herb Kohl and the Ranking Member of the Aging Committee for allowing us this opportunity to hold this hearing in St. Louis. I think it's important that we get out of Washington and have hearings in the rest of the country because, after all, that's what we're supposed to be focused on, right? Not just the people who hang out in Washington, DC.

So this is the second hearing we've had in St. Louis on this topic. It has become, I think, even more important that we continue to focus on reverse mortgages and the pitfalls and problems associated with them.

I should begin by saying that these are appropriate tools in limited circumstances. There are some situations where a reverse mortgage can in fact be a helpful assistance to seniors in terms of the equity in their home and the financial circumstances that they're facing.

But they're expensive, they're complicated, and the other looming issue out there, in spite of what you see on television, this is not a government benefit. What this is is it's a program that pulls your equity out of your home and gives it to you now and if things go south and at the end of the obligation when it's time to repay the government—excuse me—when it's time to repay the mortgage company, if the value of the home is not sufficient to pay the mortgage company, then taxpayers pay the rest. So the only place the government comes in is in fact it's the government that's taking the risk.

So once again we have a program where the people who are executing these loans and closing these loans have no risk as to whether or not the loans are ultimately repaid and the last time we had a situation where the people who were closing loans that took no risk, the last time that happened was obviously with the subprime bubble where we had lots and lots of folks that were closing loans and that were subprime and then they were reselling those loans to other institutions.

Now in that example, it was not the government they were selling them to but it went so badly that the government ended up loaning all those institutions that had sliced and diced and sold those subprime mortgages that now taxpayers have invested heavily in those financial institutions to try to allow them to continue to exist because of the financial losses that were suffered as a result of these complicated derivative investment tools that were made up of these subprime mortgages.

In this instance, the government is directly on the line if these loans do not turn out to be a good risk. So that's why it's also important. So it's a double-edged problem.

First, are the seniors getting the information they need to make good decisions as it relates to reverse mortgages? Have we done everything possible to give them protection and, most importantly, make sure there no fraud?

Second, are we looking at a price tag for taxpayers that is higher than the benefit that these particular financial instruments offer, and should we re-evaluate whether or not the government should be the one taking the risk on these loans? Should it in fact be the financial institutions that are getting the fees for executing the loans?

I'm going to give a brief opening statement and then I will—after I give the brief opening statement, I will recognize our panels, as soon as I can find the opening statement. Ah, here it is, and then we will go to our panels of witnesses to testify, and we have two panels of witnesses, and I think you will find the information that they have is very important and hopefully we can ask some great questions of them.

I want to thank all of our witnesses that are here today. As I just explained, the reverse mortgage is a type of loan that allows elderly homeowners to convert the equity in their homes to cash. It is different than a home equity loan or a second mortgage because the borrowers do not have to repay the loans as long as they meet certain conditions.

For many elderly homeowners, the equity in their homes represents their largest asset, created through a lifetime of hard work and savings. Unfortunately, this makes seniors a target for predatory lenders and fraud perpetrators who seek to take advantage of them.

We convene today to discuss serious concerns about lax oversight in this program that is leaving our nation's seniors vulnerable to predatory practices, leading to potential fraud and victimization.

Further, not only are seniors the victims of a reverse mortgage fraud but taxpayers are also, because, as I just indicated, we in fact are on the line as insuring these mortgages. I'm deeply concerned about these issues.

Ten thousand baby-boomers become eligible for reverse mortgages every day. Eighty-one percent of them own their own homes. These seniors are sitting on $4 trillion of equity in their homes.

That equity is of great interest to some mortgage entities. Some have the best interests of seniors involved but others do not.

When it comes to our nation's seniors, this is a particularly troubling position. As we all know, many seniors are more vulnerable than the average population. They may be lonely or afraid, not have family members nearby that they can consult. They may have diminished capacity. They are trusting and believing in the integrity and honesty of others who may not always have their best interests at heart.

We have a responsibility to make sure this incredibly important part of our population are not preyed upon and we should not create mechanisms that allow this to happen.

Among the predatory practices we are learning about are misleading advertising directed at our seniors using mailing lists whose titles tell us all we need to know who their targets are. I'm talking about lists of names that are headed by titles such as "Suffering Seniors" or "Elderly Opportunity-Seekers."

I'm pleased to have with us today Daniel Claggett from the National Consumers Law Center which will soon release a report that documents many reverse mortgage abuses and warns seniors of scams to avoid. I applaud the center for its important work on behalf of our seniors and look forward to the report.

We are also now seeing predators of a different nature. These persons target the very program itself, trying to gain the system in the same fashion that has previously caused turmoil in our housing market.

Let me explain. Like the subprime market, lenders and originators in the reverse mortgage market reap large commissions but face little risk when writing these mortgages. This is because nearly all reverse mortgages are insured by the Department of Housing and Urban Development, your government.

Once the value of the loan reaches the value of the home, lenders assign the loan to HUD who then becomes responsible for the differences in the loan amount and the fair market value of the house. This leaves the program vulnerable to fraud schemes, like flipping, and the recruitment of sham buyers which HUD's Inspector General has been fighting.

I look forward to hearing from Mr. Medici. Did I pronounce it correctly?

Mr. MEDICI. That's fine.

Senator MCCASKILL. From the HUD Inspector General's Office about these issues and thank him for the superb work that HUD IG is doing in this field.

Further, the patchwork of regulation that is supposed to protect seniors and taxpayers appears to have left both uncovered, resulting in a recent request by HUD for an additional $800 million in Federal funds to cover losses that I warned about in earlier hearings.

What is also deeply concerning is that Congress continues to add to the patchwork rules governing the reverse mortgage program. Under the Housing Economic Recovery Act of 2007, reverse mortgage loan limits were raised from 362,000 to 625,000, making seniors even more lucrative targets for potential scammers.

Further, the Mortgage Reform and Anti-Predatory Lending Act recently passed in the House of Representatives could exacerbate the problem because it shockingly excludes reverse mortgages nearly 10 times from tighter duty of care standards for originators, truth-in-lending requirements, consumer fraud protections and prohibitions on predatory practices.

I cannot understand why they would pass an Anti-Predatory Lending Act in the House of Representatives and exclude the reverse mortgage program.

We have also been made aware of problems with the manner in which loan balances and servicing fees are calculated. In effect, servicers pile on fees that are complicated for seniors to understand and they may not have seen coming when they decided to obtain a reverse mortgage.

There are also concerns that what are known as yield spread premiums are padding the pockets of lenders while reducing the equity available to seniors and driving up the tab for which HUD could ultimately be responsible.

We will also hear from Mathew Scire from the Government Accountability Office or GAO about the GAO's newly released report that documents egregious marketing materials aimed at seniors that claim to offer "a government benefit" in reverse mortgages, even though this is not a government program at all.

Mr. Scire will also tell us about the failure of the responsible government agencies, such as the Federal Trade Commission, HUD, the Federal Reserve, and the Office of the Controller of the Currency, to seriously engage in the regulation of false or deceptive reverse mortgage marketing. The GAO also found that counselors face serious barriers in meeting their important consumer protection obligations.

In conclusion, we are pleased that the collective agencies are here today, as well as others in government, are beginning to realize the enormous financial issues involved with reverse mortgages and the potentially deceptive practices that continue to proliferate in the market with some of our nation's most vulnerable citizens, our seniors, as the victims.

I commend them and thank them for their work as well as the work of private organizations and the citizens who join us today, and as we continue this discussion, we must not lose sight about what and really who we are talking about. These are our parents, our grandparents, our neighbors, our friends. It is the individual reports about how these seniors are targeted that gives me the most passion and the most drive to continue to investigate these issues and so it is people like Mary Heinzer of St. Louis, MO, a 79-year-old who was persuaded to take out a reverse mortgage in order to repair her leaky roof and they relied on the sales agent to arrange for the repair but was ultimately left without any remaining home equity and a roof that continues to leak.

It is Mary I will be thinking about throughout today's hearing as we all continue to work on the issue of reverse mortgages, and I look forward to the testimony of our witnesses today.

Now, I'm going to make a stab at giving you an example of a reverse mortgage, a hypothetical example, as we begin, and I will call on some of our witnesses today to correct me if I don't get it exactly right.

But let me just give you some ballpark figures on what a potential reverse mortgage might look like. A widow at the age of 70 who decides to take out the value of their home in a reverse mortgage, let's say the home value is $200,000 and they owe nothing against the home but, rather, it is worth $200,000 free and clear and they're 70 years old.

The closing costs on the loan will be $9,800 to receive a $100,000 from the equity in the home. They can either get that $100,000 in a lump payment or they can take a $700 a month payment from the proceeds of the loan. The variable rate on this loan is 3.5. The expected rate right now would probably be around 6.7.

After they move out and there's regulations surrounding this, you cannot continue to have a reverse mortgage if you do not occupy the home continuously and you are only allowed to leave the home for up to a year, and if you're out of the home for more than a year, then the mortgage comes due, after they move out, two things can happen. The heirs or family members can pay off the loan or they can sell the home and they can keep the remaining equity, if there is any, and HUD makes up the difference.

Now, how much would they owe on this $100,000 after 10 years? They would owe a minimum, if they were taking the annuity payments, a minimum of a 150,000 and they easily could owe more than 200,000. So you get an example of how expensive this can actually be to execute one of these reverse mortgages.

So I will depend on my witnesses, if I didn't get that exactly right, I will depend on my witnesses to—the Director of the Housing Operations—Options Provided for The Elderly, HOPE, one of our counselors is here, Buz Zeman, and he can help us on his panel. He is one of the witnesses on the second panel.

Let me begin with the first panel and introduce our witnesses. First, Ann Jaedicke——

Ms. JAEDICKE. Jaedicke.

Senator MCCASKILL. Jaedicke. Ann Jaedicke is the Deputy Comptroller for Compliance Policy in the Office of Controller of the Currency.

She is responsible for the policy and examination procedures relating to consumer issues and anti-money-laundering. Ms. Jaedicke—say it again for me.

Ms. JAEDICKE. Jaedicke.

Senator MCCASKILL. Jaedicke, like a Jedi.

Ms. JAEDICKE. Right.

Senator MCCASKILL. Jaedicke.

Ms. JAEDICKE. Something like.

Senator MCCASKILL. There you go. Jedi Knight. Also sits on the OCC's Enforcement Committee and its National Risk Committee. Thank you for being here, Ms. Jaedicke.

Mathew Scire, am I saying that correct?

Mr. SCIRE. Scire.

Senator MCCASKILL. Oh, my gosh. You guys did this to me on purpose. All these names are hard. Scire.

Mr. SCIRE. Yes.

Senator MCCASKILL. Is the Director in GAO's Financial Markets and Community Investment Team. He is responsible for leading GAO's audit work involving housing programs. His team is focusing on a wide range of issues, including HUD's Reverse Mortgage Program, Treasury's Loan Modification efforts and Public Housing Agency's use of Recovery Act Funds.

Anthony Medici is the Special Agent in Charge of the Criminal Investigation Division, Office of Inspector General, Department of Housing and Urban Development, in Washington, DC.

He's responsible for oversight, coordination, assessment, and analysis of the Office of Inspector General's Office of Investigation Field Activities and initiatives throughout the country. He is substantially involved in policy, program and operations issues for the Office of Investigation.

I am particularly grateful to Mr. Medici for being here today. He is retiring from the OIG, but I know he's not really retiring.

Mr. MEDICI. Right. I'm going to take up another position with TARP Funds.

Senator MCCASKILL. Yes. So he is now with the Office of Inspector General at HUD and has done a lot of work in this area and has been invaluable to us in preparing for this hearing today. This is his last bit of official business for HUD and then he is moving over to work with the Inspector General on the TARP Funds. So I am very familiar with Mr. Barofsky.

In fact, I wrote the legislation that put the SIG TARP in place and I am thrilled that someone with your skill and background is going to help Mr. Barofsky look at the TARP Funds because we need a lot of work there, also.

Thank you all three for being here, and we look forward to your testimony.

Ms. JAEDICKE.

STATEMENT OF ANN JAEDICKE, DEPUTY COMPTROLLER FOR COMPLIANCE POLICY, OFFICE OF THE COMPTROLLER OF THE CURRENCY, WASHINGTON, DC

Ms. JAEDICKE. Thank you. Good morning, Senator McCaskill.

My name is Ann Jaedicke, and I'm the Deputy Comptroller for Compliance Policy at the Office of the Comptroller of the Currency or the OCC.

I've worked for the OCC for 32 years and since 2003 I've been responsible for the examination policies and procedures for the country's national banks relating to consumer issues.

It's a real pleasure to be here in St. Louis this morning to talk about reverse mortgages. As you know, reverse mortgages can provide a financial benefit to older consumers who have equity in their homes. As the baby-boom population ages, the economy stabilizes and home prices begin to recover, we are expecting this product to grow in popularity.

Reverse mortgages are unique and complex financial products. Unlike a traditional mortgage, a reverse mortgage does not require the borrower to make payments on an ongoing basis. Instead, the home itself is a source of repayment and no repayment is required until the homeowner dies, moves out of the home, or fails to maintain the property or pay property taxes or insurance.

Used correctly, these products can provide funding for home improvement projects or medical needs or provide long-term financial security to older consumers. However, like many mortgage products, without proper underwriting and strong consumer protections in place, there's also the potential for their misuse.

The OCC is concerned that the reverse mortgage product, if not properly managed, can raise consumer protection concerns. For instance, reverse mortgages allow elderly consumers to access their home equity through immediate and large lump sum payments.

Although some consumers may use the lump sum payment to pay off their existing mortgage, others may choose this option for medical expenses or home improvements. Accessing a large amount of cash may leave some consumers vulnerable to unscrupulous lenders, other bad actors, or fraud.

In addition, if consumers who receive a lump sum payment do not adequately plan for future home maintenance costs or property taxes or insurance payments, they may eventually find themselves in foreclosure.

Other consumer risks include misleading marketing claims or difficulty understanding the complexities and costs associated with reverse mortgages.

There are two basic types of reverse mortgage products in the market: the home equity conversion mortgage, also called the HECM, that is insured by the Federal Housing Administration, and proprietary products offered by individual lenders.

While national banks may originate HECMs, the OCC doesn't have a role in the administration of the HECM Program. The OCC does, however, have a role in ensuring that national banks comply with the laws and regulations that are applicable to the HECMs.

Federal standards and regulations are currently in place to address potential consumer compliance concerns for HECMs which currently account for about 90 percent of the entire reverse mortgage market. If a HECM borrower receives their proceeds in a lump sum, these regulations restrict the use of the funds to pay for certain third party services, such as loan arrangers or so-called estate planning services.

Procedures are also in place to improve consumer understanding of the costs and structure of HECMs, and borrowers are required to receive independent financial counseling about alternatives to reverse mortgages and about the financial tax and estate tax consequences of the transaction before they take out a HECM.

Because the proprietary products are not subject to these same Federal regulations, the OCC is working to expand the regulatory protections built into the HECM Program to the proprietary mortgage market. To accomplish this, the OCC has been leading an interagency workgroup to develop supervisory guidance for managing the risks in proprietary reverse mortgages.

We expect this guidance to apply to proprietary reverse mortgage lenders and to address our concerns that consumers may not understand the costs, the risks, and the consequences of reverse mortgages; that counseling may not be provided or may not be adequate; and that conflicts of interests and abusive practices may arise in connection with these transactions.

The guidance should be issued for public comment later this summer.

At the OCC, we'll also rely on regulations currently in place to address consumer protection risks relating to misleading marketing or to conditioning the mortgage on the purchase of other non-bank products. If necessary, we'll use our authority to require immediate correction of any potentially misleading marketing claims about this product and to prevent inappropriate and illegal cross-selling activities.

Finally, at the OCC, we're developing public service announcements on reverse mortgages, including print and radio spots that will run in both English and Spanish, to advise consumers about the potential risks of this product. These public service announcements should be issued in the coming weeks.

I want to thank you, Senator McCaskill, for convening this hearing and for your leadership on these important issues, and I'd be happy to answer any questions.

[The prepared statement of Ms. Jaedicke follows:]

For Release Upon Delivry
9:00 a.m., June 29, 2009

Testimony of

ANN F. JAEDICKE

Deputy Comptroller for Compliance Policy

Office of the Comptroller of the Currency

Before the

SPECIAL COMMITTEE ON AGING

United States Senate

June 29, 2009

Statement Required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Introduction

Good morning Senator McCaskill, my name is Ann Jaedicke, and I am the Deputy Comptroller for Compliance Policy at the Office of the Comptroller of the Currency (OCC). Since 2003, I have been responsible for examination policies and procedures relating to consumer issues.

It is a pleasure to be in St. Louis this morning to discuss reverse mortgages, a financial product that many older consumers may find appealing and that has the potential to grow in popularity as the baby boom population ages, the economy stabilizes, and home prices begin to recover. Used correctly, these products can be beneficial to consumers by providing funding for home improvement projects, medical needs, or long-term financial security. For many seniors, this product allows them to stay in their home and avoid the trauma and costs of moving in their elder years. However, like many mortgage products, without proper underwriting and strong consumer protections in place, there is also the potential for their misuse.

As you may know, Comptroller of the Currency John Dugan recently gave a speech on reverse mortgages before the American Bankers Association's Regulatory Compliance Conference in Orlando, Florida.[1] There, Mr. Dugan shared a number of observations about these products including their risks and their benefits. While the primary product is the Department of Housing and Urban Development's (HUD) Home Equity Conversion Mortgage (HECM), the Comptroller noted that lenders may offer private, or "proprietary," reverse mortgages. As the proprietary market is in its infancy, Mr. Dugan urged regulators and lenders to act now and ensure appropriate consumer safeguards for these products. As the market for proprietary mortgages expands, he

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[1] A copy of the Comptroller's remarks can be found at: http://www.occ.gov/ftp/release/2009-61a.pdf.

wants to prevent the types of problems that develop when, to use one example, borrowers agree to loan terms that they do not fully understand. He emphasized that providers need to make these loans in ways that are prudent for both lenders and borrowers. I will be echoing some of the Comptroller's comments today.

Because not everyone is familiar with the OCC, please allow me to provide a brief overview of our responsibilities. The OCC charters, regulates, and supervises all national banks. As of March 31, 2009, there were over 1,580 banks in the national banking system, with total assets of over $8.2 trillion. This includes 38 national banks here in Missouri. National banks include almost all of the country's largest, most complex banks, as well as many smaller community banks located across the country. The OCC's core mission is to ensure that national banks remain safe and sound, and to enforce banking laws and regulations, including those that protect consumers. OCC bank examiners who work on-site at the largest banks, as well as those who closely supervise the community banks across the country, are well-trained in both safety and soundness and consumer compliance supervision.

In my testimony today, I will provide some facts about reverse mortgages, discuss potential risks to consumers, and provide information about some OCC initiatives to make sure that this product is provided to consumers in an appropriate manner.

Reverse Mortgages and their Projected Growth

Reverse mortgages are unique and complex financial products. They are tailored to meet the income needs of older homeowners who have built up equity in their homes. Like home equity loans, a reverse mortgage provides a homeowner with access to cash secured by his or her home. But unlike a traditional mortgage, a reverse mortgage does not require the borrower to make payments on an ongoing basis. Instead, the home itself is the primary source of repayment, and no repayment is required until the homeowner dies, permanently moves out of the home, or fails to maintain the property or pay property taxes or insurance. In addition, the loan is usually non-recourse, with the amount the borrower owes at repayment generally capped at the value of the home. Because the loan is underwritten based on the value of the collateral and the life expectancy of the borrower, the borrower does not need to demonstrate income capacity or a creditworthy FICO score to qualify for a reverse mortgage. But the borrower must have the financial capacity to maintain the property and pay taxes and insurance.

Also unlike a traditional mortgage, a reverse mortgage provides a borrower with a number of options in terms of access to funds. Borrowers can choose to receive fixed monthly payments for as long as the borrower continues to live in the home or for a specified term; a lump sum payment; a line of credit; or a combination of these options. Most people choose to receive their funds as a line of credit and then draw down a substantial amount of credit at the time of origination.

A reverse mortgage provides some very attractive features to elderly homeowners who have equity tied up in their homes as it gives them the ability to access some of that equity while remaining in their homes. I can appreciate why reverse mortgages are a product worthy of serious consideration for many borrowers, and I anticipate this market will increase significantly as the population ages and home prices begin to stabilize.

As I noted previously, there are two basic types of reverse mortgage products in the market today: "Home Equity Conversion Mortgages" or "HECMs" that are insured by the Federal Housing Administration (FHA), and proprietary products offered by individual lenders. HECMs are administered by HUD, and regulations currently in place outline the rules and requirements for their use. While national banks may originate HECMs, the OCC does not have a role in the administration of the HECM program. The OCC does, however, have a role in ensuring that national banks comply with applicable laws and regulations, including the various consumer protection provisions set forth in HUD's regulations for HECMs.[2] In contrast, proprietary products are developed by individual banks and tailored to their specific audience, but are not insured by the FHA and thus are not subject to the specific consumer protections required for HECMs.[3]

To date, HECMs have dominated the reverse mortgage market, accounting for approximately 90 percent of all reverse mortgages. This trend is mirrored in the national banking system where the insured FHA HECM product, as opposed to proprietary products, is the predominant product offered by national banks. In 2008, more than 112,000 HECM loans were originated. Although the number of originations is small in comparison to traditional mortgages, the product has shown significant growth.

Within the next ten years, it is estimated that over 55 million people in the United States will be 62 or older, and thus eligible for a reverse mortgage. Many of these individuals are homeowners and, despite the recent downturn in house prices across the country, many own their homes outright or have built up home equity over the years. Moreover, economic difficulties including job losses, reduced pension benefits, and declining retirement accounts, may mean that many Americans will have an increased need to supplement their income as they grow older.

HECMs will probably continue to be the predominant reverse mortgage product, at least in the near term. Lenders, including national banks, find the product attractive

[2] HECM Regulations are set forth in 24 CFR part 206.
[3] Proprietary products, however, are subject to applicable consumer protection laws and regulations including the Truth-in-Lending Act, Section 5 of the Federal Trade Commission Act, and the Real Estate Settlement Procedures Act.

primarily because FHA insurance substantially limits their risk of loss with the product. In addition, HECMs are eligible for purchase by Government-sponsored enterprises, providing a way for lenders to move the loans off their balance sheets. Moreover, Congress recently increased the FHA loan limit applicable to HECMs to a maximum of $625,500 for 2009, and this expanded limit means that a large majority of elderly homeowners may qualify.

Nevertheless, we anticipate growth of the fledgling proprietary reverse mortgage market as well. Particularly if demand for this product accelerates, lenders are likely to develop more attractive proprietary products that will compete with HECMs.

Potential Risks to Consumers

As Comptroller Dugan noted in his recent speech and as you will no doubt hear from other witnesses at this hearing, the reverse mortgage product can, if not managed appropriately, raise significant consumer compliance concerns. One substantial risk arises from the ability of elderly consumers to access their home equity through immediate and large lump sum payments. Although some consumers may choose a lump sum payment to pay off their existing mortgage, others may choose this option for medical expenses, home improvements, or vacations. Accessing a substantial amount of cash may leave some consumers vulnerable to unscrupulous lenders or other bad actors who may attempt to aggressively market investment, insurance, or annuity products or, worse, try to condition loan approval on the purchase of such products. Reverse mortgage borrowers also may fall victim to con artists who may persuade them to obtain reverse mortgages and to use the proceeds to pay upfront for unneeded or excessively expensive home repair services that may not be completed.

Consumers who choose to receive their proceeds in an upfront lump sum payment and do not have a steady income or do not set aside some portion of those proceeds may find themselves without sufficient funds to pay for future home maintenance, property taxes, or insurance. Such action can have disastrous consequences, as the failure to make those payments can result in foreclosure.

Other consumer risks include misleading marketing claims or difficulty understanding the complex nature and costs associated with reverse mortgages. In particular, because they have no immediate repayment obligations, borrowers may overlook or not fully understand the substantial fees and costs attached to these loans. These loans can be more costly than other types of mortgages because of origination and servicing fees and mortgage insurance premiums. If a consumer doesn't fully understand how much the loan will cost, how much can be borrowed, or all the circumstances under which the loan can become due, then the risk increases for a transaction that is not appropriate to the consumer's needs.

Mitigating Reverse Mortgage Consumer Risks

Because of these risks, Congress and HUD carefully designed the HECM program to stave off many potential problems. For example, although the HECM borrower may withdraw his or her loan proceeds in a lump sum, HUD regulations restrict the use of the funds to pay for certain third party services, such as loan arrangers or so-called "estate planning services." In addition, the HECM program has several features designed to improve consumer understanding of the costs and structure of reverse mortgages. This includes the requirement that borrowers must receive independent financial counseling about alternatives to reverse mortgages, and about the financial, tax, and estate consequences of the transaction, before they take out a HECM. They also must receive special disclosures about the costs and terms of the loan. Furthermore, limits are imposed on the amount of loan origination fees that may be charged, and HECMs are subject to federal protections which prevent the lender from tying other financial products to the loan transaction and impose restrictions on how counselors may be compensated.

While the various consumer protections that apply to HECMs are meaningful, as the Comptroller noted, some particular issues have arisen over time as the program has evolved. One issue relates to the fact that the program permits the mandatory financial counseling to be conducted over the telephone. Obviously, telephone counseling may be the most convenient for some elderly or house-bound seniors, but this method may not always be the most effective in ensuring that the consumer fully understands the nature of this complex product.

In addition, a HECM borrower may draw down his or her line of credit in a single lump sum at any time, including at loan origination. This feature of the program provides borrowers with significant flexibility and allows them to obtain funds they may need immediately for medical and other expenses. It is also a popular option with HECM borrowers: HUD has estimated that borrowers choosing a line of credit typically withdraw at least 60 percent of their funds as soon as the loan is closed. But, as noted above, this feature also can present risks of borrower coercion and create opportunities for mortgage fraud. It may also leave the borrower vulnerable to having insufficient funds to pay for needed future home repairs, taxes, and insurance. We think these are issues that deserve some more attention. We also understand that HUD is aware of and focused on these issues.

OCC Initiatives to Address Potential Risks

OCC recently provided its perspectives and experience with reverse mortgages to GAO as part of its study on this product. We look forward to working with the GAO to implement any recommendations that they may make to improve consumer protections for this product.

Although many of the standard consumer credit laws such as the Truth in Lending Act and the Real Estate Settlement Procedures Act do apply to reverse mortgages, uniform protections similar to those developed by Congress and HUD for HECMs currently do not exist in the proprietary reverse mortgage market. Thus, it is critical that banks offering proprietary products closely consult with their compliance officers as they develop this line of business in order to manage and mitigate the potential for risk and to ensure that consumers understand both the benefits and costs of this product. OCC will do its part to ensure that banks are utilizing appropriate risk management strategies including proper underwriting standards, clear and meaningful disclosures, and accurate marketing materials. As the proprietary market grows out of its infancy, banks have a unique opportunity to develop a strong and robust program that is prudent for both consumers and banks. Getting ahead of the potential pitfalls before real problems develop is critical.

As the market for reverse mortgages continues to develop, OCC will continue to work to raise awareness about these products, their benefits, and their potential compliance concerns. Discussing the products within OCC and through industry outreach efforts will foster a healthy dialogue with national banks that may be exploring entry into the proprietary mortgage market.

Formal guidance to insured depositories is under development. The Federal Financial Institutions Examination Council (which includes the OCC, the Office of Thrift Supervision, the Federal Reserve, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and State Liaison Committee) is developing supervisory guidance for managing the risks presented by reverse mortgages. OCC has been leading the interagency working group to develop this guidance that will apply to all nationally-chartered banks, savings and loans, credit unions, and state banks. We expect the guidance to address the agencies' concerns that consumers may not understand the costs, terms, risks, and consequences of reverse mortgage products; that counseling may not be provided or may not be adequate to ensure understanding; and that potential conflicts of interest and abusive practices may arise in connection with these transactions.

The guidance is an important first step in setting strong expectations for the proprietary reverse mortgage market. We also believe that any final guidance should direct banks to apply to proprietary reverse mortgages the same types of consumer protection standards applicable to HECMs, including the requirement for independent counseling. Ensuring appropriate implementation of the standards in the guidance through our supervisory process will be critical to protecting reverse mortgage borrowers. Once issued, OCC will supervise national banks and their operating subsidiaries to ensure the standards in the guidance are established and maintained. While the interagency guidance is still very much a "work in progress," we are on track to issue the guidance for public comment later this summer.

To supplement this guidance, we also will rely on regulations currently in place to address two particular consumer protection risks: misleading marketing and conditioning the mortgage on the purchase of other nonbank products. National banks are subject to an OCC regulatory requirement that prohibits engaging in unfair or deceptive practices, as those terms are defined in the Federal Trade Commission Act, in connection with making, arranging, purchasing, or selling a real estate loan. The OCC was the first federal banking agency to issue regulations prohibiting such conduct. Our rules apply only to the national banks we supervise. We will use this authority to require immediate correction of any potentially misleading marketing claims by a bank in connection with reverse mortgage products. Indeed, the OCC has, on a number of occasions, taken enforcement actions when we have found deceptive practices.

In addition, banks are prohibited by law from conditioning availability of a reverse mortgage on the borrower's purchase of certain nonbanking products, such as annuities or life insurance products. We will use this authority to prevent inappropriate and illegal cross-selling activities. As part of our supervision of national banks, we will expect them to have written procedures and internal controls to guard against conflicts of interest that may arise in connection with reverse mortgage products and with the sale of any ancillary products. And we will expect national banks to have compensation policies that do not create inappropriate incentives for loan officers and third parties such as mortgage brokers, correspondents, and intermediaries.

If we conclude that implementation of the interagency guidance and enforcement of existing regulations will not be sufficient to address all of the consumer protection concerns that may arise in connection with reverse mortgages, we may determine that more definitive regulatory standards need to be adopted. If this is the case, the OCC is prepared to do that – even if the standards we advocate initially apply only to reverse mortgage lending by national banks.

To better track trends and identify emerging risks in the reverse mortgage market, the OCC, other federal banking agencies, and the State Liaison Committee are considering proposing a change to the information that banks provide in their Report of Condition and Income reports. This change would require the collection of information about reverse mortgage products, including the volume and type (i.e., HECM versus proprietary) of reverse mortgages being originated.

Finally, the OCC is committed to increasing the public's awareness of reverse mortgages and is developing Public Service Announcements to be issued in the coming weeks on the product. These announcements will include print and radio spots that will run in both English and Spanish to advise consumers about the potential risks of this product.

Conclusion

Thank you, Senator McCaskill, for convening this hearing and for your leadership on this important issue.

Senator McCASKILL. Thank you very much, Ms. Jaedicke.
Mr. SCIRE.
Mr. SCIRE. Scire.
Senator McCASKILL. Scire, Scire, Scire. OK. I'll get that right. Thank you.
Mr. SCIRE. Just thank hurray and then you'll have it.
Senator McCASKILL. Hurray, hurray.

STATEMENT OF MATHEW J. SCIRE, DIRECTOR, GAO, FINANCIAL MARKETS AND COMMUNITY INVESTMENT, GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, DC

Mr. SCIRE. Senator McCaskill, thank you for the opportunity to be here today to present the results of our analysis of HUD's Home Equity Conversion Mortgage Program.

Last year HUD insured over a 110,000 HECMs across the country. Through these mortgages, seniors may access the equity in their homes without having to make monthly mortgage payments. For many, this provides the chance to remain in their homes while using the lifetime of equity that they have accumulated. Because of this, it is critical that seniors have accurate and complete information on the costs and benefits of these complex mortgage products.

You have brought to light questionable practices of some lenders highlighting the importance of effective consumer protections. This includes effective consumer counseling which is a requirement for obtaining a HECM from HUD.

At your request and that of this committee, we have been assessing the costs and benefits of HUD's HECM Program and the effectiveness of certain consumer protections. Today, we are issuing the report you requested. In it, we record a number of risks that require further attention, particularly in the areas of HECM marketing and counseling.

We also make a number of recommendations aimed at improving controls over counseling and for financial institutions to raise lender and consumer attention to potentially misleading marketing claims.

I will highlight a few of the more significant findings. First, we reviewed marketing material that we obtained by reviewing the Internet and public information provided by the most active HECM lenders. We found that some material made claims that were potentially misleading because they were inaccurate, incomplete or employed questionable sales tactics.

For example, we found marketing material promising lifetime income but HECMs do not provide income and only permit borrowers to receive payments for their home's equity while they stay in their home and meet all of the loan requirements.

We have referred these potentially misleading marketing material to the Federal Trade Commission and various Federal financial regulatory agencies responsible for overseeing certain lenders.

Second, we found that some of the states that GAO contacted reported cases of inappropriate cross-selling involving violations of state laws governing sale of insurance and annuities. However, Federal agencies have had a limited role in addressing concerns about the sale of potentially unsuitable insurance and other financial products in conjunction with HECMs.

HUD is now in the process of implementing provisions that you placed in ARRA to protect consumers from inappropriate cross-selling.

Third, we found that HUD's internal controls do not provide for reasonable assurance that counseling providers comply with program requirements. To test these controls, we acted as secret shoppers and called counseling providers to determine whether they provided complete and accurate information as required by HUD.

In our 15 counseling sessions, we found that none of the counselors covered all of the topics that HUD required and some overstated the length of the sessions in HUD records. Although we found that counselors generally conveyed accurate and useful information, some of the content that was often not covered included alternatives to HECMs, the option of requiring the lender to establish escrow for property taxes and other fees, whether the homeowner had signed a contract or agreement with an estate planning service, and the advantages and disadvantages of each payment plan.

Finally, we found that counselors often did not determine that the secret shopper had sufficient means to pay for counseling by asking for debt and income information, for example. Overall, our findings raised questions about the effectiveness of HUD's process for ensuring seniors have full information as they consider whether and how to borrow against the equity in their homes.

We recommend that HUD take a number of actions. We recommend that HUD implement methods to verify the content and length of HECM counseling sessions and issue detailed guidance for HECM counseling providers about how to record counseling time.

We also recommend that the FTC and others caution HECM industry participants about potentially misleading claims.

In summary, Senator McCaskill, HECMs are an increasingly popular way for seniors to access equity in their homes. As more homeowners become eligible for this complex mortgage product, its potential for further growth is clear, as is the potential for misleading seniors.

We believe that HUD should move to address the recommendations we make in today's report. We're committed to providing the Congress with effective oversight of the HECM Program. We look forward to supporting this committee's continuing efforts.

This concludes my opening remarks. Thank you for the opportunity to speak today and I'd be glad to take any questions that you may have.

[The prepared statement of Mr. Scire follows:]

United States Government Accountability Office

GAO

Testimony
Before the Special Committee on Aging, U.S. Senate

For Release on Delivery
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REVERSE MORTGAGES

Product Complexity and Consumer Protection Issues Underscore Need for Improved Controls over Counseling for Borrowers

Statement of Mathew J. Scirè, Director
Financial Markets and Community Investment

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GAO-09-812T

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Highlights

Highlights of GAO-09-812T, a testimony to the Senate Special Committee on Aging

Why GAO Did This Study

Reverse mortgages—a type of loan against the borrower's home that is available to seniors—are growing in popularity. These mortgages allow seniors to convert their home equity into flexible cash advances while living in their homes. However, concerns have emerged about the adequacy of consumer protections for this product. Most reverse mortgages are made under the Department of Housing and Urban Development's (HUD) Home Equity Conversion Mortgage (HECM) program. HUD insures the mortgages, which are made by private lenders, and oversees the agencies that provide mandatory counseling to prospective HECM borrowers.

GAO was asked to examine issues and federal activities related to (1) misleading HECM marketing, (2) the sale of potentially unsuitable products in conjunction with HECMs, and (3) the oversight of HECM counseling providers. This testimony is based on a GAO report being released today (GAO-09-606).

What GAO Recommends

GAO's report made recommendations designed to address potentially misleading marketing of HECMs and improve HUD's oversight of HECM counseling providers. The federal banking regulators agreed with the recommendations. HUD and FTC did not comment on them.

View GAO-09-812T or key components. For more information, contact Mathew J. Scire at (202) 512-8678 or sciremj@gao.gov.

June 29, 2009

REVERSE MORTGAGES

Product Complexity and Consumer Protection Issues Underscore Need for Improved Controls over Counseling for Borrowers

What GAO Found

While HECMs have the potential to play a key role in meeting the needs of seniors facing financial hardship or seeking to improve their quality of life, the product is relatively complex and costly and the population it serves is vulnerable. GAO's work identified areas of consumer protection that require further attention, including the area of HECM marketing. Various federal agencies have responsibility for protecting consumers from the misleading marketing of mortgages. Although these agencies have reported few HECM marketing complaints, GAO's limited review of selected marketing materials for reverse mortgages found some examples of claims that were potentially misleading because they were inaccurate, incomplete, or employed questionable sales tactics. Federal agency officials indicated that some of these claims raised concerns. For example, the claim of "lifetime income" is potentially misleading because there are a number of circumstances in which the borrower would no longer receive cash advances. Consumers who have not been cautioned about such claims could pursue HECMs with misunderstandings about the product.

To date, federal agencies have had a limited role in addressing concerns about the sale of potentially unsuitable insurance and other financial products in conjunction with HECMs (known as "inappropriate cross-selling"). States generally regulate insurance products, and some of the states GAO contacted reported cases of inappropriate cross-selling involving violations of state laws governing the sale of insurance and annuities. HUD is responsible for implementing a provision in the Housing and Economic Recovery Act of 2008 that is intended to restrict inappropriate cross-selling, but the agency is in the preliminary stages of developing regulations.

HUD's internal controls do not provide reasonable assurance that counseling providers are complying with HECM counseling requirements. GAO's undercover participation in 15 HECM counseling sessions found that while the counselors generally conveyed accurate and useful information, none of the counselors covered all of the topics required by HUD, and some overstated the length of the sessions in HUD records. For example, 7 of the 15 counselors did not discuss required information about alternatives to HECMs. HUD has several internal controls designed to ensure that counselors convey required information to prospective HECM borrowers, but has not tested the effectiveness of these controls and lacks procedures to ensure that records of counseling sessions are accurate. Because of these weaknesses, some prospective borrowers may not be receiving the information necessary to make informed decisions about obtaining a HECM.

Chairman Kohl, Ranking Member Martinez, and Members of the Special Committee:

I am pleased to be here to participate in today's hearing on reverse mortgages. A reverse mortgage is a loan that converts the borrower's home equity into payments from a lender and, typically, does not require any repayments, as long as the borrower continues to live in the home. Available to homeowners aged 62 and older, these loans have become an increasingly popular financial tool for seniors, but concerns have emerged about the adequacy of consumer protections for reverse mortgage borrowers. For example, some consumer advocates have expressed concern about misleading marketing and inappropriate cross-selling—the practice of encouraging borrowers to use reverse mortgage funds to purchase insurance or other products that may be unsuitable for the borrower's financial situation. The Housing and Economic Recovery Act of 2008 (HERA) acknowledged some of these concerns by putting in place additional consumer protection measures. According to industry sources, almost all reverse mortgages are currently made under the Home Equity Conversion Mortgage (HECM) program, which is administered by the Department of Housing and Urban Development (HUD). This program has experienced dramatic growth with an increase in both the number of HECM loans and the number of lenders participating in the HECM program. Since the inception of the HECM program, Congress has required prospective borrowers to obtain counseling by an independent third party so that they can make informed decisions about whether to obtain a HECM.

My testimony today is based on work we conducted at the request of Chairman Kohl and Senator McCaskill for a report that we are issuing today.[1] My statement discusses federal agency activities for (1) protecting consumers from misleading HECM marketing, (2) protecting HECM borrowers from inappropriate cross-selling, and (3) overseeing HECM counseling providers.

To do this work, we spoke with agency, industry, and nonprofit officials, including those at HUD, federal and state banking regulators, AARP, and the National Reverse Mortgage Lenders Association (NRMLA). To examine

[1]GAO, *Reverse Mortgages: Product Complexity and Consumer Protection Issues Underscore Need for Improved Controls over Counseling for Borrowers*, GAO-09-606 (Washington, D.C.: June 29, 1999).

federal agency responsibilities to protect consumers from misleading HECM marketing, we identified authorities, standards, and processes that HUD, the Federal Trade Commission (FTC), and four federal banking regulators use to identify and address misleading marketing practices. We also conducted our own review of HECM marketing materials, including Internet and mailed materials for major HECM lenders.[3] We also conducted Internet searches for materials with potentially misleading statements and collected materials from seven reverse mortgage information seminars. To examine the steps federal agencies have taken to protect HECM borrowers from inappropriate cross-selling, we reviewed the HERA provisions on cross-selling, HUD's actions to implement the provisions, and other HUD and federal regulator activities related to these practices. In addition, we compiled examples from state insurance regulators of cross-selling that violated state insurance laws. To examine HUD's oversight of HECM counseling providers, we identified the internal controls that HUD currently has in place to ensure compliance with HUD counseling requirements and tested the effectiveness of these controls by conducting 15 undercover counseling sessions with HUD-approved counselors. The findings from the 15 counseling sessions cannot be generalized to all HECM counseling sessions or sessions conducted by particular counseling agencies.

We conducted this performance audit from April 2008 through June 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. In addition, our investigative work was performed in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Summary

While HECMs have the potential to play a key role in meeting the needs of seniors facing financial hardship or seeking to improve their quality of life, the product is relatively complex and costly and the population it serves is vulnerable. These factors, combined with the increasing number of borrowers and lenders participating in the HECM program, underscore the

[3]This part of our review focused on materials from the 12 lenders that originated at least 1,000 HECMs in fiscal year 2008.

need for federal agencies to be vigilant about emerging consumer protection risks. Our work identified areas of consumer protection that require further attention, particularly in the areas of HECM marketing and counseling.

- Although federal agencies reported few HECM marketing complaints, our limited review of selected marketing materials for reverse mortgages found some examples of claims that were potentially misleading because they were inaccurate, incomplete, or employed questionable sales tactics. The existence of these claims suggests that some HECM providers may not be maintaining sufficient focus on or awareness of federal marketing standards. Furthermore, prospective borrowers could pursue HECMs with misunderstandings about the product unless they receive corrected information.

- To date, federal agencies have had a limited role in addressing concerns about the sale of potentially unsuitable insurance and other financial products in conjunction with HECMs (inappropriate cross-selling). States generally have been responsible for regulating insurance products, and some of the states we contacted reported cases of inappropriate cross-selling involving violations of state laws governing the sale of insurance and annuities. However, HUD is now responsible for implementing provisions in HERA that are intended to restrict inappropriate cross-selling.

- HUD's internal controls do not provide reasonable assurance that counseling providers are complying with HECM counseling requirements. As previously noted, Congress mandated counseling to help prospective borrowers make informed decisions about HECMs. Our participation in 15 HECM counseling sessions found that while the counselors generally conveyed accurate and useful information, none of the counselors covered all of the topics required by HUD. Additionally, some overstated the length of the sessions in HUD records.

To strengthen consumer protections for HECMs, we are recommending that HUD, FTC, and the federal banking regulators take steps to strengthen oversight and enhance industry and consumer awareness of the types of marketing claims that we discuss in this testimony. We are also recommending that HUD take steps to improve the effectiveness of its internal controls, such as by verifying the content and length of HECM counseling sessions. In written comments on our report, the federal banking regulators agreed with our recommendations. HUD and FTC did not comment on them.

Background

A reverse mortgage is a loan against the borrower's home that the borrower does not need to repay for as long as the borrower meets certain conditions. These conditions, among others, require that borrowers live in the home, pay property taxes and homeowners' insurance, maintain the property, and retain the title in his or her name. Reverse mortgages typically are "rising debt, falling equity" loans, in which the loan balance increases and the home equity decreases over time. As the borrower receives payments from the lender, the lender adds the principal and interest to the loan balance, reducing the homeowner's equity. This is the opposite of what happens in forward mortgages, which are characterized as "falling debt, rising equity" loans. With forward mortgages, monthly loan payments made to the lender add to the borrower's home equity and decrease the loan balance.

The HECM program began in 1988, when Congress authorized HUD to insure reverse mortgages to meet the financial needs of elderly homeowners.[3] While HECMs can provide senior homeowners with multiple types of benefits, including flexibility in how they use the loan funds and protection against owing more than the value of the house when the loan comes due, HECM costs can be substantial. The volume of HECMs made annually has grown rapidly, rising from 157 loans in fiscal year 1990 to more than 112,000 loans in fiscal year 2008. In addition, recent years have seen a large increase in the number of lenders participating in the HECM program, with more than 1,500 lenders originating their first HECM in 2008, bringing the total number of HECM lenders to over 2,700.[4]

A number of federal and state agencies have roles in overseeing the reverse mortgage market. These agencies include HUD, which administers the HECM program and oversees entities that provide mandatory counseling to prospective HECM borrowers. In addition, the Federal Trade Commission (FTC), federal and state banking regulators, and state insurance regulators are involved with various aspects of consumer protections for HECM borrowers.

[3] 12 U.S.C. §1715z-20 (a).

[4] About 10 percent of these lenders originated 80 percent of all HECMs in 2008.

Although Various Agencies Have Some Responsibility for Assessing HECM Marketing, Some Advertisements Contain Potentially Misleading Claims

Various state and federal agencies have some responsibility for assessing marketing for reverse mortgage products, including FTC, federal and state banking regulators, and HUD. The agencies each have a responsibility for different segments of the reverse mortgage market, but have reported taking few, if any, enforcement actions against an entity as a result of misleading reverse mortgage marketing. FTC has responsibility for protecting consumers against unfair or deceptive practices originating from nonbank financial companies, such as mortgage brokers.[5] FTC officials said they have not systematically searched for potentially misleading reverse mortgage marketing, but noted that they are maintaining an awareness of the potential risks associated with reverse mortgage marketing and have formed a task force of state and federal regulators and law enforcement agencies, in part to learn about complaints related to reverse mortgages. In addition, the federal banking regulators—the Board of Governors of the Federal Reserve System (Federal Reserve), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA)—include a review of reverse mortgage marketing materials in their compliance examinations of lenders for whom they have responsibility, but, because few of their regulated lenders offer reverse mortgages, they have not conducted many examinations that have included these loans.[6] Like FTC, federal banking regulators are maintaining an awareness of the potential risks associated with reverse mortgages, which could include those associated with reverse mortgage marketing. For example, the Federal Financial Institutions Examination Council—the interagency body that includes the federal banking regulators and develops guidance for federal bank examiners—recently formed a working group on reverse mortgages. Finally, some HECM lenders are regulated at the state level, with HECM marketing materials subject to state compliance examinations. Information we obtained from 22 of the 35 state banking regulators that

[5]Specifically, FTC enforces section 5 of the Federal Trade Commission Act (FTC Act), which broadly prohibits unfair or deceptive acts or practices in commerce. Section 5(n) of the FTC Act defines "unfair" to mean practices that cause or are likely to cause substantial injury that cannot be reasonably avoided by consumers and is not outweighed by countervailing benefits to consumers or to competition. FTC has defined "deceptive" to mean any material representation or omission of information, or practice that is likely to mislead consumers who are acting reasonably under the circumstances. Misleading information is "material" to consumers if it is likely to affect the consumer's decision to purchase a product or service.

[6]We did not speak with officials at NCUA because none of the HECM lenders that originated at least 1,000 HECMs in fiscal year 2008 were credit unions regulated by NCUA.

responded to our information request indicated that their states routinely examine marketing materials as part of compliance examinations.[7] However, only 1 state banking regulator—the Idaho Department of Finance—reported taking action against a lender because of reverse mortgage marketing.

In addition, HUD exercises limited regulatory authority over the marketing activity of HECM lenders to ensure that lenders' advertisements do not imply endorsement by HUD or the Federal Housing Administration. HUD officials cited one instance in which it referred a lender to the Mortgagee Review Board for misrepresenting the HECM as a "government rescue loan."[8] However, HUD officials said they do not actively monitor HECM marketing, and do not review HECM marketing materials as part of routine assessments of HECM lenders.

Some agencies with whom we spoke indicated that while complaints are one factor that could trigger more extensive assessments of marketing materials, they have received few, if any, complaints about reverse mortgage marketing. However, FTC officials noted that the low volume of complaints could be a result of consumers not being aware that they have been deceived, not knowing to whom to complain, or elderly consumers being less likely to complain.

While the extent of misleading HECM marketing is unknown, our limited review of marketing materials found some examples of claims that were potentially misleading because they were inaccurate, incomplete, or employed questionable sales tactics. Among the materials we reviewed, we found 26 different entities that made potentially misleading claims in their HECM marketing materials.[9] This group includes entities regulated by each of the federal banking regulators with whom we spoke, as well as FTC and state regulators; it also includes both members and nonmembers

[7] We obtained information on state agency efforts to review reverse mortgage marketing materials through the Conference of State Bank Supervisors, which sent a set of standardized questions we developed to all 50 states and the District of Columbia.

[8] HUD's Mortgagee Review Board, an enforcement body chaired by HUD's Assistant Secretary for Housing-Federal Housing Commissioner, can impose administrative sanctions against lenders, including withdrawing the lenders' authority to make HUD-insured loans.

[9] At least one of these lenders corrected its potentially misleading claim since we first reviewed the materials, and another lender was issued a cease-and-desist order by a state banking regulator as a result of a misleading claim.

of NRMLA.[10] We selected seven advertisements that represented these claims and submitted them to the regulators for review. In general, the officials with whom we spoke agreed that the claims in six of the seven advertisements raised some degree of concern and might prompt further investigation.[11] Several of the officials noted that they would need to consider the fuller context of the advertisement to determine if the claims were misleading and the level of action they would take if these six advertisements were the subject of complaints or compliance examinations.

The six potentially misleading claims that we identified, and agency officials generally agreed raised concern, were as follows:[12]

- *"Never owe more than the value of your home"*: The claim is potentially misleading because a borrower or heirs of a borrower would owe the full loan balance—even if it were greater than the value of the house—if the borrower or heirs chose to keep the house when the loan became due. This was the most common of the potentially misleading statements we found in the marketing materials we reviewed. This claim was made by HUD itself in its instructions to approved HECM lenders; however, in December 2008, HUD issued guidance to HECM lenders explaining the inaccuracy of this claim.
- *Implications that the reverse mortgage is a "government benefit" or otherwise, not a loan:* While HECMs are government-insured, the product is a loan that borrowers or their heirs must repay, not a benefit. Examples of this type of claim include the following: "You may be qualified for this government-sponsored benefit program," and "Access the equity in your home without having to sell, move, or take out a loan."

[10]NRMLA members are expected to adhere to the association's Code of Ethics, which contains specific rules on ethical advertising.

[11]The Federal Reserve did not comment on the advertisements individually, but indicated that the advertisements generally raised concerns.

[12]The claim that did not raise as much concern stated that HECM closing costs average only 1 percent more than a regular HUD mortgage. We considered this statement to be inaccurate because, while HECM origination fees are 2 percent, origination fees for FHA-insured forward mortgages are 1 percent—a difference of 100 percent. The officials with whom we spoke about this claim said that they would consider this an "editorial error" or "confusing," but not intended to mislead.

- *"Lifetime income" or "Can't outlive loan"*: Although borrowers can choose to receive HECM funds as monthly tenure payments, even under this option, payments will not continue once the loan comes due (e.g., when the borrower moves out of the house or violates other conditions of the mortgage).

- *"Never lose your home"*: This claim is potentially misleading because a lender could foreclose on a HECM borrower's home if the borrower did not pay property taxes and hazard insurance or did not maintain the house.

- *Misrepresenting government affiliation:* An example of this type of claim would include use of government symbols or logos and claims that imply that the lender is a government agency.

- *Claims of time and geographic limits:* These claims falsely imply that HECM loans are limited to a certain geographic area, or that the consumer must respond within a certain time to qualify for the loan. Examples include "must call within 72 hours," and "deadline extended," as well as the claim that a consumer's residence is "located in a Federal Housing Authority qualifying area."

The potentially misleading marketing claims we identified suggest that some HECM providers may not be maintaining sufficient focus on or awareness of federal marketing standards. Furthermore, consumers who have not been cautioned about such claims could pursue HECMs with misunderstandings about the product. Therefore, the report we are issuing today recommends that HUD, FTC, and the federal banking regulators take steps to strengthen oversight and enhance industry and consumer awareness of the types of marketing claims discussed in this testimony.

Development of HECM-Specific, Cross-Selling Regulations Is in Preliminary Stage, and States Have Uncovered Some Evidence of Inappropriate Cross-Selling

Concerns exist that reverse mortgage borrowers could be vulnerable to inappropriate cross-selling, a practice involving the sale of financial or insurance products that are unsuitable for the borrower's financial situation using the borrower's reverse mortgage funds. While certain annuity products may be suitable for some HECM borrowers, such as those who wish to receive payments for life regardless of where they live, there is concern that elderly reverse mortgage borrowers may be sold other products that may be inappropriate to the borrower's circumstances. For example, there is concern that elderly reverse mortgage borrowers may be sold deferred annuities, where payments may not begin for many years and high fees may be charged for early access to the money.

Because cross-selling typically involves the sale of insurance products generally regulated at the state level, the role of federal agencies in addressing the issue of cross-selling in conjunction with HECMs has been limited and largely has been focused on consumer education and disclosures. However, with the passage of HERA, HUD now has responsibility for enforcing the cross-selling provisions in the legislation and is in the preliminary stages of developing regulations to implement them. The provisions are intended to curb the sale of unsuitable financial products to consumers using HECM funds. According to HUD officials, HUD is drafting a *Federal Register* notification to solicit feedback on issues concerning these provisions, including HUD's ability to monitor and enforce them; the usefulness of disclosures, education, and counseling in preventing cross-selling; what would constitute appropriate firewalls between a firm's reverse mortgage sales and sales of other financial products; and what types of financial products should be covered. HUD has also instructed lenders that until HUD issues more definitive guidance, lenders must not condition a HECM on the purchase of any other financial or insurance product, and should strive to establish firewalls and other safeguards to ensure there is no undue pressure or appearance of pressure for a HECM borrower to purchase another product.

A number of state insurance regulators have reported cases of inappropriate cross-selling involving violations of state laws governing the sale of insurance and annuities. Many states have passed suitability laws that are designed to protect consumers from being sold unsuitable insurance products, including annuities. Of the 29 state insurance regulators that responded to questions we sent all states and the District of Columbia, 8 said that from 2005 through January 2009, they had at least one case of an insurance agent selling an unsuitable insurance product that a consumer had purchased using reverse mortgage funds. For example, an official at the Insurance Division of the Hawaii Department of

Commerce and Consumer Affairs described a case in which an independent mortgage broker was prosecuted for misrepresentation of an annuity product. The broker, who also owned his own insurance company, deceived 15 clients by including paperwork for an annuity in their HECM closing documents without their knowledge. In another case, a sales manager of an insurance company violated the Maine Insurance Code by allowing transactions that were not in the best interest of the customer. The sales manager had arranged for a representative of a large reverse mortgage lender to speak with his sales agents about reverse mortgages. The agents then referred 14 clients to the reverse mortgage lender, all of whom obtained reverse mortgages. One particular client, an 81-year old widow, was contacted continually until she obtained her reverse mortgage funds, and was then sold a deferred annuity. The interest rate accruing on the reverse mortgage was 4.12 percent, and the deferred annuity earned only 3.25 percent.

HUD's Internal Controls Do Not Provide Reasonable Assurance That Counseling Agencies Are Complying with HECM Counseling Requirements

HUD's internal controls for HECM counseling do not provide reasonable assurance of compliance with HUD requirements. HUD has a range of internal control mechanisms to help ensure that HECM counselors comply with counseling requirements.[13] These controls include (1) counseling standards as set forth in regulations, mortgagee letters, and a counseling protocol; (2) a counselor training and examination program, and (3) a Certificate of HECM Counseling (counseling certificate) that, once signed by the counselor and the counselee, should provide HUD with assurance that counselors complied with counseling standards and that prospective borrowers were prepared to make informed decisions. Although federal standards encourage agencies to test the effectiveness of their internal controls, HUD has not done so for its controls for HECM counseling.

Our independent evaluation of 15 HECM counseling sessions found that counselors did not consistently comply with HECM counseling requirements.[14] To test counselor compliance with key HECM counseling requirements, GAO staff posed as prospective HECM borrowers for 15

[13]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: Nov. 9, 1999). GAO guidance states that internal controls should provide reasonable assurance that agency objectives—in this case ensuring that prospective HECM borrowers are well-informed—are being achieved.

[14]While our findings from the 15 counseling sessions cannot be generalized to all HECM counseling sessions or sessions conducted by individual agencies, the sessions allowed us to test compliance with HECM counseling requirements.

counseling sessions offered by 11 different agencies. For each session, we determined whether the counselors covered required topics, primarily those referenced in the counseling certificate. The certificate identifies or refers to counseling requirements originally set forth in statute, HUD regulations, or mortgagee letters. Our undercover counselees participated in telephone counseling sessions because HUD estimated that about 90 percent of all HECM counseling sessions were conducted by telephone. All but one of the counselors who conducted our counseling sessions were examination-certified by HUD to provide HECM counseling.[15]

Although none of the 15 counselors covered all of the required topics, all of them provided useful and generally accurate information about reverse mortgages and discussed key program features. For example, most counselors explained that the loan would become due and payable when no borrower lives on the property, and that borrowers must pay taxes and insurance. Counselors also often supplemented their discussions with useful information, such as a description of factors that affect available interest rates and the fact that borrowers would receive monthly statements from the lender, even though this information is not specifically referred to on the counseling certificate.

However, despite certifying on the counseling certificate that they had covered all of the information HUD requires, all of the counselors omitted at least some required information. The required information that counselors most frequently omitted included the following:

- *Other housing, social service, health, and financial options:* Seven of the 15 counselors did not discuss options, other than a HECM, that might be available to a homeowner, such as considering other living arrangements, meal programs, or health services that local social service agencies might provide. Our findings are consistent with findings in AARP and HUD Office of Inspector General reports.[16]

[15]HUD expects to issue regulations in 2009 that will require all HECM counselors to pass a written exam. The regulations will also establish a roster of eligible HUD counselors and allow HUD to remove counselors for cause.

[16]See AARP, *Reverse Mortgages: Niche Product or Mainstream Solution? Report on the 2006 AARP National Survey of Reverse Mortgage Shoppers* (Washington, D.C.: Dec. 2007) and HUD Office of Inspector General, *Audit Report from the Regional Inspector General for Audit, Fort Worth Region*, 2008-FW-1010 (Fort Worth, July 14, 2008).

- *Other home equity conversion options:* The same 7 counselors, likewise, did not discuss other types of (and potentially lower-cost) reverse mortgages that state or local governments might sponsor for specific purposes. For example, some state governments provide reverse mortgages that do not need to be repaid until the house is sold for payment of taxes or making major repairs.

- *The financial implications of entering into a HECM:* Fourteen of the 15 counselors only partially met this requirement, and 1 completely did not meet the requirement, because they omitted information that HUD directs counselors to convey.[17] For example, 6 of the counselors did not provide estimates of the maximum amount of funds that might be available to the counselee under the HECM payment plan options. A HUD official said that this information would help counselees understand how reverse mortgages would address their financial situations. Additionally, 14 counselors did not tell counselees that they could elect to have the loan provider withhold funds to pay property taxes and insurance.

- *A disclosure that a HECM may affect eligibility for assistance under other federal and state programs:* While most counselors discussed the tax consequences of a HECM, 6 of 15 did not indicate that eligibility for some federal and state programs could be affected if borrowers had more money in their bank accounts than allowed under such programs' terms.

- *Asking if a homeowner had signed a contract or agreement with an estate planning service:*[18] HUD implemented this requirement based on a statutory provision intended to protect HECM borrowers from paying excessive fees for third-party services of little or no value. However, 14 of the 15 counselors did not ask this question, although of the 14, 4 cautioned the undercover counselees that such services were unnecessary to obtain a HECM.

[17]As indicated in Mortgagee Letter 2004-25, to meet this requirement, a counselor must cover specific information, including the advantages and disadvantages of each payment plan and the borrower's ongoing responsibility to pay property taxes and hazard insurance, either directly or indirectly by electing to require the mortgagee to withhold funds from monthly payments or to charge such funds to a line of credit. As of March 27, 2009, HUD more specifically required that the counselor document a client's budget based on the person's income, assets, debts, and monthly expenses.

[18]HUD implemented this requirement in Mortgagee Letter 99-2, pursuant to a 1998 amendment to the National Housing Act.

In addition to requiring HECM counselors to convey certain information, HUD requires them to record the length of each counseling session on the counseling certificate. Although HUD has not issued guidance on the subject, HUD officials told us that the recorded time should reflect only the time spent counseling the client. However, 6 of the 15 counselors for our undercover sessions overstated the length of the counseling sessions on the counseling certificates. In 3 of these cases, the sessions ranged from 22 to 30 minutes, but the recorded times ranged from 45 minutes to 1 hour. In another instance, the session lasted about 20 minutes, but the counselor recorded 30 minutes. These 4 sessions omitted much of the required information, particularly the discussion of options and various aspects of the financial implications of a HECM. The counselors for the remaining 2 sessions recorded the sessions as lasting 2 hours when 1 lasted 45 minutes, and the other 57 minutes.

Another area of noncompliance we identified concerned the requirement that counseling agencies assess a client's ability to pay the counseling fee. In May 2008, HUD issued instructions allowing counseling agencies to charge a fee of up to $125 for HECM counseling, as long as the fee did not create a financial hardship for the client.[19] The instructions require counseling agencies to make this determination by considering factors including, but not limited to, the client's income and debt obligations. While HUD guidance states that agencies may use "objective criteria" in assessing a client's ability to pay, the guidance does not specify what types of criteria are appropriate. Consistent with HUD requirements, 12 of the 15 counseling agency staff responsible for charging the fee, whether intake staff or counselors, informed our undercover counselees of the fee in advance of the session and charged $125 or less. However, staff at most of the agencies did not collect the minimum amount of information that HUD requires to assess the counselee's ability to pay. For example, for 4 of the 15 sessions, agency intake staff took the counselee's credit card information up front, without obtaining any information about income and debt; and counselors for four other sessions, asked about the undercover counselees' income but not their debts. In the absence of clear guidance, similarly situated counselees could be treated differently, and those facing financial hardships might be paying for counseling when they should not have to.

[19]HUD issued these instructions in Mortgagee Letter 2008-12, pursuant to regulations published in 2007 (see *Federal Register* at 72 FR 55638) and codified at 24 C.F.R. Part 214. The instructions state that if an agency's cost of providing HECM counseling is less than $125, the maximum amount the agency can charge is the actual cost.

Because of the weaknesses in HUD's internal controls, some prospective borrowers may not be receiving the information necessary to make informed decisions about obtaining a HECM. Therefore, we are recommending that HUD take steps to improve the effectiveness of its internal controls, such as by verifying the content and length of HECM counseling sessions.

In closing, HECMs can provide senior homeowners with multiple types of benefits, but borrowers may not always fully understand the complexities of the product's terms and costs. Thus, the types of marketing claims discussed in this report, as well as the potential for seniors to be sold unsuitable products with their HECM funds, are causes for concern, particularly in a market with potential for substantial growth. These factors underscore the need for improvements in HUD's controls over HECM counseling.

Mr. Chairman, Ranking Member Martinez, and Members of the Special Committee, this concludes my prepared statement. I would be happy to respond to any questions that you may have at this time.

Contact and Staff Acknowledgments

For further information about this testimony, please contact Mathew J. Sciré, Director, at 202-512-8678 or sciremj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals making key contributions to this testimony include Steven K. Westley (Assistant Director), Sonja J. Bensen, Christine A. Hodakievic, Winnie Tsen, and Barbara M. Roesmann.

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Senator MCCASKILL. Thank you, Mr. Scire.
Mr. MEDICI.

STATEMENT OF ANTHONY G. MEDICI, SPECIAL AGENT IN CHARGE, CRIMINAL INVESTIGATION DIVISION, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC

Mr. MEDICI. Senator McCaskill, thank you for inviting me to testify today on HUD's Federal Housing Administration's Home Equity Conversion Mortgage Program.

As you know, in the last few years this FHA product has proven extremely popular. In Fiscal Year 2001, FHA endorsed only about 7,750 reverse mortgages. In Fiscal Year 2008 alone, over a 112,000 reverse mortgages were endorsed and demand this year does not appear to have abated. FHA's insured over a $105 billion in reverse mortgage HECM loans to date.

Furthermore, Ginnie Mae, which securitizes FHA loans, issued $228 million in HECM mortgage-backed securities in May alone this year.

Senator MCCASKILL. Would you repeat that? If you could speak up just a little bit, we're having a little difficulty hearing you.

Mr. MEDICI. Sure. Ginnie Mae, which is the—securities FHA loans, issued $228 million of HECM mortgage-backed securities in May of this year alone. It's the highest month on record and $699 million in mortgage-backed HECM securities this year-to-date.

The HUD Office of Inspector General has had some concerns about the HECM Program, including potential risk to the FHA Insurance Fund as housing prices have devalued. These concerns are reflected in the department's budget for Fiscal Year 2010 with a request for almost $800 million to cover potential losses.

Some key factors have increased the potential vulnerability of the HECM Program to fraud. First, the recent popularity of the program has brought in many more people and turned it from a specialty item into a mainstream loan product. Second, the recently increased loan limits to $625,500 may also be making it more lucrative to those who would exploit the program.

Let me tell you about some of the schemes we have discovered.

Unauthorized individuals, including family members, friends or even neighbors, may keep payments after the authorized recipient dies or permanently leaves the residence. When the person leaves the residence, that should terminate the loan.

In one recent OIG audit, it was found that FHA did not ensure that lenders reported borrowers' deaths in accordance with Federal requirements.

Another activity that we currently have under investigation involves financial professionals convincing borrowers to invest HECM proceeds in a financial product, such as an annuity, in an improper way. These financial professionals receive increased fees and in case of some annuities the victims are unable to get access to their savings for many years or even past their projected life expectancy. These HECM borrowers are thus effectively deprived of the equity from their house.

Another OIG investigation led to an indictment recently where an elderly woman complained that her former health insurance representative stole approximately 200,000 from her HECM by convincing her that she needed to pay him a fee to process her loan application and to repay him the reverse mortgage loan amount.

Borrowers in possession of large equity amounts can often be the targets of consumer fraud. Also, perhaps most significantly, we have observed various solicitation efforts directed at recruiting straw buyers aged 62 or over. Straw buyers are lured by the promise to live rent-free. In some cases, the straw buyers are not fully aware of the scheme. Often, they are public housing residents or even homeless individuals.

Here's how the scheme typically works. Organizers obtain abandoned, foreclosed, or dilapidated properties for little money and inflate the appraisals by sometimes making merely cosmetic improvements and sometimes not. This creates the basis for a larger HECM loan. The house is then quit claimed to one of the straw buyers who is actively recruited for the scheme. The quit claim deed is accomplished by the mechanism by which the scheme organizer can draw up the HECM funds.

In some cases, the quit claim deed comes with a promissory note executed by the straw buyer. In other schemes, it's a lien. The organizer may even create a fake mortgage company which lends money to the borrower, although no loan is given but a mortgage is filed.

The subject refinances the borrower into a HECM. At closing, the title company pays all outstanding debt, including the fraud organizer's promissory note, lien or fake mortgage, and the organizer walks away with the pay-off.

Once the straw buyer occupies the home, an application is made for the HECM. When the HECM is endorsed, the straw buyer typically requests a lump sum pay-out which goes to the same organizer. In essence, really, the property has been flipped.

The straw buyer is typically left in possession of the property and is often unaware that they must pay property taxes and fees. In many cases, they do not have the resources to maintain the property, leading to abandoned properties and eventual defaults.

There are some things we can do to defer fraud in this program. The HECM counselor could be a valuable first line of defense against fraud. We have asked FHA officials to require that HECM counselors report suspected fraud to FHA and the OIG. We have also recommended that FHA instruct counselors to withhold certificates of counseling in suspected cases. The certificate of counseling allows a potential buyer to go to a lender and obtain the loan. They need to have that document.

We also believe that in most instances face to face counseling should be required to curb the allowance for telephone counseling which was designed perhaps with the best of intentions. Unfortunately, it can facilitate fraud schemes.

Finally, FHA may need to require at least basic credit and financial histories for prospective buyers to screen out those clearly incapable of carrying forward the terms. We also think RESPA should be fully applied to the HECM Loan Program.

The repercussions of the abuse I described above are long-reaching. It can lead to the degradation of an older person's well-being and it also reaches to the health of the overall FHA program. I know from the HUD Secretary's recent testimony that he is committed to trying to deal with any emerging problems in this program and the Office of Inspector General also will remain vigilant in our efforts to protect the taxpayers' funds from predatory practices and to safeguard participants of the department's programs.

We look forward to working with you to develop legislative safeguards to ensure an effective response at this present time.

Thank you.

[The prepared statement of Mr. Medici follows:]

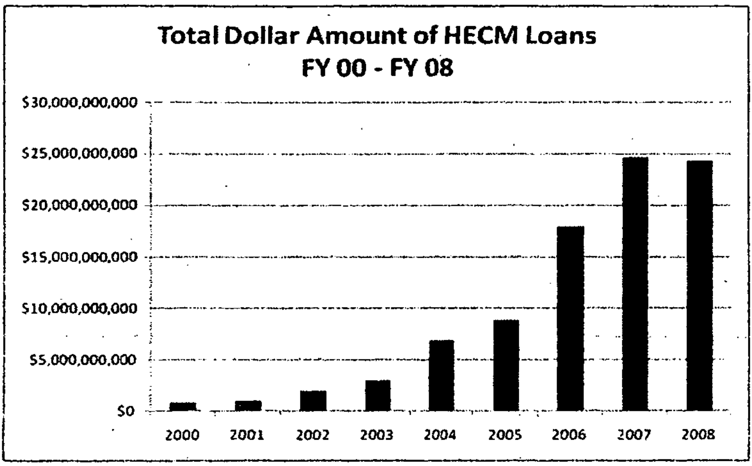
STATEMENT OF
ANTHONY G. MEDICI
SPECIAL AGENT IN CHARGE
CRIMINAL INVESTIGATION DIVISION
OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

BEFORE THE
COMMITTEE ON AGING
UNITED STATES SENATE
JUNE 29, 2009

Chairwoman McCaskill, thank you for inviting me to testify today. I very much appreciate the opportunity to speak to you regarding the Federal Housing Administration's Home Equity Conversion Mortgage Program, popularly called "HECMs," or "reverse mortgages." HECMs are one of FHA's flagship mortgage loan programs. In the last few years, this FHA product has proven extremely popular.

In FY 2001, FHA endorsed only 7,757 reverse mortgages. The endorsements have increased at an exponential rate. In FY 2008, another 112,148 reverse mortgages were endorsed by FHA and demand for the product does not appear to have abated for this year.

HECM loans represent a significant investment by FHA, with considerable recent increases. The chart below shows a 253% increase in the dollar amount of HECM loans from 2004 through 2008:



FHA has insured more than $105 billion in HECM loans and it remains the premiere insurer for reverse mortgages. Furthermore, Ginnie Mae issued $228 million of HECM mortgage-backed securities in May, the highest month on record for the program.

The HUD Office of Inspector General has had some concerns about the HECM program including, among other things, any potential risk to the FHA insurance fund as home prices have devalued. These concerns are also reflected in the Department's budget for FY 2010 with a request for almost $800 million to cover potential losses due to declining home values. As you know, in cases where the value of the loan at termination is greater than the value of the insured property, FHA must make good the difference. I know the Secretary, in recent testimony, has stated his commitment to trying to keep on top of emerging issues to deal with them in an expeditious manner.

For many seniors, HECMs may be a good way to tap into equity to help pay for other expenses. The seniors most at risk are those who, because of taxes or expenses, find themselves cash-poor but with a lot of market value in their home – a home usually purchased 20 or more years ago and either owned outright or with a very low mortgage. The money available to seniors from HECMs in the form of a monthly payment, a line of credit or a lump sum payment makes these citizens a potential target of interest for shady operators. Financial exploitation of seniors, according to your Senate Committee on Aging, was around a third of all abuses specifically targeted at seniors but experts in the field know that these figures can be incomplete because many older Americans are too ashamed to admit that they were taken advantage of by family or strangers.

Several factors have increased the potential vulnerability of the HECM program to fraud. First, the recent and substantial popularity of the HECM program has brought many more people to the program, and turned it from a specialty item into a mainstream loan product. Second, the recently increased loan limits for HECMs to $625,500, have not only made HECMs viable in many new market areas, it may also be making them more lucrative for misdeeds as their previous limit increased significantly from $362,790. Third, certain systemic vulnerabilities, which we describe in greater detail later in our testimony, have all made the HECM program somewhat more attractive, and therefore potentially more susceptible, to perpetrators of fraud.

Let me describe some of the loan schemes we have discovered through our investigations and audits:

- **Unauthorized Recipient** – Unauthorized individuals, including family members, friends or even neighbors, may keep HECM payments after the authorized recipient dies or permanently leaves the residence. In a recent HUD OIG audit, it was found that FHA did not ensure that lenders reported borrowers' deaths in accordance with federal requirements. For the 31 loans reviewed, the contractor failed to provide documentation to support that FHA lenders notified HUD of borrowers' deaths in writing. Further, the lenders failed to notify the contractor of borrowers' deaths for 11 of the 31 loans and, for 13 loans, did not report in a timely manner the dates of borrowers' death.

- **Annuities and Financial Cross-Selling** - Another activity that we currently have under investigation involves financial professionals convincing HECM borrowers to invest HECM proceeds in a financial product, such as an annuity, in an improper way. The financial professionals receive increased fees and, in the case of annuities, the victims are unable to get access to their savings for many years or even past their projected life expectancy. We are pleased that HUD, reacting to such cases, has enacted rules to prevent cross-selling. We, however, remain concerned that HECM borrowers may still be vulnerable to various cross-selling techniques and stratagems.

- **Consumer Fraud** – In a similar vein, just in the last couple of weeks, an OIG investigation led to an indictment in Maryland as a result of our participation in a local Elders Task Force. An elderly woman complained that her former health insurance representative stole approximately $200,000 from her HECM by convincing her that she needed to pay him a fee to process her loan application and to repay him the reverse mortgage loan amount. He told the victim she had to repay the loan by writing personal checks to him and she paid from funds received as well as from her retirement annuity and from cash advances on her credit card. We are currently in the process of identifying more reverse mortgage victims.

- **Recruitment of Straw Buyers and Property Flipping** - In several parts of the country, most notably in the upper Midwest and the Southeast, we have observed various solicitation efforts directed at recruiting "straw buyers" age 62 or over to act as "nominees" or "fronts" for certain HECM schemes. Typically, potential straw buyers are lured by the promise to "live rent-free for the rest of your life," or "seniors get a free house through a government program." In some cases, the straw buyers are not fully aware of the nature of the scheme. Straw buyers are "recruited" in residential areas with a high rate of renters. Often, the straw buyers are public housing residents or even homeless individuals. Since there are no specific credit or income requirements for HECMs, it is relatively easy to recruit eligible individuals.

  Typically, the scheme works in the following manner:

  Organizers obtain abandoned, foreclosed, or dilapidated properties for little money. They may apply some cosmetic improvements to the house. An inflated valuation or appraisal is obtained. This creates the basis for a larger HECM loan. The house is then quit-claimed to one of the straw buyers who have been recruited for the scheme. The quit claim deed is accompanied by some mechanism from which the scheme organizer is able to draw out the HECM proceeds.

  In some cases, the mechanism is a promissory note executed by the straw buyer. In other schemes, it is a lien incorporated in the quit claim deed. And, in other situations, the mechanism is some form of mortgage created to justify a payout. The organizer may create a fake mortgage company, which "lends" funds to the borrower (no money changes hands, no loan is given, but a mortgage is filed). The subject refinances the borrower into a HECM. At closing the title company pays all outstanding debt including the fraud organizer's fake mortgage and the organizer walks away with the payoff. In essence, the property has been "flipped."

  Once the straw buyer occupies the home, an application is made for a HECM. When the HECM is endorsed, the straw buyer requests a lump sum payout, which goes in whole, or in part, to the scheme organizers. The straw buyer is typically left in possession of the property. Some straw buyers are unaware that the cash due to them at closing has been diverted. The straw buyers are also often unaware that they must pay property taxes and other fees and costs associated with residing in, and maintaining, the property. In many cases, they do not have the resources to maintain the property, or pay necessary expenses, leading to abandoned properties, properties taken over by others, and eventual defaults when discovered.

  Current cases involve hundreds of properties in which the above-described conspiracy has been employed. These schemes clearly subvert the intention of the HECM program and create liability for FHA, which must assume responsibility for these over-valued properties.

Unlike forward mortgages, HECMs require that the potential borrower receive counseling from an FHA-approved counselor. The HECM counselor could be a valuable first line of defense against fraud. We have asked FHA officials to require that HECM counselors report suspected fraud to FHA and the OIG. We have also recommended that FHA instruct counselors to withhold certificates of counseling in suspected fraud cases that would allow borrowers to proceed with the loan process.

We feel that those in the forefront of the process, counselors and mortgagees, may be able to use their positions to safeguard these vulnerable borrowers. We also believe that, in most instances, face-to-face counseling should be required, especially when the borrower indicates his/her intention to receive a lump sum payout. The current allowance for telephone counseling, which was designed under the best of intentions, unfortunately can facilitate fraud schemes such as those I have described. Finally, FHA may need to require at least basic credit and financial histories for prospective borrowers, to screen out those clearly incapable of carrying forward the terms of the HECM. These changes to the program would make the program more resistant to fraud.

Lastly, I am also proud of our success in convincing the Congress to tie fraud against the FHA into the FIRREA statute, thereby raising the penalty to 30 years in prison and $1 million in fines. I hope this will provide an overall deterrent to those who make false statements to the program.

The repercussions of the abuse I described above are long-reaching. It could mean the degradation of an older person's happiness, self-confidence, and well-being. It also reaches to the health of the overall FHA program (a program increasingly relied on by all our citizenry during these trying economic times) as evidenced by a potential need for appropriation. The Office of Inspector General will be vigilant in its efforts to protect the funds of the American taxpayers from predatory and improper practices and to safeguard the participants in the Department's programs and looks forward to working with you to develop legislative safeguards to ensure an effective response at this critical time.

Senator MCCASKILL. Thank you, Mr. Medici.

Let me start with you, Ms. Jaedicke, about the recent Truth-in-Lending Act and Real Estate Settlement Procedure Act that was passed in the House, the Mortgage Reform and Lending Act that recently passed the House.

It's now been referred to the Senate Banking Committee and exempts reverse mortgages from its requirements.

Do you have any insight as to why reverse mortgages were not included in the House version of this bill?

Ms. JAEDICKE. No, Senator McCaskill, I don't.

Senator MCCASKILL. OK. Tell me what—how would you describe the current regulatory environment over the HECMs, over the part of these loans that are in fact insured by the American taxpayer?

Ms. JAEDICKE. There are a lot of consumer protections in place for the HECM Program today and at the OCC, our emphasis is on making sure that the national banks that we regulate comply with those consumer protection guidelines that apply to the HECM mortgages.

We are also, though, extremely interested in the proprietary reverse mortgage market which at the moment is virtually dormant. This is the market that would operate outside of the HECM–FHA–HUD Program. We want to make sure that if banks pursue the proprietary reverse mortgage market, that they balance both the financial risks and the consumer protection risks because the banks will be on the hook for that financial risk, just as the government's on the hook for the HECM mortgage.

Senator MCCASKILL. Why are the proprietary reverse mortgages dormant right now?

Ms. JAEDICKE. I think there's a general lack of interest in the proprietary product because of the real estate market today, and the fact that housing prices are depressed. There's less equity in people's homes than there might have been two or three years ago.

Senator MCCASKILL. So I want to make sure I understand this. When the banks are on the line and have the risk, right now they're not doing these kinds of loans?

Ms. JAEDICKE. No, banks are not doing proprietary reverse mortgages. Banks are doing the HECM reverse mortgages.

Senator MCCASKILL. Where they have no risk?

Ms. JAEDICKE. No, the HECM mortgage is insured by FHA, but the banks are responsible for making sure that the consumers understand the risks, that the consumers get proper disclosure, and that the advertising's not misleading.

Senator MCCASKILL. I guess the point I'm making is right now in this real estate market, because of the fluctuation of home valuation, these are too risky for most banks to engage in right now because of the fluctuating home values in the housing market, but yet we are, if I understand the testimony so far, we are at a record pace for reverse mortgages that the government takes the risk on, is that correct?

Mr. SCIRE. That's correct, Senator.

Senator MCCASKILL. So what the bank doesn't want to do because it feels risky, they're more than happy to do when the taxpayers are on the line is what I—am I characterizing that correctly, Mr. Medici?

Mr. MEDICI. I think you are, Senator.

Senator MCCASKILL. OK. I want to also ask you, how are you prepared to respond to if the housing market recovers? Are you prepared to respond to—because, really, your regulatory reach is really more over the proprietary market than it is the HECM, is that correct, at the Office of the Comptroller?

Ms. JAEDICKE. We don't administer the HECM Program, but we are concerned that our banks who pursue HECM mortgages follow the consumer protection guidelines that are in place.

For proprietary mortgages, though, those same kinds of guidelines don't exist as they do today for the HECMs. Now, there are other laws that are in place that would help us achieve some of the same protections. For example, we can enforce Section 5 of the FTC Act against misleading advertising and we would be prepared to do that.

There are rules, like Reg. Z and RESPA, that would apply to reverse mortgages in some context. We have anti-tying rules that we can enforce that would prevent a bank from predicating the proprietary mortgage on purchasing some other product that the bank was offering.

So we have a variety of different tools that we can use, including the supervisory guidance that I talked about that we're working on on an interagency basis, to protect both the consumers and the banks from financial risk when the proprietary market returns.

Senator MCCASKILL. Explain for the purposes of the record what authority you have or don't have over mortgage bankers.

Ms. JAEDICKE. If they're non-bank mortgage lenders, we don't have authority over them.

Senator MCCASKILL. So you—if a company begins to—if there's an existing company or a new company thats business is just mortgage lending and is not a bank that is insured by the FDIC and it has other types of banking that it is engaged in, you have absolutely no authority?

Ms. JAEDICKE. They would be regulated by the states.

Senator MCCASKILL. So there is no Federal oversight over the mortgage banking industry when it relates—relating to reverse mortgages?

Ms. JAEDICKE. Well, there is if the reverse mortgages are being made by state or national banks.

Senator MCCASKILL. But not by mortgage bankers?

Ms. JAEDICKE. By independent mortgage companies that are not part of a state or national bank, right, they would be supervised by the states themselves.

Senator MCCASKILL. Do any of you have—I'll also ask the second panel this—have any sense of what kind of oversight is going on on these mortgage bankers that do not have any Federal requirements at all in terms of oversight that have the ability to enter into these instruments?

Mr. SCIRE. Well, you have state banking regulators, too, and we did talk with some of them and they have some concerns about cross-selling, for example. So there's——

Senator MCCASKILL. Let's make sure everybody understands what cross-selling is. Cross-selling—and I'm going to give an example and then you all need to correct me if I've gotten it wrong.

Cross-selling, when you get a reverse mortgage, you have the option of either taking the money in a lump sum or taking out payments. You can take, you know, a certain amount every month.

Now,——

AUDIENCE MEMBER. There's a line of credit, too.

Senator MCCASKILL. All three. A line of credit you can draw down on, you take a monthly amount every month, or you can take a lump sum.

Now, cross-selling, what we're referring to is if someone takes the lump sum and then turns around and buys an annuity product, which will pay them a monthly amount, which they could have done in the first place without entering into another expensive financial tool to give them an annuity payment when they had that option of taking a monthly payment in the original loan, is that— am I correct with that, Mr. Medici?

Mr. MEDICI. That's correct. It could be an annuity. It could be some type of long-term care. It could be, you know, a mortgage— a stock investment or anything where, you know, a promise is made. They may get a certain yield or a certain income, but you're right, I think the purpose of that reverse mortgage is to provide just that kind of secure continuity of payment supposedly at less risk.

So it sort of in many ways cuts across the initial purpose of the loan, but when people are in possession of that amount of equity, some individuals are going to try to cross-sell financial products because that money is available.

Senator MCCASKILL. So there may be seniors that don't understand they have the option of a monthly payment in the first place. They didn't have to pay for a new product to get the monthly payment because they may have been convinced that the lump sum payment is the right thing for them to take on the mortgage. Am I correctly describing that problem?

Mr. SCIRE. That's exactly right, and the state insurance regulators have uncovered some of this. We report examples from eight different state insurance regulators, one in Maine which describes an example, a horrendous example just as you're describing, where an 81-year-old widow took out a HECM and the proceeds were used to buy an annuity which actually paid a lower rate than she was paying on the HECM.

Senator MCCASKILL. So she could have gotten more money just by taking the monthly payment option under the HECM but instead paid for an expensive annuity and she was in fact 81 years old?

Mr. SCIRE. That's correct.

Senator MCCASKILL. I don't know how that salesman sleeps at night.

OK. Mr. Scire, does the GAO have concerns about the reported problems with the yield spread premium and the service fee set-aside, and can you explain those two problems associated with these loans?

Mr. SCIRE. Well, I can tell you that we're doing work right now as a result of the ARRA mandate where we're taking a look at the impact of some of the fee changes in ARRA, including the impact or the reaction that lenders have to that, and so we are taking a look right now at whether or not they're compensating for changes in origination fees by charging higher margin rates.

Senator MCCASKILL. So the way I understand it, there used to be some predictability in terms of the lock-in of the rate and now this rate is now floating, is that correct?

Mr. MEDICI. That's correct, Senator.

Senator MCCASKILL. We're not going to take testimony from the crowd. We'll get—we have—at the end of two panels, if there are questions that you think that need to be asked, we'll be happy to address them.

There's a fixed rate but then there's an add-on now that floats, correct?

Mr. MEDICI. Right. The lenders are allowed to float the rate and although we haven't done the homework we need to on this area, we have heard at the HECM Counselors Conference, this area can serve borrowers and counselors alike.

What they're talking about is the rate that the lender or broker gets the money at and the rate they charge to consumers and this could be a one-one and a half percent rebate off the mortgage amount. So that could be a substantial add-on to the lender or the broker's revenue on that loan. So that is an area of increasing concern that we are addressing.

Senator MCCASKILL. What, if any, concerns does GAO have with the private reverse mortgage loan market?

Mr. SCIRE. We didn't look at the private reverse mortgage loan market. It's a fairly small part of the market right now. The focus, as you know, is on the HECM Program and there, our concerns are principally with the controls that HUD has in place to ensure that counseling, which it considers a major consumer protection feature of the program, actually is performing what it expects to do. So our concerns are more with the HECM Program.

Senator MCCASKILL. We estimated there was a 110,000 of these loans last year. Do we know how many there are this year so far? Do we have the numbers so far?

Mr. SCIRE. The last number I saw was around 70,000. I think that was in—I want to say March, but I'm not certain of that. I can get that number for you.

Senator MCCASKILL. Is it a fair assumption to say that we're on track to double the number of reverse mortgages that are under the HECM Program this year as opposed to last year?

Mr. MEDICI. As of May 14, FHA had endorsed approximately 68,000 HECM loans. So we think we're on pace with last year's. Over the last several years, the pace has been well over a 110,000 loans. I think we're on pace to meet that again.

Senator MCCASKILL. OK. You mentioned that the FHA, Mr. Medici, does not ensure that the lenders report the borrower's death according to the rules. The Social Security Administration maintains a Death Master File which I know is used by many government agencies as it relates to social security payments, Medicare, Medicaid, and it can even be purchased by the private sector since privacy rights terminate at death.

It would seem like that this would be a simple way for HUD to detect unreported deaths as quickly as possible.

Do you know if HUD is planning on doing routine matches as it relates to reporting of deaths since that should trigger a repayment on the mortgage?

Mr. MEDICI. Well, according to our Audit Division, HUD had, I think, about half the cases not picked up on that. I think they used a contractor to service the loans after they've been endorsed and according to a recent audit, it doesn't look like that's 100 percent effective at this point.

Senator MCCASKILL. So that's something that we need to follow up on.

You mentioned the straw buyer fraud scheme. Part of that scheme depended on, as they usually do in mortgage fraud, an inflated and fraudulent appraisal.

Mr. MEDICI. That's correct.

Senator MCCASKILL. That troubles me because these appraisers are supposed to be HUD-certified.

Mr. MEDICI. That's true.

Senator MCCASKILL. So what is being done to ensure that HUD-certified appraisers are not in fact part of a con?

Mr. MEDICI. Well, that's a great question. From the investigation point of view, we look into specific allegations and where an appraiser is involved or complicit in a scheme, we do try to prosecute them, try to have them removed.

Right now, these are ongoing investigations. So I can't go into too much detail, but, you know, we have to deal with the specific evidence in the particular cases, and, you know, despite the fact that appraisers may be FHA-approved, I mean, we've had periods where flipping has been epidemic back to 1999 to 2002 and continues to be a problem in the program.

There are a lot of appraisers, many of them are excellent appraisers and do an honest product, but there are always going to be some, I suppose, who see a chance to make additional money or to basically be compliant with what the lenders are asking them to do.

Senator MCCASKILL. Is there an aggressive program in HUD when you determine that there has been a fraudulent appraisal that you all go back and pull all the appraisals done by that individual and look/examine all of those transactions? Are you pulling that thread?

Mr. MEDICI. Well, usually an investigation, if we see that the evidence is going in that direction, we will look at—we'll try to uncover as much of the pattern of activity as we possibly can.

Senator MCCASKILL. How are these straw buyers being recruited, and what are they being told? Have some of these cases been prosecuted?

Mr. MEDICI. We're working toward that goal right now. They are actually substantial. So we're still peeling back the onion, so to speak, in these cases, but we understand they're being recruited on the Internet, through, you know, free seminars, through flyers, signs on the street, typically with the promise, you know, live rent-free forever or get a free home from the government through a government program, only have to be 62 or older really to meet the qualifications. You're recruited in to be a nominee or front for the scheme organizer.

Senator McCASKILL. Does typically the person who's recruited, do they get a cut of the fraudulent proceeds?

Mr. MEDICI. Well, it depends. Right now we're trying to sort out what level of complicities there are, but in some cases they just have to get the property. If they're left in that, that would be the pay-off. So in that sense there is a proceed from that.

In other cases, we're looking at the possibility of where they may have been nominees for more than one property in which case then we would have a higher level of responsibility.

Senator McCASKILL. So what actually happen is that there's a tail on this fraud, right, because if you recruit someone and put them in a home with a false appraisal and you pull the money out of the house based on the false appraisal and the person gets the money and walks away, the perpetrator of the fraud, leaving the straw buyer in the house, that when the—that really no one figures out that the house is not worth what the appraisal said until that person either dies or moves out and then the only person left holding the bag is the taxpayer?

Mr. MEDICI. That's correct, and that's one of the peculiarities of reverse mortgages. It could be some time——

Senator McCASKILL. Right.

Mr. MEDICI [continuing]. Before we become aware of what happened in that particular instance. The house can end up being abandoned, be flipped to another individual. We may not know that. It may take awhile and maybe by some occurrence that brings that information to light. We're also taking some proactive measures in terms of data-matching to help us proactively target, but that is correct. I mean that is one of the challenges in looking into these cases, you know, who's in that property, what happened to that property and who the people are that are involved.

I mean, typically, the HECM laws are designed for the classic case of someone who lived in the home for 20–30 years, built up the equity through hard work and through maintenance of the property and that's the classic case and that's what I think FHA is trying to accomplish in the HECM Program.

Now we're having people just brought in off the street who meet the minimum qualification, 62 years old, no credit history, no financial background history. They can get into a property through one of these subterfuges or mechanisms and pull down a HECM loan. So there's some vulnerabilities.

Senator McCASKILL. Unlike a mortgage where a payment is due every month,——

Mr. MEDICI. That's right.

Senator McCASKILL [continuing]. Sometimes the fraud unravels because the mortgage payments aren't made. In this instance, there is no mortgage payment due, so you don't find out about the problem until maybe years after it has occurred.

Mr. MEDICI. That's exactly right. You put your finger right on really the big problem.

Senator McCASKILL. I just want to make sure, the reason I asked you to repeat the mortgage-backed securities, I want to make sure that everybody understands what mortgage-backed securities are. It's in fact mortgage-backed securities that created your next job opportunity because if it were not for mortgage-backed securities being sliced and diced, subprime loans being sliced and diced into traunches of complex derivatives that were being sold and churned in mammoth proportions in our financial sector, that is why literally our financial sector shut down and why we're facing huge economic problems right now in this country.

I want to—you know, is this the first time that they have packaged securities like this for sale this year?

Mr. MEDICI. Yes, I think this is a recent development on Ginnie Mae's part. You're quite right. I mean, in many ways the subprime mortgage meltdown was fueled by mortgage-backed securities, the sale of mortgage-backed securities.

It turned out that a lot of mortgage-backed securities were basically points of mortgages that are pulled together. In Ginnie Mae's case, it's a million dollars more for each pull. These pulls are pulled together by Ginnie Mae issuers. Often the loan or the lenders themselves may be Ginnie Mae issuers or be associated with a Ginnie Mae issuer.

They pull these loans, the mortgage-backed security loan. They sell them to investors in the investment market. So Ginnie Mae, I think, has reached about $700 million in mortgage-backed securities through reverse mortgages and I think one of the questions is basically the quality of the loan pulls that are being securitized.

Senator MCCASKILL. OK. I thank all three of you for your testimony this morning. It's been very helpful and we're going to continue. We will come out with some specific recommendations based on the testimony today. Some may be agency-driven, some may be from more work at GAO, some may be some help with trying to get the FTC more actively involved, and obviously the HUD IG is going to continue to be very involved in this trying to track the potential problems with these very specialized financial tools that can be a help and a life-saver to some people but also can be a nightmare of huge proportions.

So thank you all three for being here. We appreciate it very much. [Applause.]

Thank you for your cooperation. We have another three witnesses.

Let me make an announcement. For those of you who are in the audience that want to give testimony, anyone who wants to give testimony, who wants us to have information, we want all information from all sources, and I want to give you—we're not going to have an opportunity for public testimony today, but we want to give everyone an opportunity.

If you have information you want us to have and consider, we would ask you to submit any written testimony on this subject matter to us and we will continue to look at this problem. I am certainly aware that there lots of good guys in this business and Peter Bell is on the panel because he's here representing a lot of the good guys that are using these tools appropriately and marketing these tools appropriately.

So this hearing isn't about saying that every reverse mortgage is bad. It's about saying that there are dangers and cautionary as to some of the consumer pitfalls that are out there.

If you would like—excuse me?

AUDIENCE MEMBER. Why is it not open to questions from the audience?

Senator MCCASKILL. Because——

AUDIENCE MEMBER. You insult our intelligence, Senator.

Senator MCCASKILL. Sir, let me explain. I'm here as a member of the Senate Committee on Aging and if you've ever watched a Senate hearing on television, there are very strict rules and procedures around Senate hearings.

They are not ever an opportunity for public testimony at a Senate hearing. I have lots of town halls. In fact, I just had one a couple of weeks ago. We'll have many more where I welcome everyone's questions from the audiences, but I'm not here as the Missouri Senator today. I'm here as a member of the Senate Committee having a hearing under the rules of the Senate and under the rules of the Senate, when there is a committee hearing, testimony is taken from the witnesses, questions are asked only by Senators of the witnesses, and then there is a record kept of that hearing that public can in fact look to, comment on, and contact their Senator.

All of you, I represent. If you have something you need to say to me about this subject or any other subject, I am here for that. I cannot do it in the context of a Senate hearing where the rules prohibit the testimony from people who are not members of the witness panel.

So that is why. We can make copies of those rules available for anyone and I know it feels awkward because generally when I'm in Missouri and I have a room like this, everybody gets to talk. I don't think we ever do this where everyone doesn't get to talk when I come back from Washington and have meetings like this.

But this is not a town hall. This is not a forum for Senator Claire McCaskill. This is in fact a hearing of the Senate Aging Committee and I am required under the rules of the Senate to follow those rules. .

But if you have anything you want to get to us, Michelle, will you raise your hand? We are happy—this is Michelle who works here in St. Louis. Mattie who is here, who works here in St. Louis for my office. Who else is here from St. Louis? OK. They went back to the office.

Then I have Melissa Garza who's here from my office in Washington. I have Sam Dresla who's here from my office in Washington.

So you have a number of people here. If any of you want to get specific information to us, please talk to them. They'll get you the right phone number, the right e-mail address, so that we can get all the information from everyone. I just didn't want anyone to think we were cutting people off because I wanted to. It's the rules I'm required to follow.

So I apologize to you, sir. I certainly don't want to insult your intelligence. I would never want to do that with folks I work for, and I understand that there are some strong opinions about this because there are people who use these tools and use them wisely and they work and so I don't want to leave the impression that this is about a bunch of bad guys. This is about a few bad guys that we need to make sure that we're paying attention to so they do not victimize people needlessly.

Let me introduce the second panel. First on the panel is Daniel Claggett, is a Staff Attorney with Legal Services of Eastern Missouri, which provides legal aid to low-income clients. His practice focuses primarily on foreclosure defense and assisting borrowers who have victims of predatory lending. Mr. Claggett is here today representing the National Consumer Law Center, a not-for-profit organization specializing in low-income consumer issues.

Buz Zeman is the Director of Housing Options Provided for the Elderly (HOPE) in Missouri. He has conducted over 3,000 reverse mortgage counseling sessions since 1993. He supervises other reverse mortgage counselors. He teaches reverse mortgage training sessions for Neighborhood Works America, participated in AARP's Reverse Mortgage Education Project, and is a consultant trainer to the National Council on Aging.

Finally, Peter Bell, who is President of the National Reverse Mortgage Lenders Association, a trade association for lenders involved in the origination and servicing of reverse mortgages. Mr. Bell has served on numerous housing industry committees and HUD task forces and has testified before Congress on aging, housing and tax issues.

Peter can tell you we don't let people testify from the audience in the Senate in Washington because he's been at many of those hearings and has testified and knows that that is the situation.

Mary Heinzer was invited to be part of this panel. That is the elderly woman I referred to in my opening statement, who was victimized. She is not well and has submitted written testimony for the record that we will make part of the record because she was not physically able to make it here today to talk about her situation, and as I briefly talked about in the opening, maybe you all can speak to that, I know that, Daniel, I think, is familiar with her case, this is a situation where money was set aside of the proceeds to fix the roof, so it would pass HUD inspection for a HECM reverse mortgage, and unfortunately the repairs that were done were substandard, didn't work.

Instead of replacing the roof, they merely spread tar in a couple of places, so the leak was not fixed. So as a result, the leak continued, the money had been spent, and she still has a leaky roof which was the main reason she got the money in the first place, was to do that, and that was just a matter of the lender in that instance not supervising the repair work and certifying that the repair work had been done correctly prior to paying the people who had done the repair work, and they had taken on the responsibility that repair work as part of the mortgage agreement and then they failed to supervise it appropriately and withhold the payments until it had been done right and then she kind of got left holding the bag.

So that was her situation and her written testimony will be made part of the record.

Senator MCCASKILL. Let's begin with Buz Zeman. Thank you.

STATEMENT OF BUZ ZEMAN, MSW/LCSW, DIRECTOR, HOUSING OPTIONS PROVIDED FOR THE ELDERLY (HOPE), ST. LOUIS, MO

Mr. ZEMAN. Good morning, Senator McCaskill. I'm talking about a couple of issues that have been raised already: reverse mortgage counseling and the recent dramatic changes in the HECM marketplace.

The role of the reverse mortgage counselor is often misunderstood. Here's how I explain it to my clients. My role is to help you understand all the ins and outs of a reverse mortgage. I am your independent coach. My role is not to tell you what to do but rather to inform you fully so that you can make your own well-informed decision about whether or not to get a reverse mortgage.

In addition, I will be discussing with you alternatives to getting a reverse mortgage, including public benefit programs and other services that you may be eligible for but currently not receiving.

It is extremely difficult to do a great job at this counseling. Counseling is one of the key ways to protect seniors but only some of the counseling being done is excellent. Most counseling could stand improvement and, tragically, as we heard from the previous speaker, some counseling is downright terrible.

An easy indicator of terrible counseling is counseling that is way too brief. I have heard from a few clients that the counseling that they have had previous to mine took 15 minutes or less. Without inquiring further, I know that that is terrible counseling. Of course, the time spent is not a sufficient indicator of the quality of counseling, which brings me to Recommendation Number 1, expand the—well, I had down here implement the Secret Shopper Project, but having heard about the GAO study, expand the Secret Shopper Project.

The basic idea in my model would be for skilled trainers to pose as seniors in order to evaluate the counseling service. Listening to counseling is really the only way to determine fully what counselors are actually doing.

My second recommendation is to provide great support and training to reverse mortgage counselors. Make use of available new technology to do so. We need to expand counselor training by using frequent webinars and providing a high-quality, well-staffed website. The AARP Counselors website is an excellent prototype.

My third recommendation is to fund the counseling adequately. Our current funding methods have problems and are probably not sufficient for the future, especially if the quality of counseling is to improve.

I recommend forming a think tank to examine carefully how reverse mortgage counseling would best be funded. This is a complicated but critical and solvable problem. I volunteer to be a member of the think tank.

Before I end, I want to address the dramatic impact of recent marketplace changes.

In April 2009, Fannie Mae changed the way it purchased reverse mortgages. One of the consequences was that most lenders stopped allowing rate locks at loan application. At the same time rates increased dramatically and have generally been rising ever since.

Rates now vary considerably from one lender to another, making it a very difficult marketplace for the consumer. Without a rate lock, borrowers do not know what the loan will cost when they close, nor do they know the amount that they can borrow until close to closing.

Here's what's going on behind the scenes. The lender who sells a reverse mortgage to a borrower at a margin above par gets paid a premium or bonus when they sell the loan to Fannie Mae. Last year, with the help of this committee, legislation was passed to limit origination fees. Most of us thought this meant that the lender's profit was limited. Now we learn otherwise.

It is now possible for lenders to make thousands of dollars more than the origination fee cap. The availability of this bonus may not be predatory per se, but in this environment the opportunity for predatory practices has certainly increased.

As you can imagine, counseling clients about these developments is quite a challenge. My fear is that most counselors do not even address these issues at all. I note that there has been no guidance to counselors from HUD on this issue. This would be an ideal subject for one of those training webinars I mentioned earlier.

I have focused here on just a few problems. My written testimony relates to many more, but they are all solvable. Abuses are a small percentage, wise but even a small percentage affects many thousands of seniors. So we need to be ever-vigilant at addressing problems and making improvements.

Thank you for this opportunity.

Senator MCCASKILL. Thank you very much.

Mr. Bell.

STATEMENT OF PETER H. BELL, PRESIDENT, NATIONAL REVERSE MORTGAGE LENDERS ASSOCIATION, WASHINGTON, DC

Mr. BELL. Senator McCaskill, thank you for the opportunity to appear at this hearing.

I would like to request that my written testimony be included for the record and I'll try to summarize it in the time allocated. Because this hearing is focusing on counseling and most people, other than those who have been through counseling and the counselors themselves, don't really know what goes on in a counseling session, I would like to request that this copy of our magazine, Reverse Mortgage, be included in the record. We had the opportunity recently to have both a counselor and a client agree to allow us to sit in on a session, record it and transcribe it. We have a complete counseling session verbatim in here that illustrates the whole flow of the conversation, illustrating the set of topics that are covered in a properly conducted session.

Senator MCCASKILL. The publication will be made part of the record.

Mr. BELL. Thank you.

While demographics might point to growth opportunities in our business, our members recognize that this will only occur if consumers believe that reverse mortgage products are safe and fair and that those who deliver them are trustworthy. As a result we have a number of core values that we possess as an organization and we require all our members to abide by our Code of Conduct and Professional Responsibility.

What I'd like to do here, is focus on the counseling since that was what I was asked to cover and then, if there is time, perhaps I could address some other points that were made earlier.

Counseling is a vital consumer safeguard. It really is what separates reverse mortgages from all other products. In fact, I don't think you could come up with any business in America in which every potential customer is referred to an independent third party specialist, a counselor at a HUD-approved agency, to review the transaction under consideration and its implications for the borrower before a decision is made.

In fact, if this had been the case throughout the mortgage sector, we'd probably be in a very different economy today.

For consideration, to be entirely effective there must be knowledgeable counselors. Achieving this requires effective training to keep their knowledge up to date, technological systems for managing the workflow, and funding to pay for personnel and overhead. Providing all that has been a challenge.

Nevertheless, the network of HUD-approved non-profit organizations has stepped up to the plate to try and fulfill the demand, despite the limited resources.

One of the biggest obstacles to supporting counseling is funding. This year the cost of HECM counseling is estimated to be $16 million to $18 million. The appropriation that Congress has provided is $8 million. Some of the shortfall is being covered by payments from consumers.

Despite the appropriated funds and borrow payments, there is still a significant shortfall. This has led some agencies to discontinue offering HECM counseling, resulting in longer lead times for consumers seeking it or agencies having to cram more appointments into less time to make the counseling work from an economic standpoint.

Training for counselors needs to be enhanced. Not every counselor takes formal courses. Some are trained within their own organizations. Some learn simply by reading the protocols and other pertinent literature on their own in the interest of helping their agencies fulfill the growing demand for reverse mortgage counseling in their communities.

HUD has plans underway to improve counseling and will soon be implementing three very important changes. One is a new counseling protocol. The protocol is the guideline, the script, that counselors use in conducting a session. The second chapter is a roster of approved HECM counselors, all of whom will have had to have passed an exam to be included on that roster. The third is enhanced oversight and monitoring of counselors, including the use of mystery shoppers.

Until now, it has been the counseling agency, not the individual counselor, that has been approved by HUD. The roster is a major step forward in that individual counselors will now be tested for their knowledge and competency and approved by HUD as well as the agency.

Another new aspect is a requirement in the new counseling protocol for a review of the client's recurring financial obligations, including taxes and insurance, as well as their income. This is designed to help them decide if they can afford to stay in the home, even with the reverse mortgage.

HUD is to be commended for the sharp eye it keeps on issues in the program and the thoughtfulness its staff has put into developing solutions. An example of this is the department dealing with the concern about borrowers' ability to pay taxes and insurance.

On the surface, it seems like an easy solution—collect an escrow—but it's not that simple. That's forward mortgage thinking being applied to a reverse mortgage, which is a very different situation.

In many cases, homeowners are overburdened with payments for mortgage and other debt. Much of their income is siphoned off to make those loan payments. If the mortgage and debts are eliminated with a reverse mortgage, funds that have been used for loan payments become available for other purposes, including paying taxes, insurance and maintaining the property.

Instead of simply imposing an escrow, HUD is looking at utilizing the financial assessment tool to determine if the lender and counselor should work with the borrower to establish an escrow, amend the drawdown schedule, limit payment options, disallow a lump sum payment or take any other steps appropriate to help borrowers avoid tax and insurance defaults.

Recognizing the different circumstances of borrowers and allowing the appropriate solution for each individual case is a key aspect of the approach that HUD is taking.

Controller Dugan, Inspector General Donahue, and others have all pointed out that seniors are vulnerable, that scams and fraud are frequently perpetrated against older folks, and that reverse mortgages can potentially be a source of problems.

However, they have not identified any incidents of widespread malfeasance specifically in reverse mortgage cases. In fact, there have been few reported. We have been polling state Attorneys General Offices, bank regulators, and the FTC, and found the incidence of complaints about reverse mortgage lenders to be minimal or nonexistent.

We received a similar response to an inquiry to the Conference of State Banking Supervisors. Several weeks ago I was in Kansas City to address a conference of the Consumer Complaint Office's of all the Federal bank regulatory agencies, including the Federal Reserve, OCC, OTS, and FDIC. When asked during a panel discussion, the representatives of each agency reported that they had no complaints about reverse mortgages.

At the same time we must recognize that once a senior has gotten a reverse mortgage, no matter how protected she or he might have been during the loan origination process, there is now access to what could be a substantial amount of money potentially attracting others looking to swindle the homeowners. These are societal problems. They're not reverse mortgage lending problems.

There is a highly consumer-centric industry here looking to help seniors monetize the equity in their homes so they can live more comfortable, secure, and fulfilling lives. We are committed to only making loans after a homeowner makes an informed decision that the reverse mortgage is a tool appropriate for their needs.

We' be happy to work with you, Senator McCaskill, to address any shortcomings or potential consumer pitfalls that can be identified, similarly to what we've been doing in partnership with HUD and FHA for many years.

Thank you for the opportunity to testify today.

[The prepared statement of Mr. Bell follows:]

Testimony of

Peter H. Bell, President
National Reverse Mortgage Lenders Association (NRMLA)

before the

Senate Special Committee on Aging

Monday, June 29, 2009

OCHS Senior Center, University City, MO

Madam Chairman and Members of the Committee:

Thank you for the opportunity to appear at this hearing to discuss reverse mortgages.

National Reverse Mortgage Lenders Association represents approximately 600 companies that are either engaged in the business of making reverse mortgages or provide capital or services to companies that do. We do not represent the entire industry. We represent those companies who take their involvement in this sector very seriously and are committed to core values of treating customers fairly and ethically and, as a result, want to support the policy work, consumer education, ethics, self-enforcement, and professional development programs that NRMLA undertakes to assure an environment where any senior homeowner is able to obtain a reverse mortgage conveniently and fearlessly.

Our members understand that demographics present a vast opportunity. Our product serves many different types of homeowners facing a wide variety of needs. Those needs will surely continue as the population of age-eligible homeowners grows – and as our society comes to grips with the challenges of financing longevity.

While demographics might point to growth, our members recognize that will only occur if consumers believe that reverse mortgage products are safe and fair, and that those who deliver them are trustworthy. That is the underpinning of our association. We are dedicated to maintaining an environment where homeowners can easily access information and assistance on reverse mortgages, meet with counselors and other trusted advisors, make a thoughtful decision if they want to obtain a reverse mortgage and work with a reputable company, if they decide to do so.

Testimony of Peter H. Bell, NRMLA
before the Senate Special Committee on Aging
June 29, 2009

Some of our signature undertakings include:

- As a foundation, our Code of Ethics & Professional Responsibility by which all members agree to abide. The Code focuses on core values of fairness, confidentiality, integrity, competence, diligence and professionalism. It covers detailed items such as advertising, compliance and communications with consumers. (Request that a copy of the NRMLA Code of Ethics & Professional Responsibility be entered into the Record.)

- An Ethics committee that continually reviews our Code and refines it whenever necessary, promulgates Ethics Advisory Opinions to help the industry better understand our position on matters of importance, and acts decisively on complaints filed by consumers, regulators, counselors and industry participants. Recent Ethic Advisory Opinions have been issued on advertising and lead generation, and several others are in the works.

- Educational seminars that routinely focus on issues like understanding seniors' finances; recognizing cognitive impairment; reporting suspicions of elder abuse; understanding Medicaid, Medicare and SSI; and other topics that help our members understand the client base with whom they work and how best to serve their needs.

- An unyielding commitment to counseling, an important core principle for our organization. While counseling by an independent third party is required by statute under the FHA HECM program, we require it of our members in all cases, with all products, even where it is not required by law.

- A professional designation program, under which candidates must meet licensing and professional education requirements, participate in a symposium on ethics issues, undergo a background check, and pass a rigorous exam.

- We are in the process of developing a straightforward, uniform disclosure that will summarize in a succinct, comprehensible format all of the salient facts about a reverse mortgage that a prospective client might be considering, allowing the consumer to easily compare various offers side-by-side. We realize that we already give our customers plenty of papers to review – on some loans asking elderly homeowners with arthritic hands to sign their name more than 40 times – but the lawmakers, regulators and in-house compliance experts won't let us address that, so the best we can do is try to summarize what's contained in that thick sheath of papers in a user-friendly document.

While the invitation to this hearing simply stated that it is on the broad subject of reverse mortgages, your staff, in an email asked me to focus on counseling. That is an aspect of the reverse mortgage system for which I have always been a strong proponent, so I am

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glad to focus on this topic. (If there is time left, I would also like to address a few of the points in your 6/18/09 press release because several items you mention are already in the works, but I am not sure that all members of the committee are necessarily familiar with all that is going on.).

Counseling for prospective reverse mortgage borrowers is a vital consumer safeguard. What separates reverse mortgages from all other products is counseling. In fact, I don't think you could come up with any business in America in which every potential customer is referred to an independent third-party specialist, a counselor at a HUD-approved agency, to review the transaction under consideration and its implications before a decision is made to proceed. If this had been the case throughout the mortgage sector, we would be in a very different economy today.

That being said, counseling does have its challenges. To be entirely successful, there must be knowledgeable counselors. Achieving this requires effective training to keep their knowledge up to date, technological systems for managing the work flow and providing information to clients, and funding to pay for personnel and overhead. Providing all that has been a challenge.

Nevertheless, a network of HUD-approved nonprofit organizations has stepped up to the plate to try to fulfill the demand despite the limited resources. For the most part, they have done a decent job – although there have been occasional instances where the quality of counseling has been sub-par.

Many comment about counseling, but few – other than borrowers and counselors themselves -- actually know what goes on during a counseling session. To shed some light, we arranged, with consent from both the client and counselor, to listen in on and transcribe an entire counseling session. That transcript is published in the May-June issue of Reverse Mortgage Magazine and I would ask that it be accepted and included in the record.

One of the biggest obstacles to supporting counseling properly is funding. This year the cost of HECM counseling is estimated to be $16-18 million. The appropriation that Congress has provided is $8 million. Some of the shortfall is being covered by payments from consumers. This is a new cost to consumers that had to be added into the HECM program once lenders were precluded by law from providing financial support for counseling organizations. (Lender contributions continue to be a major source of funding for most pre-purchase and default counseling programs.)

Despite the appropriated funds and borrower payments, there is still a significant shortfall in funding for counseling. This has led some agencies to discontinue offering HECM counseling, resulting in longer lead times for consumers seeking counseling, or agencies having to cram more appointments into less time to make the counseling work from an economic standpoint.

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Training for counselors could be enhanced. Currently, there are two- and four-day workshops presented a few times a year by NeighborWorks, with instructors from AARP and other counseling organizations. I've taken the course. Unfortunately, not every counselor takes the formal course. Some are trained within their own organizations. Some learn by reading the counseling protocols and other pertinent literature on their own in the interest of helping their agencies fulfill the growing demand for reverse mortgage counseling in their communities.

More training opportunities for counselors would be helpful. Lenders, I am sure, would be willing to provide support for having better trained, more knowledgeable counselors, but last year's legislation precludes their ability to do so.

HUD does have plans underway to improve counseling and will soon be implementing three important changes: 1.) a new counseling protocol; 2.) a roster of approved HECM counselors, all of whom will have had to pass an exam to be included on the roster; and 3.) enhanced oversight and monitoring of counseling, including the use of mystery shoppers.

Until now, it has been the counseling agency, not the individual counselor, that has been approved by HUD. The roster is a major step forward in that individual counselors will now be tested and approved by HUD, as well as the agency.

One of the key aspects of the new counseling protocol will be a review of the clients recurring financial obligations, including taxes and insurance, as well as their income sources. This is designed to help them decide if they can afford to stay in the home, even with the reverse mortgage.

The Department is to be commended for the sharp eye it keeps on issues in the HECM program and the thoughtfulness its staff has been putting into developing solutions. An example is the concern about reverse mortgage borrowers' ability to pay their taxes and insurance. On the surface, this might seem easy to address. Collect an escrow.

It's not that simple. That's forward mortgage thinking being applied to a reverse mortgage, which is a very different type of instrument.

In many cases, homeowners are overburdened with payments for a mortgage and other debt. Much of their income is consumed by loan payments. If the mortgage and debts are paid-off with a reverse mortgage, funds that had been used for loan payments are available for other purposes, including paying taxes, insurance and maintaining the property.

A reverse mortgage must occupy the primary lien position on a property. All other liens must be satisfied with reverse mortgage proceeds. If some of the proceeds available from

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the reverse mortgage are diverted to a tax and insurance escrow, in some cases, there would not be enough money left to satisfy the liens. In such cases, the homeowner would not be able to obtain the reverse mortgage – and probably be forced to give up the home.

Instead of simply imposing an escrow, HUD (in partnership with a NRMLA Task Force on tax and insurance issues) is looking at utilizing the financial assessment tool to determine if the lender and counselor should work with the borrower to establish an escrow, amend the draw-down schedule, limit payment options, disallow a lump sum payment or take other steps appropriate to help protect borrowers from tax and insurance defaults. One obstacle here is that the HECM statute requires all five payment options available under the program to be offered to all borrowers, restricting HUD and lenders' ability to take appropriate action.

Recognizing the differing circumstances of reverse mortgage borrowers and allowing the appropriate solution for each case is a hallmark of the approach that HUD and our task force is taking to address concerns about tax and insurance defaults. That's just part of a comprehensive approach that is being developed and implemented. Several other measures are included in this integrated effort.

There is a very smart, talented team at HUD who believes deeply in the value of this program. They hear from seniors every day and know how HECMs help. They are dedicated to making this program better. With encouragement from the new Administration's leadership at the Department, they are now able to implement ideas that have been in development at HUD for some time, but were frozen in place when the prior administration imposed a moratorium on the development of any new regulations last June.

Comptroller Dugan, Inspector General Donohue and others have all pointed out that seniors are vulnerable, that scams and fraud are frequently perpetrated against older folks and that reverse mortgages can potentially be a source of problems. However, no one has identified any incidence of widespread malfeasance specifically in reverse mortgage cases. In fact, there's been virtually very little.

We have been polling state attorneys general offices, bank regulators and FTC and found the incidence of complaints about reverse mortgage lenders to be minimal or non-existent. We received a similar response to an inquiry to the Conference of State Banking Supervisors. Several weeks back, I had the opportunity to address a conference of the chief consumer complaint officers from all of the federal bank regulatory agencies, including the FRB, OCC, OTS and FDIC, as well as several state regulators, hosted by the Federal Reserve Bank of Kansas City. When asked during a panel discussion, the representative of each agency reported that they had few, if any, complaints about reverse mortgages.

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The most active disciplinary force in the reverse mortgage business has not been any regulatory body. It is our Ethics Committee, where complaints are filed, investigated and action taken, if necessary. We have sanctions of our own that we are able to impose, plus we are able to report cases to the proper governmental authorities for their action.

I am not denying that there are entrants to the reverse mortgage business who'd we all be better off without. Every business has its share. But, by and large, there is a community of properly-motivated, responsible companies making reverse mortgages available across the country. Servicing seniors is their priority. Those are the companies that consumers should be drawn to.

At the same time, we must recognize that once a senior has gotten a reverse mortgage, no matter how protected she or he might have been during the loan origination process, there is now access to what could be a substantial amount of money – potentially attracting others looking to swindle the homeowner. These are societal problems; they're not reverse mortgage problems. Laws are in place to protect seniors from elder financial abuse. We must all work together to enforce the laws, catch and convict any culprits who take advantage of seniors.

In conclusion, I would like to reiterate that there is a highly consumer-centric industry here looking to help seniors monetize the equity in their homes so they can live more comfortable, secure and fulfilling lives. We are committed to only making loans after a homeowner makes an informed decision that the reverse mortgage is a tool appropriate for their needs.

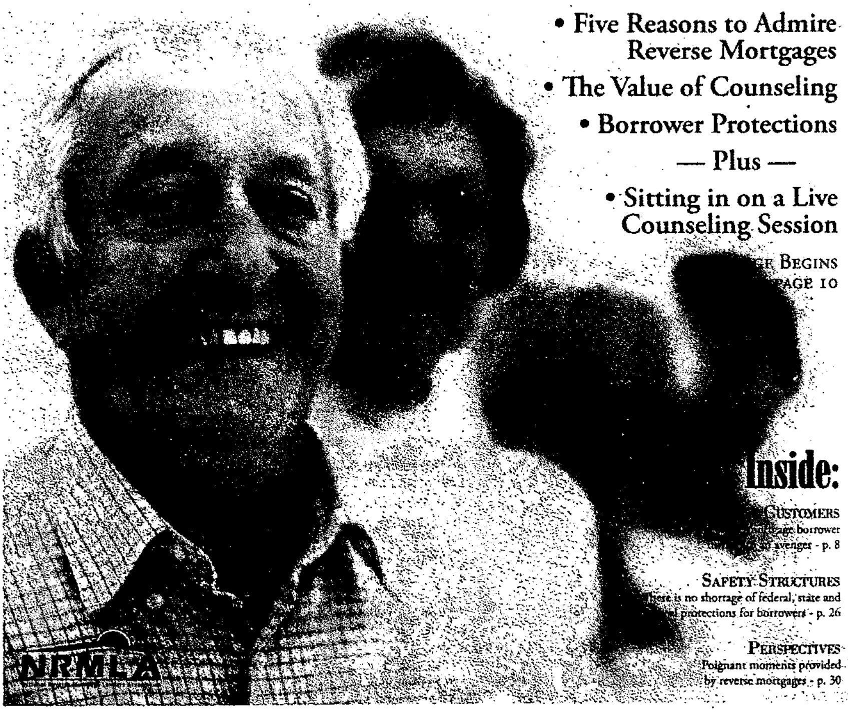
Thank you for the opportunity to testify here today. I would be pleased to answer any questions.

Reverse Mortgage

The official magazine of the National Reverse Mortgage Lenders Association
May - June 2009 Volume 2 No. 3 • www.NRMLAonline.org

A Product for The People

• Five Reasons to Admire Reverse Mortgages
• The Value of Counseling
• Borrower Protections
— Plus —
• Sitting in on a Live Counseling Session



REVERSEVISION

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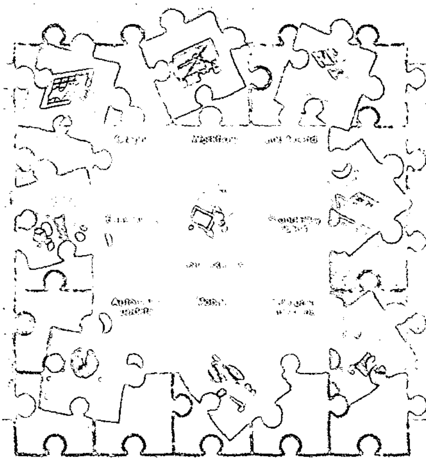
ReverseVision Suite is the leading reverse mortgage origination solution for mid to large sized organizations. It covers all aspects of the origination process from prospect to closing and shipping.



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ReverseVision Suite

A Product for The People

In this issue, we take a look at the benefits and protections reverse mortgages offer seniors and society, beginning with the five exceptional aspects of reverse loans. Coverage begins on page 10.

NRMLA
National Reverse Mortgage Lenders Association

Balanced Viewpoint

Reverse Mortgage

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The Yin and the Yang

It's a typical day for you. You spend the morning across the kitchen table from John and Jane Doe at their modest 1960s split level home in Springfield. He's 73, she's 71, both retired school teachers. They're very cordial, but there's a sadness about them. John sits in a wheelchair, limited by severe hip problems. They've been living on social security and their little nest egg which has been depleted over the past 18 months. The house can use some adjustments to accommodate him. He can't get into the tub or up the stairs anymore. But they cannot afford the necessary alterations. They are barely getting by now. And their financial situation weighs on them. It makes them feel as if, after all those years of making a difference in students' lives, they have ended up as failures.

So you do your thing: You go through the details of what a reverse mortgage would mean. Their work has not been for nought after all. In fact, it has earned them equity in their home and that is going to pay for its alterations and leave them enough money to live on without the ongoing burden of economic stress.

Driving back to the office, you feel good about what you do. This reverse mortgage is a fine product. It provides people with security and thus eases their minds at a difficult time in life when they need it most.

And then you sit down at your desk, switch on your computer and wham! You're gobsmacked.

Here's Carmen Wong Ulrich, the personal finance expert on the Today Show telling a national television audience to stay away from reverse mortgages because they will cost you 20% of the equity in your home. And you try to figure out how she possibly came up with that number.

And then there's the Elder Protection Act introduced by Assemblyman Bill Feuer to the California State Legislature containing the language, "As a number of recent lawsuits and media reports in California make clear, the inappropriate marketing of reverse mortgages and ancillary financial products to seniors is growing." What lawsuits? You mean the ones that were dismissed? What media? Did you check where they got their facts?

And here's Senator Claire McCaskill of Missouri speaking in the Senate chamber and on CSpan telling the world the reverse mortgage is "very dangerous." Guns are dangerous. Swine flu is dangerous. But reverse mortgages? Isn't this just a little bit over the top?

The headline on one online journal reads, "Reverse Mortages Growing Despite Pitfalls." What pitfalls?

In another publication, a financial advisor in Virginia is quoted as saying, "I get queasy when my clients mention reverse mortgages." So maybe you just need an antacid.

The verbal arrows are flying everywhere. Predatory lenders. Fraud. Chicanery. Scam. STOP!

Its the yin and the yang. Its the see and the saw. Its the yo and the yo.

You want to feel good about what you do. You devote each work day to trying to make a positive difference in seniors' lives. But you have to wonder, Am I living in some kind of alternative reality? What are these people squawking about? Isn't helping us the responsible thing to do?

Okay, take a deep breath. Let's take a short vacation from the vapid vitriol. Maybe what all these people need to hear is just why the reverse mortgage is such a unique and special product. So let's tell them.

That is the focus of this entire issue.

—P.H.B.

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In Reverse

News Briefs from Around the Industry

TWITTER TALK

With the buzz around social media even louder than a Jonas Brothers' concert, *Reverse Mortgage* spoke with **Kevin Lynch**, the senior vice president of e-commerce at Baltimore, Md.-based 1st Mariner Bank, for details on his bank's journey into the world of blogging and tweeting (that's the term for posting to Twitter, by the way). 1st Mariner Bank is one of many reverse mortgage lenders making a concerted push into social media marketing. An excerpt from the interview:

Reverse Mortgage: What encouraged 1st Mariner Bank to start tweeting?

Kevin Lynch: We have sort of been observing twitter and trying to figure it out. We are always looking for ways to connect with customersand prospects in any way we can. Facebook tends to be about connecting with people whom you know, or knew, and building a network you already have in the area. Twitter is an opportunity to meet people you want to know.

RM: How much time do you spend on social media for work?

KL: Writing a blog is a 15 minute thing that I do every once in a while. [For Twitter], you dip your feet in the water and hop back out. Over a week's period, I maybe spend an hour or two on Twitter.

RM: Do you think Twitter and other social media are effective tools for marketing to the reverse mortgage niche?

KL: For the demographic of the reverse mortgage customer base, I don't see Twitter as a necessarily effective way to connect to them now. If connecting to their children, it's a different story. The message would be more toward caregivers.

Blogging is a very effective way. That's where I think the [reverse mortgage] audience will be. Blogs do well in the search industry. Blogs tend to be high on search criteria, and so much about reverse mortgage is about dialog and getting people to understand.

twitter

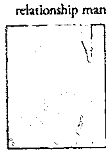
What I find interesting for the reverse mortgage space is that one of the fastest growing groups on Facebook are women [aged] 55 and over.

RM: Any tips for lenders who want to tweet?

KL: The key to getting into the space is to first just start listening. Listening sounds somewhat passive, but it can be active. Set up a Twitter account and follow other lenders or individuals who are spokesperson in the industry. If you see reverse mortgage experts, re-tweet (repost) what they say, if it's interesting. Just kind of look and listen and then something may come of it.

WHO'S NEWS

- **Senior Financial Corp.** has hired **Dan Perez** as its National Sales Director. Previously, Perez served as an account manager at Senior Lending Network and as a relationship manager with Financial Freedom.



- **Michael J. Weltman** has joined **Wells Fargo**'s Senior Products Division, handling reverse mortgages throughout southern Georgia and northern Florida. Weltman is a Florida-licensed real estate instructor, real estate broker, insurance broker and mortgage banker.

- **Generation Mortgage** plans to hire an undisclosed number of new reverse mortgage professionals nationwide. Generation Mortgage closed more than 1,400 Home Equity Conversion Mortgages (HECM) in the first quarter of 2009.

- **W. Scott Norman** was elected vice president of the **Texas Mortgage Bankers Association**. Norman is manager of the retail reverse mortgage operations for MetLife Bank in Texas.

To include your personnel changes in Who's News, email reversemortgage@royalmedia.com.

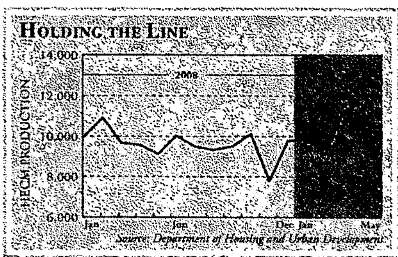
STILL GROWING

Yes, there is a recession, and it is buffeting the reverse mortgage industry, but Home Equity Conversion Mortgage (HECM) originations through May remain higher than they were during the same period last year and in 2007.

Through the end of May about 50,260 HECM loans have been made, 2.1% more than in 2008. Compared to 2007, HECM production this year is 5.8% higher.

That said, HECM production in May — usually a strong month for originations — was lower than it was in any of the four previous months this year. The month was particularly unsavory for the 10 largest reverse mortgage lenders in the nation.

In all, 8,396 of HECMs were endorsed in May, off 7.9% compared to May 2008. Monthly HECM production had been steadily rising through the first four months of 2009.

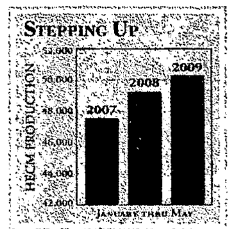


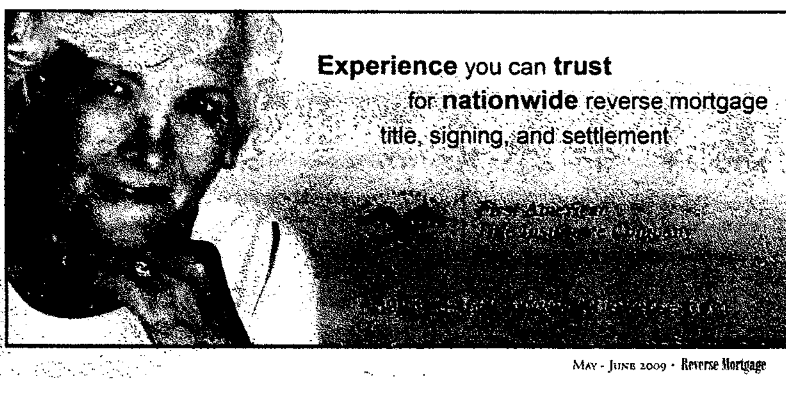
That's small consolation to the Top 10 reverse mortgage lenders in the nation, which saw their collective production decline 11.7% from their May 2008 levels. Wells Fargo Bank, the No. 1 reverse lender in the nation, saw its year-over-year HECM production fall 38.3% to 1,442. World Alliance Financial Co. also saw a steep year-over-year decline in HECM production in May.

On the other hand, Bank of America's production climbed 63.2% year-over-year to 465. Financial Freedom, One Reverse Mortgage LLC, MetLife Bank, and Generation Mortgage Co. also saw solid year-over-year growth, although their production declined noticeably compared to April 2009.

There have been signs of strain in the HECM market this year. Close rates have been falling in 2009, from a high of 94.8% in January to about 85.1% in April, according to a *Reverse Mortgage* magazine analysis.

One lender explained the situation in the marketplace like this: "One challenge is to overcome the paralytic fear about the economy that is keeping many seniors and their families from moving forward." RM





Understanding Customers

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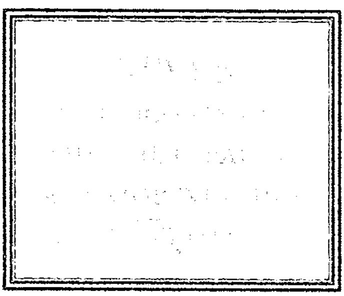
We've all heard stories about reverse mortgages utilized to provide seniors with security or pleasure—to avoid foreclosure, to finance in-home healthcare or even to pay for a dream vacation. But here's a new one—an angry and feisty 87-year-old woman outside Miami who used her proceeds to avenge disinterest from her healthcare provider in a time of need.

Our story begins at the studios of WFTL radio, 850 on your AM dial in Fort Lauderdale, Fla., an independent-minded, all-talk station. Here, if you choose, you can converse by phone weekday mornings with Dr. Laura Schlesinger, who "preaches, teaches and nags about morals, values and ethics." Or from 2 p.m. to 5 p.m. on weekdays with Joyce Kaufman, whose slogan is "American First. No apologies," and whose bio brags that she "knows Krava Maga, carries a .357 Magnum and has a big mouth." Or from 6 p.m. to 9 p.m. get in on the rant on "The Savage Nation with Michael Savage," who takes credit for devising the term, "The Passionate Conservative." But on Saturday morning from 8 a.m. to 9 a.m., on your way to your golf game or hairdresser, you can listen to "The Reverse Mortgage Hour with Dave Levitt," the president of Circle Mortgage Company, a 35-year-old firm located in Hollywood, Fla., and a member of the Board of NRMLA.



On any given Saturday you might hear Dave talking with a senior who was advised to take his younger spouse off the title to his house or the 83 year-old man who sunk into depression the first of each month when faced with his $900 mortgage payment, only to take out a reverse mortgage through Circle and then say on the show, "I had a nightmare and woke up in a cold sweat, then realized I no longer had to make my mortgage payment and pinched myself to make sure this was real."

But one Saturday, Levitt received a call from an angry 87-year-old woman living by herself in a 1960s ranch-style home in Pinecrest, an incorporated village 20 minutes south of downtown Miami, a community that grew up around the original Parrot Jungle tourist attraction, which is now long gone. The woman was living alone since her husband's passing and was long estranged from her only daughter, who lived up north. "The woman told me she had an arthritic hip and had been suffering great pain for close to 10 years," Levitt says. "Her doctors urged her to have hip-replacement surgery, which she could not afford without help from her health insurance provider. She said she had been going back and forth with the insurance company for five years, trying to get them to sign off on coverage for the surgery, but her persistent letters and calls were usually met with silence.

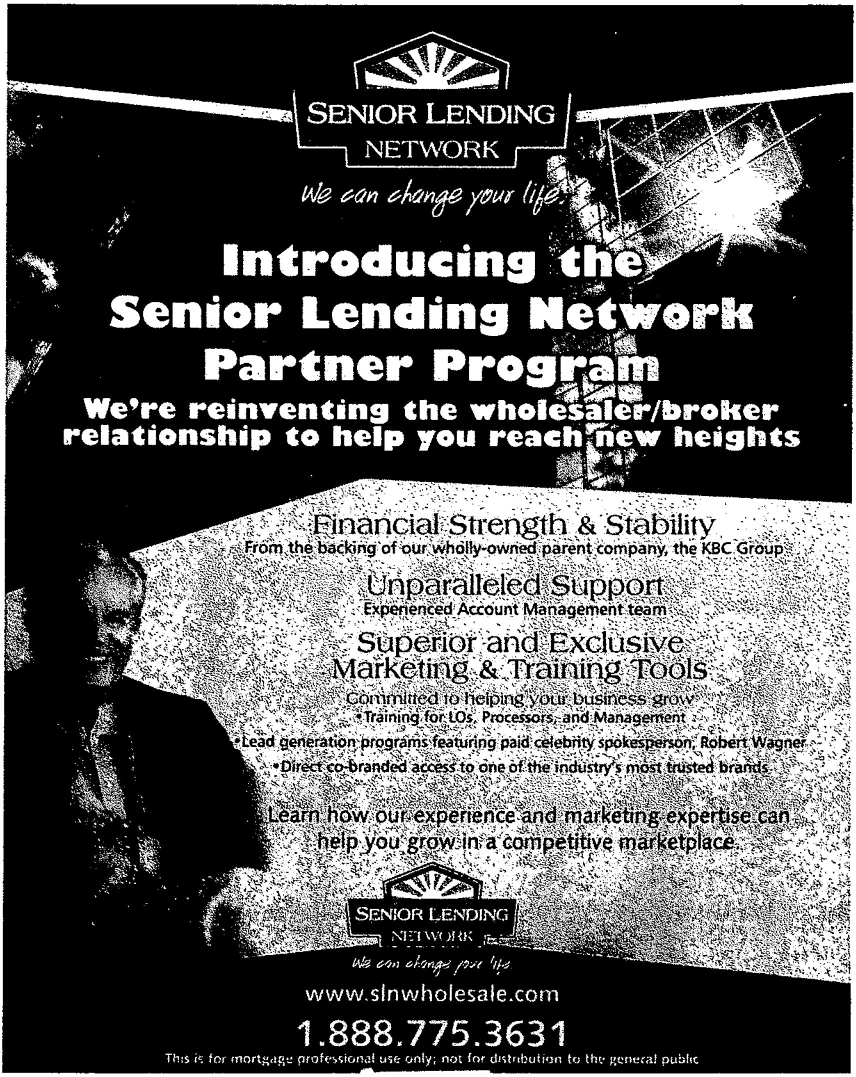
"The woman believed that the insurer figured she did not have the money to litigate and if they stalled her long enough, she would just die and they could save the reimbursement. And I bet she was right," Levitt says.

So Levitt suggested that a reverse mortgage on her modest home, whose forward mortgage had long been paid off, might be the vehicle she needed. He drove the 45 minutes down to the woman's Pinecrest home and explained that under the HECM program she could utilize the value in her home to pay for her surgery, have money remaining to live on and not have to pay it back until the house was vacated and sold, to which the woman responded, "Okay, what's the gimmick. This sounds too good to be true."

Within a few weeks of counseling and processing, Levitt and his staff arranged for a $75,000 cash loan payment. The client promptly arranged to have the surgery. When she was back on her feet in a few months time with the pain gone, she called Levitt and said, "It's only too bad I didn't know about reverse mortgages earlier, because I could have avoided all those years of pain."

Levitt had that lender's rush you all experience when you use your job to better someone else's life. He was delighted that his client had some money remaining to enjoy herself now that she was feeling better. And he assumed this case was closed.

But never underestimate the chutzpah of a senior who has been wronged. A few months later Levitt heard from the woman again. She had taken the balance of her loan and hired a lawyer to go after the insurance company. Once the company realized the reverse mortgage had afforded her the luxury of pursuing them, the company settled with her — for all the costs of her operation. RM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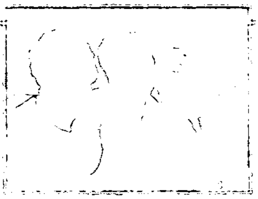
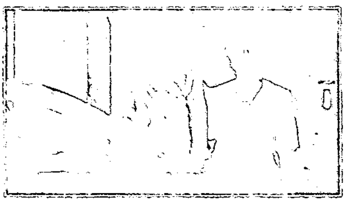
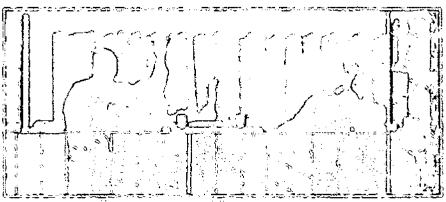
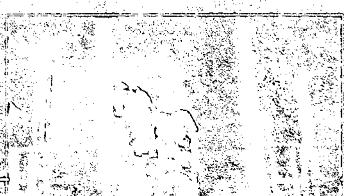


A Product for the People

Five Reasons to Admire the Reverse Mortgage







For the past five months, I have been steeped full-time in the study of reverse mortgages. Along the way, I have communicated with originators, lenders, counselors, investment bankers, financial advisors, state regulators, state attorneys general, Congressional staffers, as well as staff at the Department of Housing and Urban Development, the Federal Housing Administration, the Conference of State Bank Supervisors (CSBS), Office of Management and Budget (OMB) and Fannie Mae.

I have spoken with many seniors, both those who have taken reverse mortgages and those who have not. I have also heard all the negatives, mostly from politicians and bloggers and occasionally from the press (though less and less frequently). My overall response to what I have seen and heard and read is admiration: admiration for those who conceived the product, those who devote their careers to explaining it and facilitating it, those who continue to try to improve it, and even those who take the time to learn about it and utilize it.

At its heart, the reverse mortgage is a compassionate financial product. It's hard to imagine linking those last three words together, and that's the whole point. Sure, it may not be right for every senior, it may be occasionally oversold in advertising, and not every person involved in the industry is a saint. But from what I have seen, those are the exceptions, and they are all really beside the point. It is easy to knock anything (and in the era of the blogosphere that seems to be the fad game). But what is much more significant and meaningful are the reasons the product inspires admiration. There is a depth to the existence and meaning of this product that gets lost when the conversation turns to grandstanding and sound bites.

So here are five reasons the reverse mortgage deserves to be admired:

1. An Organic Idea

To a novelist or a playwright, the perfect ending is one that feels like it has grown organically out of the events of a story. When it occurs, it may seem surprising at first, but then you sit back, assemble the details, think them through and realize, there was no other possible conclusion.

The concept of the reverse mortgage is almost literary in its nature. We all spend the majority of our adult lives at jobs to earn the means to support our family's needs. The primary need is a home — a term that, as we all know, means much more than walls. In most cases, the home is the most expensive purchase we ever make, and therefore, the one thing we work the longest and hardest to support. And then, when we reach the age of 62, a reverse mortgage is available to us to turn the story around; it enables the home to support us. This is not like a stock spike or a lottery win. It is not found money. It is also not a bank's bet on income we may earn in the future. It is the payoff for all the hard work we have done thus far and what that has earned us. It's the fitting, even the perfect ending to each career story. And neither O. Henry nor Cheever could have written it better than the folks at FHA and AARP, who devised the idea.

A reverse mortgage is the reward for adhering to the American work ethic.

2. The Right Vehicle at the Right Time

When the reverse mortgage was conceived at the end of the 1980s, nobody could have foreseen the economic downturn of the past 18 months. What those who imagined it did see, and what the Department of Housing and Urban Development supported, was the chance to provide seniors with a source of funding for in-home care and medical emergencies that would hopefully keep them out of nursing homes and hospitals. They rallied around the concept of seniors utilizing the equity in their homes as opposed to depending on support from taxpayers. It was a win-win concept — for homeowners and for our society.

But now we find ourselves amid a great economic maelstrom that has depleted savings and reduced home values. Great ideas often have unpredictably wide bounds (see the U.S. Constitution), and our times have made it even more vital that the reverse mortgage was created. With other forms of credit currently arid, in many cases, the reverse mortgage is the only available form of support for seniors in need.

Though we all have heard the stories of people using the reverse mortgage for the purchase of an RV or dream vacation (and who's to criticize anyone for how they spend their hard-earned money), reports from the lender front are that the primary usage of these loans today is to support homes and, too frequently, even to avoid foreclosures. "There are 30 people in Central Florida who we helped avoid a trip to the courthouse last year," one lender told me at a recent NRMLA regional meeting. And Ralph Rosenyk of 1st Reverse Financial Services, who recently went to market with a new proprietary reverse mortgage, reported that, "No matter how expensive the homes, all of our applications are from people who need the money to support those homes."

3. A Complex Product

Those people who want to be critical of our industry often point to the fact that the product is complex. Frankly, I take that as a compliment. The complexity of the reverse mortgage is one of

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its admirable features and it should be celebrated. How can you make an interest-bearing loan to people that does not have to be paid back for an unknown number of years without a complex calculation, one that involves actuarial tables, estimated expenses going forward and a good bit of guesswork? It is only via the daunting intelligence of Edward Szymanoski, who designed the factor table for HUD, that the product exists at all.

To create a less complex product would have been to create a less effective product. Simple is as simple gets.

What is most disappointing about those who choose to complain about the product's complexity is this: In the name of claiming to protect America's seniors, they are actually being condescending to those same seniors. They are trying to protect them from what they perceive is their own ignorance. And what could be more offensive?

If I learned one thing in the 30 years I spent in the entertainment business before I joined NRMLA, it is that talking down to your audience is a slippery slope to failure. It is only when you invite your audience to rise to the occasion that they do and that you have the chance to create something special. And in this case, I believe something special has been created.

4. Layers of Protections

When you read on in this issue, you will come upon articles about the multiple layers of protection provided for seniors interested in reverse mortgages by the federal and state governments, as well as by organizations such as AARP and NRMLA. You will also have a unique opportunity to sit through an actual counseling session. What all of this adds up to is this; those people who administer and police reverse mortgages demonstrate a deep commitment to taking all of a senior's possible needs into consideration. Counseling is mandated; loan insurance is required; cross selling is restricted; fees are capped. Counselors must be approved by HUD. Originators and lenders who are members of NRMLA must sign and adhere to a code of ethics. At NRMLA, we are also in the process of creating a Certified Reverse Mortgage Professional designation that requires taking an ethics course, additional continuing education credits and sitting for an exam.

> As the senior market grows and becomes more prominent, their needs will become the focus of more media and as a result the focus of more Americans.

But what is most admirable here is that, in the case of Home Equity Conversion Mortgages (HECMs), which comprise over 90 percent of the reverse mortgage business, seniors are protected by two teams — the oversight team and the delivery team. The oversight team is comprised of HUD, the FHA, state legislators and regulators and not-for-profit organizations that focus on the product. The delivery team is comprised of the originator, the lender, the counselor and, in some cases, a lawyer and a financial advisor. Is there any other financial vehicle available that comes with as much careful thought and planning?

5. Features

You do not pay the same price for a Kia as you pay for a Mercedes. And for good reason. They do not have the same features.

One of the other complaints we often hear about reverse mortgages is that they are expensive. But when evaluating the cost of something, you cannot compare apples to oranges. In this case, the comparison is to other sources of loans. And the reverse mortgage is a bit more costly. The additional costs are not in the closing fees or the interest rates, which are comparable to other products. The origination fee, which is tied to the amount of the loan, can be more than a forward mortgage for a larger loan. And the cost of FHA insurance is more than for other loans. But for these additional costs, borrowers are purchasing features that protect and benefit them, features that no other financial product provides.

If you want to have the luxury of not paying back your loan on a monthly basis, and thus, increasing the amount of cash you have to cover other expenses, this is the only product for you. If you want to insure yourself against the possibility of the value of your home decreasing by the time you sell it and do not want to pony up the deficit, this is the only product for you. Those two unique features alone are comparable to the heavier framework and more powerful engine of a Mercedes, as opposed to a Kia. In addition, the reverse mortgage holder retains title to his or her property, does not have to go through a credit check, sees no effect on his or her Social Security or Medicaid benefits, pays no taxes on the loan amount, has a choice of options on how the loan amount is delivered and can use the loan for any want.

What you are paying for is security, protection and flexibility that no other financial product can provide. What you are purchasing is the ultimate luxury — a clear mind.

Protecting the Franchise

I once attended a speech by David Stern, the commissioner of the National Basketball Association who is considered by many to be the best professional league commissioner in the history of American sports. Stern said that when he began his job he looked at his league and realized they were blessed with players so popular they were identified solely by their first names or nicknames — Michael, Magic and Larry, Patrick and Isiah — and he said to himself, all I can do is screw this up, so don't.

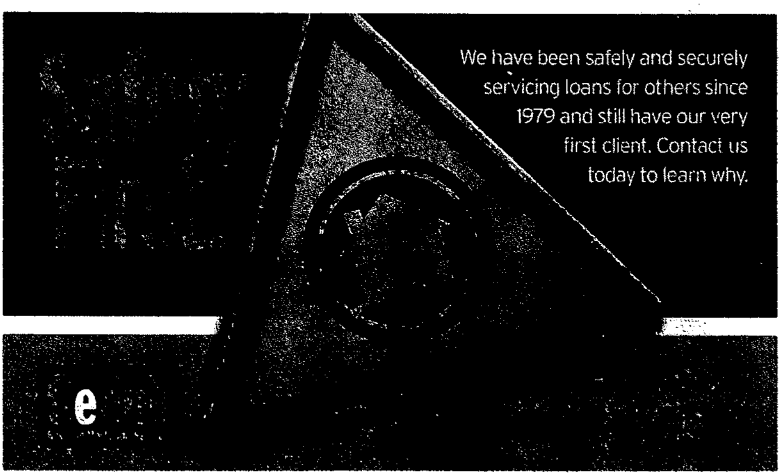
People in the reverse mortgage industry are in a similar situation to Stern. We have a terrific product that only keeps getting better. In the past few months, the loan limit has been increased significantly and the HECM for Purchase has been approved, creating, in effect, a whole additional market. The demographic direction of the country is strongly in our favor. The product is becoming better known and more widespread at the same time that the market is growing exponentially. And as the senior market grows and becomes more prominent, their needs will become the focus of more media and as a result the focus of more Americans. The naysayers cannot prevent this.

In preparation for this article, I attempted to confirm a recurring accusation of those naysayers that the amount of senior abuse is increasing. I contacted the offices of more than a dozen state attorneys general looking for statistics on complaints from seniors about reverse mortgages and was told either there was no data or the complaints were minimal. A representative at HUD told me the department does not keep such statistics. An official at the Conference of State Bank Supervisors told me the complaints are minimal. Even the offices of prominent politicians, both national and state, who have proposed new legislation to protect seniors, could not provide any hard information to justify their concerns.

The future of this admirable product is clear: the only ones who can screw it up are us. If we drift into inappropriate behavior instead of trusting the improvement of the product, the increase

in its visibility and the natural growth of the market to better our business, we are inviting the negativity. But if we respect the uniqueness and specialness of the reverse mortgage and its significance in peoples' lives, we cannot help but thrive.

Calvin Coolidge once said "the business of America is business," and that rang true for much of the past century. But recent events and the current administration may be altering that focus. In the future, it appears as if the business of America may well be people. And the reverse mortgage is a product for the people. RM



The Purpose of Counseling

Protecting seniors is the name of the game.

By Darryl Hicks

In 1988, officials from Federal Housing Administration and AARP, the nation's preeminent senior advocacy organization, began developing the Home Equity Conversion Mortgage (HECM), which today accounts for nearly all reverse mortgages made to consumers. Given the history of financial exploitation of seniors in our country, the organizations agreed that Seniors needed to be protected and that special safety features would have to be incorporated into the HECM program if it was going to be accepted by the general public.

Of all the safeguards, the most important was mandatory counseling. No other FHA or conventional mortgage product requires this, which separates the HECM from all other financial options.

Before a potential borrower signs an application or incurs any fees, that person must first meet with an independent third-party counselor approved by the Department of Housing and Urban Development.

In many respects, the counselor is the first and last line of defense for the consumer.

It's the counselor's responsibility to make sure the client fully understands the basic facts about reverse mortgages and to be on hand to answer questions right up to the day the loan closes. A counselor is obligated to recommend alternative options to a reverse mortgage that may better suit the client.

If a counselor suspects a client does not fully comprehend what is being said, he or she has the power to withhold the counseling certificate that is necessary for the loan to proceed.

All counselors must follow a protocol strictly enforced by FHA (and in the process of being restructured by HUD). The existing protocol, which NRMLA and other stakeholders helped develop, instructs counselors on what they can say and do during the counseling session. A counselor is prohibited, for example, from "steering" a client to any specific lender and may not interact with a lender at any time while a client is being counseled. Any counselor who fails to follow the protocol risks losing their approved status to counsel seniors.

Arthur "Buz" Zeman, Director of Housing Options Provided for the Elderly (HOPE) in St. Louis, has been counseling seniors on various programs, including reverse mortgages, since the early 1990s. Zeman prefers face-to-face counseling, even though telephonic counseling accounts for almost three-quarters of all counseling sessions. Whenever possible, he meets with clients in their homes, because, he said, "it helps me develop a rapport" with them. Meetings normally last one hour, sometimes two, if the person is having difficulty grasping certain basic facts. If a person calls Zeman afterwards to ask additional questions, he doesn't charge a new fee, no matter how many times the person calls. This policy, he noted, is typical of most counselors.

Prior to each meeting, an information packet is mailed so the senior can prepare. The packet includes background documents and a sample estimate of available loan proceeds based on the person's age and what they think the home is worth. While he is aware that fees and margins may vary from lender to lender, Zeman utilizes loan origination software commonly found in the industry, so that seniors have at least a rough idea how much loan proceeds they may qualify for.

Most counselors will ask a senior what he or she is hoping to achieve by getting a reverse mortgage. In most cases, a counselor will need to examine a client's complete financial situation. If the potential borrower is "pinching pennies," obtaining an itemized budget is crucial to determine whether the reverse mortgage is going to help that person for only a few months — in which case the reverse mortgage may not be the best option — or for a longer period.

When advising couples, Zeman tries to uncover the financial impact on the household if one spouse dies. If the husband received Social Security and a pension, it's important to understand what percentage of the pension income may go away. "It's surprising how many seniors can't answer those questions," said Zeman.

HUD requires a counselor to ask a senior whether they plan to use any reverse mortgage proceeds to purchase an annuity or other insurance product. If that is the case, counselors give them a special handout with additional helpful information.

One critical reminder that every counselor raises during the conversation is the importance of paying property taxes and insurance. It is the client's responsibility to pay T&I, unless they submit a request to the loan servicer to set up a special escrow account, which, he said, "most seniors don't bother doing."

In addition to the revised protocol, HUD will be publishing an Approved HECM Counseling Roster soon. To be placed on the roster, all counselors must pass a special exam. If they don't pass, they won't be able to counsel seniors.

At NRMLA's recent Road Shows. In Boston, Chicago and Orlando, HUD representatives presented some of the content of the new protocol. HUD will impose a minimum time requirement for each counseling session. The protocol will include a list of 20 questions designed to make sure the senior understands the information being provided. The counselor must ask the senior 10 of the questions, and the senior must answer at least five questions correctly to receive the counseling certificate. If the senior doesn't answer five correctly, then the counselor will need to schedule a second counseling session, most likely within seven to ten days. If they stay with the same counselor, they won't need to pay an additional fee. If they go to a different agency, then they may need to pay a new fee.

Sue Hunt, Housing Counseling Manager, at CCCS of Greater Atlanta, clarified that the questions should not be construed as a test. Her counselors will be trained to intersperse the questions throughout the session, so as not to alarm the client. HUD agrees that this is an appropriate way to handle this.

The purpose of counseling, after all, is not to make seniors feel uncomfortable with the reverse mortgage process, but rather to make them feel secure that they have a clear enough understanding to determine whether or not it is the right financial move for them. RM

"In many respects, the counselor is the first, and last line, of defense for the consumer. It's the counselor's responsibility to make sure the client fully understands the basic facts about reverse mortgages."

Special Feature: A Counseling Session

Listening In on a Borrower's Concerns

In order to demonstrate the value and process of counseling, Reverse Mortgage Magazine was invited to listen in on a live telephone session between Tim Robbins *of CCCS of Montana, a member of the National Foundation for Credit Counseling, and a prospective borrower,* James Clark, 85, *of Chehalis, Wa. The following are excerpts from the hour-long conversation.*

The Background

COUNSELOR: James, I just wanted to give you a little background on what my role is and why we are doing a reverse mortgage counseling session. I work for a HUD-approved housing counseling agency, not for a lender. I am an independent third party. My job is to provide information about reverse mortgages and answer any questions you may have. I am not here to tell you what to do, whether getting a reverse mortgage is a good idea or a bad idea. I am here to answer your questions and provide information. Does that make sense?

CLIENT: Yes, I understand that.

COUNSELOR: James, have you been informed that there is a cost for the counseling session?

CLIENT: Yes.

COUNSELOR: The cost is $125. You don't have to pay that upfront. You are welcome to finance it into your loan cost. If you do not get a reverse mortgage, you are still responsible for the $125 charge.

CLIENT: All right.

COUNSELOR: Ok. Today, we are going to go over some basics about what a reverse mortgage is and what makes it different from a regular mortgage. We are going to look at a couple of different reverse mortgage products and examine the differences between them. We are also going to look at potential options and alternatives. To begin, I am required to run through a simple budget, so that I can figure out what alternative options may be pertinent. The first thing we need to look at, James, are your sources of income right now?

CLIENT: I have a national pension through the Pipefitters and Plumbers Union of $483.63 per month. I have a state pension from the same union of $231 per month. And I have social security of $1,046 per month.

COUNSELOR: So on a monthly basis, it's about $1,800 roughly that's coming in. We will work with that as we run through a simple budget. I'm showing that on your current mortgage, you still have a balance of around $157,000?

CLIENT: Yeah, it's $156,898 and some odd cents.

COUNSELOR: Ok. And the property value itself is at about $300,000, roughly?

CLIENT: Roughly, yes.

COUNSELOR: Ok. What's your current monthly mortgage payment?

CLIENT: $1,477.

COUNSELOR: Ok. So it sounds like most of your income is going each month to that payment.

CLIENT: Yeah, with the wife here, we split it down the middle. But she deceased on April 18th.

COUNSELOR: I see, I'm sorry to hear that. So the loss of a second income is what got you interested in a reverse mortgage.

CLIENT: Right, because otherwise I couldn't afford to remain in this house.

COUNSELOR: Do you have just one mortgage? No second or home equity loans?

CLIENT: No.

COUNSELOR: Are your taxes and insurance paid from your current mortgage right now?

CLIENT: Yes, they are.

COUNSELOR: Ok. Let's run through a couple of standard bills that you may have each month. What do you pay for gas and electricity each month?

CLIENT: My electricity and gas runs $165 a month.

COUNSELOR: Alright, how about phone bill? Do you have a regular phone and a cell phone?

CLIENT: Yes, I have both. My home phone runs around $42. I believe ... phone is $49 a month.

COUNSELOR: The next typical ... have is water, sewer and trash. W...

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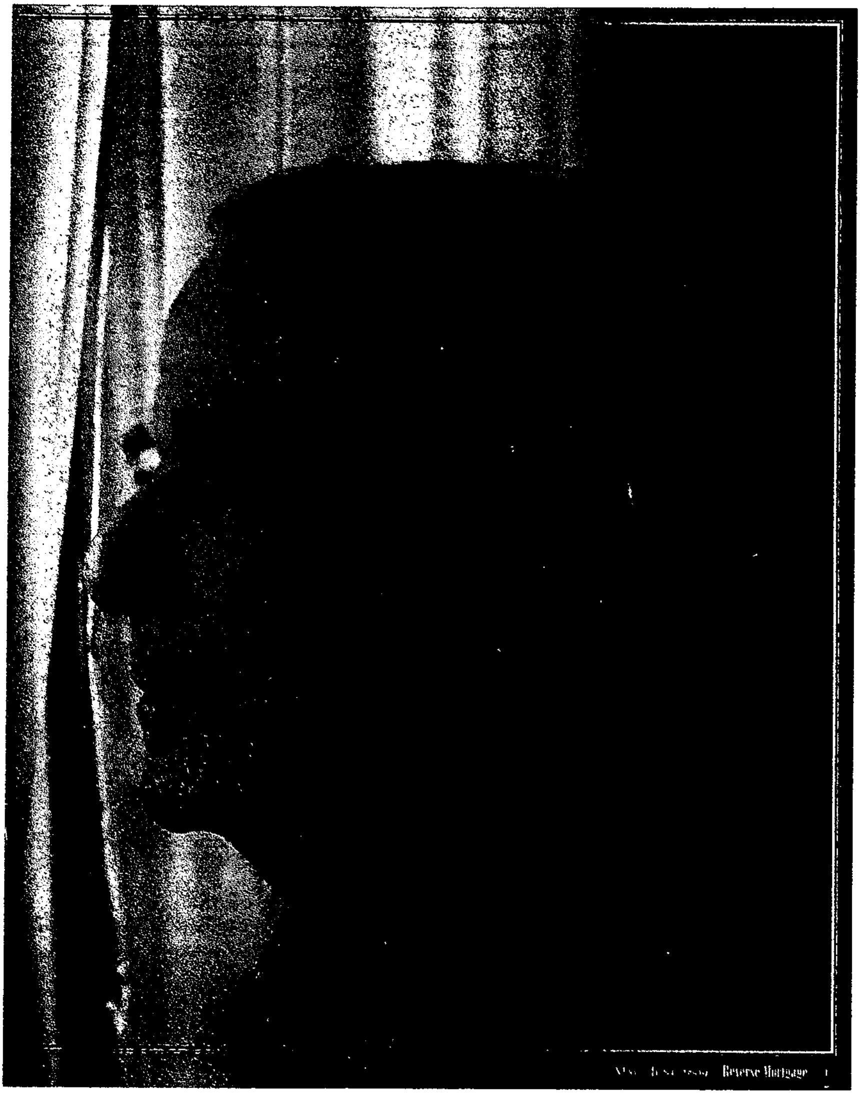
Reverse Mortgage

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you figure that runs you on a monthly basis?

CLIENT: Oh. I don't pay that. I'm on my own water and septic system.

COUNSELOR: Oh, very good. That works out pretty well. Then there's no trash costs for you as well?

CLIENT: It's $26 and some odd cents every two months.

COUNSELOR: On a monthly basis, what do you figure you spend on groceries and then maybe dining?

CLIENT: We never really ate out much, but I'd say now my groceries probably hit me around $100 a month. I don't eat hardly at all anymore.

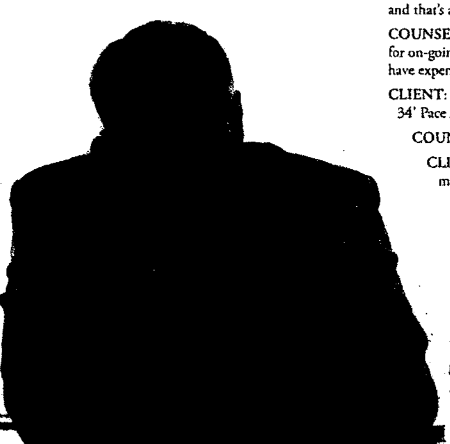
COUNSELOR: What about personal care, you know soaps, shampoos? Can we put in there maybe about $15 a month do you figure?

CLIENT: I would say that would be just about right.

COIUNSELOR: Ok. I'm a pretty low maintenance guy, too. As far as the laundry expense, are you able to do the wash at home or do you have to...

CLIENT: I do that at home.

COUNSELOR: Ok. Do you have any pets or anything like that, James?



CLIENT: No, we don't.

COUNSELOR: Ok, let's talk about vehicles. Do you have any car payments?

CLIENT: I have one car payment that is $271.10 a month.

COUNSELOR: Do you know how much you still owe on it?

CLIENT: Oh, I would say between $7,000 to $8,000.

COUNSELOR: And what does it take to license that vehicle?

CLIENT: This past year was $75.75.

COUNSELOR: That only comes out to about $6.25 a month. And how about insurance for the vehicle?

CLIENT: I pay every month. It's around $153.00.

COUNSELOR: Ok. About $153?

CLIENT: Yes, that's for everything. Car, homeowners and all.

COUNSELOR: Ok, that's good to know. How about fuel for the vehicle?

CLIENT: Oh, I figure roughly anywhere from $50 to $60 a month.

COUNSELOR: Not a lot of driving then?

CLIENT: No, not too much.

COUNSELOR: Ok. Do you have many car maintenance costs?

CLIENT: No, I take it in every 6,000 miles to have it serviced and that's all. It usually runs me around $55 to $58.

COUNSELOR: We'll just put in maybe say about $15 a month for on-going costs there. Do you have any other vehicles that you have expenses on for insurance or licensing at all, or just the one?

CLIENT: I have a 1989 K-3500 Chevrolet. And I have a 1990 34' Pace Arrow motor home.

COUNSELOR: Do you keep those ones licensed as well?

CLIENT: Yes. My motor home I think was $105. And my truck was pretty close to $80.

COUNSELOR: And those are all paid off free and clear it sounds like.

CLIENT: Yes, they are all free and clear.

COUNSELOR: What about healthcare costs? Do you have any insurance or co-pay costs that you incur on a regular basis?

CLIENT: No. we are on Medicare and Blue Cross Blue Shield. My wife was covered through federal. I am in the process of trying to find out if I get to carry that through or not, otherwise I will have to go and see what it would cost me to carry this because I am very satisfied with that coverage.

COUNSELOR: Do you have any prescription costs on a regular basis, James?

CLIENT: I would say probably, oh heavens it's hard to tell because I get my prescriptions three months at a time. Every three months I would say maybe $150 or $175.

COUNSELOR: Ok. I am going to use the high amount just in case, so I will use that higher estimate of $175. Any other health care costs that you have routinely?

CLIENT: Just my dentist bill. Well, every three months...it varies. It runs anywhere from $170 to $190.

COUNSELOR: Do you have any other tax expenses? Are you paying on any back taxes or anything like that?

CLIENT: No, I am not.

COUNSELOR: Any cable, satellite, or internet costs for you?

CLIENT: I just got my satellite.

CFOUNSELOR: Ok. What does that run you each month?

CLIENT: It runs me around $85 a month.

COUNSELOR: Do you make any donations or tithe on a regular basis?

CLIENT: Just March of Dimes. Once a year type thing.

COUNSELOR: I am just going to recap where we are at on the budget. If we start out with income at about $1,800 to $1,900 a month, your living expenses right now are close to about $2,600 per month. This puts you in the hole for about $800, which I am sure you have felt in the last month since losing your wife. You feel like you are not able to keep up with it at this point? Do you have any retirement accounts or anything that you draw from outside of your pension?

CLIENT: No.

COUNSELOR: We need to take that into consideration down the road here as we talk about options and alternatives.

DESCRIBING REVERSE MORTGAGES

COUNSELOR: Tell me what you know about reverse mortgages.

CLIENT: They buy off the equity in your home and put it in an account and I can leave it in there and I can draw if I need it, you know, down the line. That's about the full extent of what I found out so far. They said they don't own the home and I don't understand that, but I have a meeting with a lender this weekend to explain things for me.

COUNSELOR: James, the basic idea behind a reverse mortgage is that it's a loan against the value of your home. What makes it different from say your current mortgage is that you don't have to pay this one back until a future date, typically until you leave the

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residence permanently. I've had people kind of joke with me and say "I can leave the residence head first or feet first, it sounds like." The loan is tied to the last remaining borrower in the home, so if you passed away or left the residence permanently, at that point, the loan would become due and payable. What makes it a little bit different as well is there's no monthly payment. You know with your current mortgage, you are paying $1,400 a month, which means you're gradually paying off your debt. And so your debt is getting smaller and your equity is actually growing with a regular mortgage.

But the reverse mortgage is a little bit different because you are actually borrowing money and you are not making payments, so the amount you borrow is growing with interest each month. Your debt is actually getting a little bit bigger every month and the equity in your home is actually going down. We call that a rising debt/falling equity relationship.

Do you understand this?

CLIENT: Yes, I do.

COUNSELOR: Any questions about that?

CLIENT: No. I understand.

COUNSELOR: One of the other features about a reverse mortgage that's different from other mortgages is what we call a non-recourse limit. This is a feature that is in there to primarily protect you as a borrower. What this says is if the loan balance grows to be more than what your home is actually worth at the time the loan is due and payable, you only have to pay back what your home is actually worth. So in theory, you know, if for your loan balance grew to be $400,000, but your house sells for $300,000, you're required to pay back the $300,000. Do you have any questions about that?

CLIENT: No, I don't.

COUNSELOR: Not everybody can get a reverse mortgage. They are specific to seniors, those who are 62 years old and older. And so, congratulations, you qualify on that one.

CLIENT: I am glad.

COUNSELOR: There are a few other requirements as far as what properties are eligible. The main thing is the home that you get the reverse mortgage loan on has to be your principle residence, which means you have to live there six months and one day out of the year. Do you live there year-round?

CLIENT: Oh, yes. Once in a while we take a trip, but we live here 12 months out of the year.

COUNSELOR: Ok. So that's your principle residence then. The other thing is that for the most part, just certain property types are eligible, so is your home a single-family residence?

CLIENT: Yes.

COUNSELOR: Ok. That's the most common property type. One other characteristic of a reverse mortgage is that it has what's called a first-lien requirement, which means a reverse mortgage needs to be the only lien on the home or the only loan against the home.

> "THEY SAID THEY DON'T OWN THE HOME AND I DON'T UNDERSTAND THAT, BUT I HAVE A MEETING WITH A LENDER THIS WEEKEND TO EXPLAIN THINGS FOR ME."
>
> — THE CLIENT

CLIENT: Right.

COUNSELOR: One of the features of a reverse mortgage is it can pay off your existing mortgage on the home. Is that something that you have possibly discussed with your lender already?

CLIENT: No, not yet. I have a meeting with her Saturday.

COUNSELOR: Well, this is something that you may want to jot down. I will send you some of this information. Since you have a mortgage on your home right now, the proceeds that you actually get from the reverse mortgage must first be used to pay off your current mortgage.

CLIENT: I'm aware of that. That is what interests me.

PAYMENT OPTIONS

COUNSELOR: James, tell me a little bit about why you are considering a reverse mortgage?

CLIENT: Without it I will lose my home because I can't afford to pay $1,477 month, without my wife's earnings. I only have a little over $5,000 now in my bank, so this would be very satisfactory for me to do. I actually don't want to sell the home. I want to live here as long as I can.

COUNSELOR: I can understand that. Have you considered any other options or alternatives besides a reverse mortgage?

CLIENT: No, I haven't.

COUNSELOR: Ok. We will go through a few of those things and again it all depends on what your preferences are. It sounds like you are pretty set on staying in the home, that selling it and moving somewhere else is not an option you want to consider at this point.

CLIENT: It is not an option.

COUNSELOR: We are going to look at how much you can receive and then we will go through the payment options. Your house has an estimated value of about $300,000.

CLIENT: Right.

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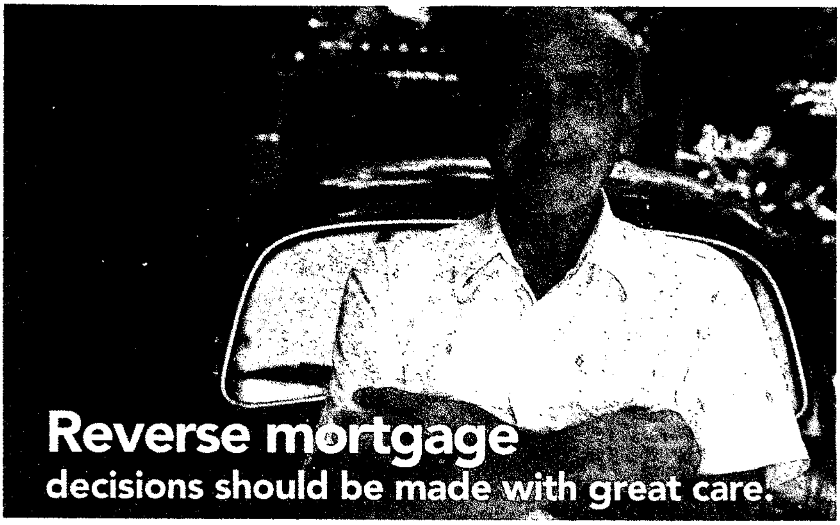

Choosing a reverse mortgage service provider should, too.

Let First American's experts make the closing process a good experience—for your customer *and* for you.

- Ensure compliance with our constant monitoring of changing legislative and regulatory policies, including the FHA Modernization Bill
- Reduce your costs through outsourced document preparation, leveraging our forms library that includes HECM LIBOR and HECM fixed-rate packages
- Prevent fraud using a full suite of borrower forensic tools, including age verification, identity, and residency status
- Obtain home values, LTV ratios, true equity values, and more
- Learn when changes are made to property liens, in order to take swift action
- Ensure taxes are paid through tax-monitoring services
- Our "family view" website allows e-signing for those with Power of Attorney or Living Trusts

First American: moving reverse mortgages **forward.**

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Continued from Page 18

COUNSELOR: The lender is not going to lend you that full amount. If they lent you the full amount, interest would start being charged and you would be behind from the start. So they are going to consider a couple of factors. The first thing is obviously how much the house is worth. Then they are going to look at your age and they will look at interest rates. And based on those three factors, they will determine how much they will loan you and that's called a principal limit. That's the actual value of the loan.

There are a couple different reverse mortgages out there. One of them is an adjustable rate that fluctuates on a monthly basis. Most reverse mortgages, James, have adjustable rates, which means the amount of interest being charged on the loan can go up or down depending on what interest rates do. This one fluctuates on a monthly basis. It starts out at a pretty low interest rate of about 3.7% is what we are showing right now. That includes a monthly FHA insurance premium of 0.5%. So based on that interest rate, your age and the home value, with this product I estimate a principal limit for you of about $234,000. That's only an estimate of what the loan amount would be. Now that's not what they are actually going pay you because the lender will need to take out some costs right up front.

CLIENT: Can you explain the costs?

COUNSELOR: First, you have mortgage insurance. This is a type of government insurance required on reverse mortgages and it is there to primarily protect you. It's provided by the FHA and it protects you from the possibility of your home value decreasing between now and when you sell it. The upfront cost is 2% of what your home is worth, so that amount comes out at $6,000. Plus the 0.5% per year I mentioned earlier.

CLIENT: $6,000, ok.

COUNSELOR: Then, there is an origination fee. Again that is a percentage of the loan amount or of the lending amount. Our estimate on that for a $300,000 home is about $5,000. The next category of costs are standard closing costs, like a credit report, property inspection, your title search and the appraisal. Your lender will have to give you precise numbers. Our rough estimate on those costs is in the neighborhood of about $2,400. So those are your actual upfront costs. You don't have to walk into your loan closing with your checkbook and pay those. They can just be financed out of the loan itself.

CLIENT: Oh, that's good.

COUNSELOR: It makes it a little bit easier to swallow, because these costs are somewhat higher than what you typically see with a regular mortgage. So, if we take that $234,000 principal limit we started with and we take those closing costs that are about $13,400, then we are now down to about $220,600, roughly. There's one other element that they take and put to the side: On these loans there is a monthly service fee that goes to pay for the servicing of the loan to make sure that you get your statements and your payments.

The monthly service fee on this one is about $35 a month. The lender must estimate the value of this future monthly cost and put that lump sum to the side. They hold that back and every month they are going to take $35 out of it. The amount we are estimating on that service set aside is about $4,300. This $4,300 is still actually your money. They are just holding it back to pay that monthly cost.

CLIENT: Right.

COUNSELOR: In the event, that you end up finishing up this loan say in 10 years and you still have some money left over in that service set aside, it goes back to you, back into the equity of your home. Any questions about that one?

CLIENT: No, I've written it all down here.

COUNSELOR: So, the remaining principal is $220,600 after we have taken out the closing costs. Then, if we take out that $4,300 service set aside, that's going to leave us with about $216,300. So that's what's actually left that can go to pay off your existing mortgage. And then whatever is left over goes back to you.

CLIENT: Right.

COUNSELOR: So your existing mortgage was $156,898. The reverse mortgage would pay that off and our estimates, which are again just rough estimates, are showing that you would have about $59,000 left over.

CLIENT: All right.

COUNSELOR: What's left over can come back to you in a few different payment options. I spoke earlier about one type of reverse mortgage where the interest rate adjusts on a monthly basis. There are a few others that you may look into. One of them adjusts on an annual basis. So your interest rate, rather than going up or down once a month, can go up or down once a year.

CLIENT: Oh, I see.

COUNSELOR: Typically, that one starts out at a higher interest rate. We are showing it starting out at just over 4%. The costs are about the same, but when it comes down to the bottom line, instead of about $59,000 you are left with about $53,000. So you can see that the higher interest rate whittles away how much money you receive. That kind of gives you a side by side breakdown between those two products. Do you have any questions about the different types of reverse mortgages out there, James?

CLIENT: No, I don't.

COUNSELOR: One thing to keep in mind, because these are adjustable interest rates, there is a ceiling for how much they can actually go up and down over the life of your loan. The one that goes up and down on a monthly basis can never go up by more than 10%. If we start out at 3.7%, it's never going to go above 13.7%. That gives you a little protection. A 13.7% rate is pretty high. It's been a long time since we have seen anything like that. The annual adjusting product can only go up by 5% over the life of the loan and in any one year it can't go up more than 2%. If you look between the two products, as you consider it, those are some features you might want to compare between the two. Is one or the other sounding better to you at the moment?

CLIENT: No, I'll have to think about it.

COUNSELOR: Let's look at the funds that you will have left over after your current mortgage is paid off. Let's go with that monthly adjustable-rate product, for example, that had around $59,000 left over for you. There are a few ways you can receive that money. You can take it all upfront as a lump sum, or you can take a certain amount each month for a given number of months, which is called a term payment option. Or you can say I want monthly payments for as long as I live in the home. That's called the tenure payment option. The other payment option is a credit line. The credit line itself, in my mind, functions similar to a bank account almost. That $59,000 that is available to you, James, sits there in a credit line and you just basically access it as you need it.

CLIENT: I see.

COUNSELOR: That gives you a lot of flexibility. You can take as much or almost as little as you want, as long as it's available to you.

CLIENT: Right. I see that.

COUNSELOR: One of the other features of the credit line is it does not earn interest, but it's actually growing at the same interest rate charged on your loan, plus half a percentage point. If your interest rate on the loan is 3.7%, then your credit line growth rate is 4.2%. Do any of those options sound like they would fit your needs better than another?

CLIENT: Oh yeah. The credit line.

COUNSELOR: You know a nice thing about that too is that money is not added to your loan until you actually borrow it. The $59,000 sitting in your credit line is not costing you anything yet. When you start to borrow funds the interest is added to your loan balance.

CLIENT: Right, I understand that. I am just going to leave it in a credit line. I won't use it unless I need it. The way it looks right now with my income and everything, once I get squared away I can save money every month.

COUNSELOR: If we look back at the budget, if you didn't have that mortgage payment you would be in pretty good shape. You'd actually have about $700 left over each month from your pensions and Social Security plus your $5,000 in savings and your $59,000 line of credit from the reverse mortgage balance. If you also pay off your car loan, your line of credit will be less, but you will have more money each month.

CLIENT: I figured it with my son and I told him I would like to save anywhere from $400 to $500 a month for myself, you know, for my future needs. The only question I have is the time element between my talking with you and when it goes to the lender. How much time does that take?

COUNSELOR: I will put all the information we have discussed in the mail to you as soon as we are done. I'll include a copy of your budget and a copy of the numbers that we are going through as well and also a copy of your counseling certificate and that's an important feature. That certificate says that you talked with me and that we covered specific things. It's going to have my signature. And you have to be sure that you sign it and that makes it valid. If you do go forward with the reverse mortgage, the lender will need the signed certificate as part of the documents for your application. I will send you two copies, one for your record and one for your lender, if you decide to go forward with it.

WARNINGS

COUNSELOR: So we talked a little bit about the payment options. There are some pros and cons to each. The one thing to remember is whatever you borrow is going to be added to your loan balance

CLIENT: Right.

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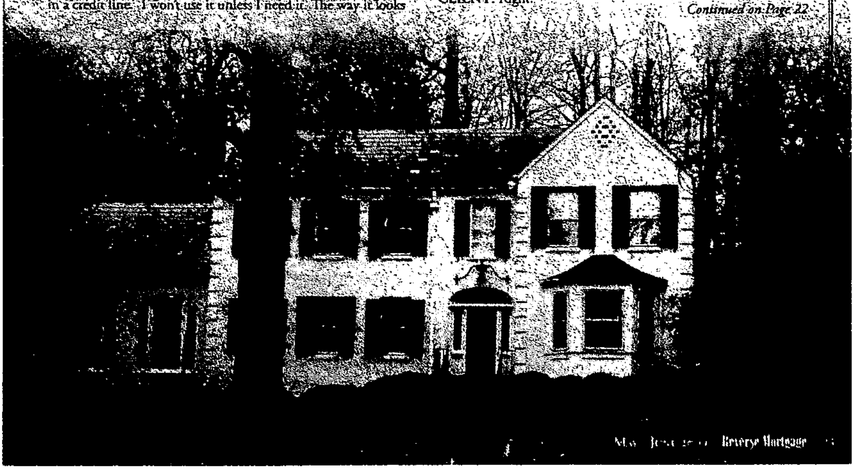


Continued from Page 21

COUNSELOR: So that loan balance will start to be charged interest and grow. With the lump sum option, which it didn't sound like you were really interested in, once you use it and that money is gone you can't tap into it anymore. The credit line gives you the flexibility it sounds like you might be looking for.

CLIENT: That's what I am looking for.

COUNSELOR: So that sounds like it might be a good option. Be sure to discuss it further with your lender.

CLIENT: I will.

PAYING BACK THE LOAN

COUNSELOR: So the question that always comes up is when do I have to pay this back or how do I actually pay back the loan itself? There are a couple triggers for when you have to pay that loan back. The most common one is when you actually leave the residence permanently

CLIENT: Right.

COUNSELOR: So either you pass away or you sell the residence or you move away, whatever it may be, those are going to be the triggers that require you to pay back the loan.

CLIENT: Right.

COUNSELOR: The amount of time you have to pay back the loan varies a little bit and it depends on the servicer. Typically you have six months and you can ask for an extension out to 12 months. So you typically have a year to pay it back. What you will actually owe is what you borrowed plus the interest.

CLIENT: Right.

COUNSELOR: The most common scenario we see is that people sell the property to pay the loan itself. If your loan balance is $200K and you sell the property for $300K, that $100K goes back to you. So do you have any questions about any of those aspects of it?

> COUNSELOR: James, tell me a little bit about why you are considering a reverse mortgage?
>
> CLIENT: Without it I will lose my home because I can't afford to pay $1,477 month. Without my wife's earnings; I only have a little over $5,000 now in my bank. So this would be very satisfactory for me to do. I actually don't want to sell the home. I want to live here as long as I can.

CLIENT: No, I just want to know what the payment is going to be.

COUNSELOR: The payment itself?

CLIENT: Do I have a monthly payment?

COUNSELOR: You do not.

CLIENT: I wasn't clear on that.

COUNSELOR: That's the unique thing: it pays off your existing mortgage and you do not have a monthly payment. You're not actually required to pay anything back until the loan becomes due and payable which is only when you leave the residence.

CLIENT: Oh, ok but I can pay on it if I wish?

COUNSELOR: If you wish. Let me ask you a question. Do you have any kids or any heirs that you were planning on leaving the home or property to?

CLIENT: Well, I've signed everything over. I have taken care of that with my oldest son, but I am having my will changed so I will leave it with my three children.

COUNSELOR: If you do decide to go forward with the reverse mortgage, you will want to make sure you talk to your kids about it.

CLIENT: Oh, I have already talked to them.

COUNSELOR: Ok. Because in the event you do pass away, they will be responsible for settling your estate, which means they will be responsible for paying back this loan, most likely again through selling the property and paying it back that way.

CLIENT: Right.

COUNSELOR: It sounds like you have already done so, but I would encourage you to involve them as you make the decision as well. And this is something important. You are responsible for your property taxes and your insurance.

CLIENT: I understand that.

COUNSELOR: It sounds like you are already paying your insurance. Are your taxes part of your existing mortgage? That's an expense that you aren't used to. A part of the loan contract itself says that you have to keep up on your property tax and insurance and in the event that you don't, your loan servicer can actually come and say that you need to pay this or we are going to close up the loan and you will need to pay us back. The other thing to consider is what kind of state the property is in. Is it in a good state of repair or are there significant repairs that need to be done?

CLIENT: Nothing needs to be done. I just had a new roof put on last year.

COUNSELOR: Good, because when they do the property inspection, if something is not right, they will let you know and demand you fix it before receiving the loan. But it sounds like things are okay. I just wanted to mention those. One other thing I wanted to talk about is income-tax consequences. The reverse mortgage itself is a loan, so it's not income. So it means that you will not pay income taxes on the reverse mortgage loan. The other side is that there are not a lot of tax benefits to a reverse mortgage up front. The interest you pay on your mortgage right now you can claim as a deduction on your taxes each year. The reverse mortgage is different because you are not technically paying interest until the end of it, so there's no tax benefit until the end of the reverse mortgage when you pay it back: I want take a quick break here and see if you have any questions for me?

CLIENT: No, I don't

COUNSELOR: Ok, we talked about the reason you are looking for a reverse mortgage is that you are looking to pay off the existing mortgage that you have. Just to repeat, looking at options and alternatives, it doesn't sound like you are interested in really selling the property or scaling back at all.

CLIENT: I am not interested in selling.

COUNSELOR: Have you thought about getting a roommate to bring in some extra income?

CLIENT: No, I have had two wonderful women and I don't want any more.

COUNSELOR: That's understandable. Did you have any other credit card debt or anything that you need to pay off?

CLIENT: I have $250 to pay off that I put on a credit card for my daughter when she flew up here.

COUNSELOR: All right. Well, that's not a real large amount. It sounds like what's really affecting you right now is the existing mortgage. The rest of your expenses are really reasonable. It looks like you are in line for a one person household. What I am going to send you is a list of potential resources in the state of Washington. This will put you in touch with the local area agency on aging, local prescription programs, things like that especially since you are looking at an insurance transition. You might contact them and see what options are available to you. There might be some additional money available to you.

CLIENT: Right. Thanks.

COUNSELOR: I will send that out and highlight some things you might want to consider as well.

CLIENT: Ok, that would be terrific.

COUNSELOR: One thing you might want to look at is a program that's available on property tax relief.

CLIENT: That sounds interesting.

COUNSELOR: I am looking back through my checklist to make sure that I have covered everything that I am supposed to as a counselor. Is there anything that you are still wondering about, anything that we haven't covered or anything you would like to go back over again?

CLIENT: No, I think I am pretty well up on it. I have written down a few notes. I appreciate the way you talked to me and explained everything.

COUNSELOR: You can call me back at any time. Again, I can't tell you what to do, but I can answer any of your questions. I will send two copies of your certificate with my signature on it. Make sure you get yours on there.

CLIENT: Ok, it was very nice to talk to you.

Safety Structures

LAYERS OF STATE AND FEDERAL SAFEGUARDS ALREADY IN PLACE HELP REASSURE PROSPECTIVE BORROWERS THAT THEY ARE PROTECTED

By Karen Epper Hoffman

"I know what a reverse mortgage is," Rhode Island Lt. Gov. Elizabeth Roberts told the NRMLA Road Show audience in Boston recently, "but, speaking to you as an elected official, generally elected officials won't understand the details of your business, nor should you expect them to."

Roberts said that a limited understanding of the reverse mortgage process, combined with the recent subprime crisis, have driven government officials and advocacy groups to push for more protections because they are unaware of those that already exist.

"They need to understand these consumer protections without over-regulating the work that you do," she continued. "And that's a challenge because right now the word 'mortgage' has everybody's alarm bells going off."

Roberts went on to point out there are multiple safeguards in place at many points in the reverse mortgage process designed to protect consumers, including those in the Housing and Economic Recovery Act of 2008, guidance from the Department of Housing and Urban Development, regulations in many states and those created by advocacy groups, such as AARP and NRMLA.

John [illegible], vice president for market growth and development manager for senior products at Wells Fargo Home Mortgage, says HECM loans have more consumer protections than any other loan product.

Most reverse mortgage originations today are part of the HECM lending program, said Meg Burns, director of single family program development at the Federal Housing Administration. HECMs require various disclosures, including the Truth In Lending Act (TILA) disclosure (issued with closed- or open-end credit), the Good Faith Estimate (issued with open-end credit or satisfied with issuance of TILA disclosure) and the [illegible]

Disclosure for refinance transactions. The Anti-Churning Disclosure is "designed to ensure the refinance transaction is made in the interest of the borrower and [that the borrower] understands the costs associated with refinancing," Burns said.

In addition, the HECM program includes a three-day "right of rescission," which means the borrower can cancel a reverse mortgage for any reason within three days of the loan closing without paying a penalty.

Federal government regulations also provide consumers cost protections. Burns pointed out that on HECMs, the federal government limits costs to a level that is "reasonable and commensurate to area." For example, the loan origination fee is limited to greater of $2,500 or 2% of the first $200,000 of the maximum claim amount (MCA), plus an additional 1% for the remaining MCA amount, not to exceed $6,000. These capped origination fees can also be financed in the loan to limit out-of-pocket expenses. Interest rates are also capped. The Total Annual Loan Cost disclosure, or TALC, is calculated and provided up-front, so that borrowers are aware of all of the costs of the reverse mortgage from the start.

"It's very important having the costs standardized or fees capped," Mlekush said, "so [borrowers] go into this knowing what it is really going to cost."

Borrowers also pay a mortgage insurance premium, that covers "shortfalls when the outstanding loan balance exceeds the appraised value of the home," Burns added. Since HECMs are "non-recourse loans," she explained, "borrowers are also protected from personal liability when the loan becomes due and payable."

The HECM has no prepayment penalty, and because "there is no maturity date, the mortgage cannot come due during your lifetime," Burns added. The amount due can never exceed what the home is worth – which, in essence, cancels out any concern that borrowers could lose their house by taking out a HECM. Finally, Burns pointed out that "equity sharing," the risky approach in which a homeowner could give up some portion of future home value appreciation in exchange for more money, has been eliminated.

Among the states with their own reverse mortgage laws today are Massachusetts, Tennessee, North Carolina, Rhode Island, California and Washington.

In the Commonwealth of Massachusetts, lenders must get their reverse mortgage programs must be approved by the state Commissioner of Banks before they are offered to consumers. Massachusetts also requires that borrowers participate in counseling sessions approved by the Commonwealth's Executive Officer of Elder Affairs. And cross selling of other financial products is prohibited during a seven-day "cooling off" period after the acceptance of a loan commitment.

Tennessee's Secure and Fair Enforcement for Mortgage Licensing Act (also known as SAFE) mandates specific pre-licensing education for lenders wanting to sell reverse mortgages.

More states are looking at enacting their own reverse mortgage protection laws, says Jim Milano, a lawyer at the Washington, D.C., law firm of Weiner Brodsky Sidman Kider, and legal counsel for NRMLA. Milano is concerned that "to the extent that [state] rules might be inconsistent, this may cause more hiccups with these loans."

As Roberts and other experts pointed out, perhaps the most critical safeguard for prospective HECM borrowers is the mandatory counseling they receive before any money or paperwork changes hands. "What is most important is that there is that consumer education, so that everybody understands the benefits and the potential risks, so that what we don't have is a panicked response," Roberts said during her speech to NRMLA.

To satisfy the counseling requirements, prospective borrowers decide whether they want to receive counseling face-to-face or by telephone. The cost for the counseling is limited to $125 and can be paid upfront, financed into the loan, or waived if the senior meets special requirements. Some counseling agencies don't charge for counseling, because they receive special grant funds from HUD to cover this cost, Burns said.

The counseling, which must be conducted by independent HUD-approved counseling agencies, covers topics like the suitability of the reverse mortgage for the consumer, the borrower's obligations, the payment of property taxes and insurance, lender duties, such as prompt payment and disclosure of costs, and alternatives to HECMs, like state and local social programs. (*See Counseling story, p. 14*).

"It is incredibly important for people in my position to understand the importance of what [reverse mortgage lenders] do and have an effective approach that services the needs of the community," Roberts said. "There's no question that what you as an industry offer is valuable, and will become even more valuable." RM

"[ELECTED OFFICIALS] NEED TO UNDERSTAND THESE CONSUMER PROTECTIONS WITHOUT OVER-REGULATING THE WORK THAT YOU DO. AND THAT'S A CHALLENGE BECAUSE RIGHT NOW THE WORD 'MORTGAGE' HAS EVERYBODY'S ALARM BELLS GOING OFF."

— Lieutenant Governor Elizabeth Roberts, (D) Rhode Island

The Nation's top 100 HECM Lenders

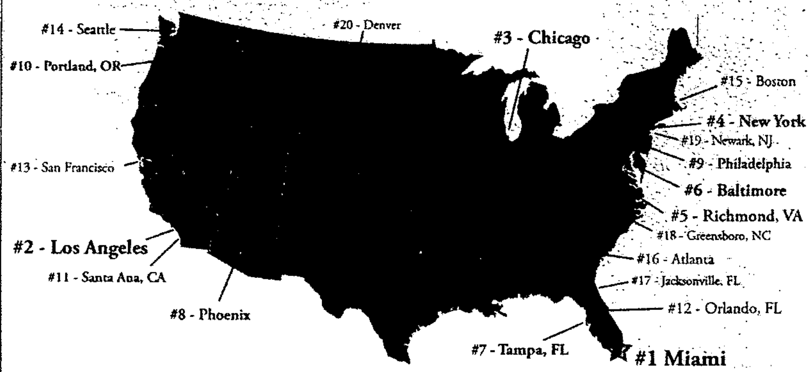
The Federal Housing Administration, a division within the Department of Housing and Urban Development, "endorses" home equity conversion mortgages, an action that is synonymous with an insurance guarantee to the lender. These data tally those endorsements, and offers a window into reverse mortgage lending activity across the nation, as of Feb. 28, 2009.

RANK	LENDER	Endorsed in Apr. 09	Endorsed Fiscal YTD	Market-share	RANK	LENDER	Endorsed in Apr. 09	Endorsed Fiscal YTD	Market-share
1	Wells Fargo Bank	2,194	11,780	16.9%	51	Integrity 1st Mortgage Inc.	27	157	0.2%
2	Bank of America	1,073	4,986	7.2%	52	National City Bank	15	155	0.2%
3	Financial Freedom	335	2,772	4.0%	53	Gateway Reverse Mortgage	25	154	0.2%
4	World Alliance Financial Co.	674	2,371	3.4%	54	Judith O Smith Mortgage Group	21	151	0.2%
5	Countrywide Bank	248	1,868	2.7%	55	Seniors Equity Income Inc.	19	151	0.2%
6	One Reverse Mortgage LLC	302	1,552	2.2%	56	Universal Lending Corp.	26	148	0.2%
7	Metlife Bank	254	1,154	1.7%	57	Webster Bank	23	147	0.2%
8	Urban Financial Group	156	980	1.4%	58	Colonial Mortgage Corp.	13	146	0.2%
9	Generation Mortgage Company	213	948	1.4%	59	Circle Mortgage Corp.	20	145	0.2%
10	1st AAA Reverse Mortgage	127	682	1.0%	60	Reverse Mortgages of CA	27	141	0.2%
11	Money House Inc.	121	643	0.9%	61	Direct Finance Corp.	19	138	0.2%
12	M&T Bank	72	522	0.8%	62	American Home Loan Inc.	30	137	0.2%
13	Genworth Financial	112	504	0.7%	63	Network Funding LP	15	133	0.2%
14	Omni Home Financing Inc.	50	436	0.6%	64	Remington Mortgage Inc.	24	133	0.2%
15	Stay In Home Mortgage Inc.	57	401	0.6%	65	Senior Funding Associates	15	133	0.2%
16	American Advisors Group	42	399	0.6%	66	Van Dyk Mortgage Corp.	18	133	0.2%
17	Equipoint Financial Network	42	356	0.5%	67	Gateway Funding Diversified	23	132	0.2%
18	First Mariner Bank	151	354	0.5%	68	Ideal Mortgage Bankers	30	126	0.2%
19	Guardian First Funding Group	44	353	0.5%	69	Frank J Weaver Inc.	10	124	0.2%
20	PNC Mortgage	61	349	0.5%	70	AAA Concordia Mortgage Corp.	18	122	0.2%
21	Upstate Capital Inc.	28	346	0.5%	71	New Horizons Reverse Mortgage	17	122	0.2%
22	1st Continental Mortgage	23	305	0.4%	72	Reverse Mortgage Group	21	121	0.2%
23	Evofi One	49	303	0.4%	73	Securitynational Mortgage	23	121	0.2%
24	Seniors Reverse Mortgage	64	299	0.4%	74	First Midwest Bank	16	117	0.2%
25	Security One Lending	74	298	0.4%	75	Mortgage Credit Of America	11	117	0.2%
26	Marshall & Ilsley	51	272	0.4%	76	Hartland Mortgage Centers	16	115	0.2%
27	Pacific Reverse Mortgage	8	262	0.4%	77	1st Source Funding Inc.	16	114	0.2%
28	Academy Mortgage LLC	30	257	0.4%	78	Wsb Mortgage Services Inc.	14	113	0.2%
29	Cityone Mortgage Bankers	31	253	0.4%	79	Unity Mortgage Corp.	33	112	0.2%
30	Harvard Home Mortgage Inc.	48	245	0.4%	80	Montgomery Mortgage Inc.	11	111	0.2%
31	Value Financial Mortgage	27	245	0.4%	81	Sidus Financial LLC	22	109	0.2%
32	Allied Home Mortgage Capital	15	244	0.4%	82	Seniors First Mortgage Co.	16	108	0.2%
33	Citizens Mortgage Corp.	21	238	0.3%	83	American Pacific Mortgage	25	107	0.2%
34	Mortgage.Shop LLC	30	235	0.3%	84	Frontier Financial Inc.	13	107	0.2%
35	James B Nutter & Co.	22	217	0.3%	85	Watermark Capital Inc.	21	107	0.2%
36	Savings First Mortgage	19	216	0.3%	86	Primary Residential Mortgage	13	106	0.2%
37	Net Equity Financial Inc.	48	213	0.3%	87	Amtec Funding Group LLC	16	105	0.2%
38	Senior American Funding Inc.	37	210	0.3%	88	Oasis Lending Inc.	13	104	0.1%
39	Griffin Financial Mortgage	28	208	0.3%	89	Retirement Life Funding LLC	12	104	0.1%
40	Metamerica Mortgage Bankers	39	206	0.3%	90	W J Bradley Mortgage Capital	16	104	0.1%
41	Live Well Financial Inc.	18	205	0.3%	91	Bernard Mortgage Corp.	30	102	0.1%
42	First Reverse Financial	22	200	0.3%	92	Highland Capital Lending Inc	11	102	0.1%
43	Sun American Mortgage Co.	23	195	0.3%	93	Stockton Turner LLC	20	102	0.1%
44	American Reverse Mortgage	45	191	0.3%	94	Inlanta Mortgage, Inc.	3	99	0.1%
45	Twin Capital Mortgage	43	171	0.2%	95	Suntrust Mortgage Inc.	14	98	0.1%
46	Libertystreet Financial Group	15	170	0.2%	96	Wilmington Savings	11	98	0.1%
47	Priority Mortgage Corp.	28	164	0.2%	97	Homeowners Friend Mortgage	3	97	0.1%
48	Envision Lending Group Inc	13	161	0.2%	98	Sun Valley Financial Of Utah	12	97	0.1%
49	Cherry Creek Mortgage Co.	41	159	0.2%	99	First Financial Mortgage Co.	23	95	0.1%
50	Futuresafe Financial Corp	25	159	0.2%	100	Christensen Financial Inc.	18	94	0.1%
						Total Top 100 - Apr '09	8,201	46,271	66.6%
						Total Top 100 - Apr '08	9,558	64,728	
						Total Apr '09	11,660	69,515	

HUD's fiscal year begins Oct. 1.

Source: Department of Housing and Urban Development

The Nation's 20 Largest HECM Markets



Below is a ranking of HECM activity by FHA field office through April 2009. FHA processes its HECM endorsements through "field offices," which act as hubs for their surrounding areas. "Endorsements" refer to the guarantees FHA provides on HECMs.

RANK	FIELD OFFICE	Endorsed 4/09	Endorsed Fiscal YTD	Marketshare	RANK	FIELD OFFICE	Endorsed 4/09	Endorsed Fiscal YTD	Marketshare
1	Miami	668	4,549	6.54%	11	Santa Ana, CA	300	1,799	2.59%
2	Los Angeles	423	2,695	3.88%	12	Orlando, FL	257	1,750	2.52%
3	Chicago	386	2,350	3.38%	13	San Francisco	352	1,661	2.39%
4	New York	449	2,316	3.33%	14	Seattle	273	1,576	2.27%
5	Richmond, VA	425	2,283	3.28%	15	Boston	253	1,560	2.24%
6	Baltimore	292	2,053	2.95%	16	Atlanta	237	1,523	2.19%
7	Tampa, FL	351	2,053	2.95%	17	Jacksonville, FL	271	1,464	2.11%
8	Phoenix	276	1,903	2.74%	18	Greensboro, NC	255	1,280	1.84%
9	Philadelphia	307	1,878	2.70%	19	Newark, NJ	251	1,275	1.83%
10	Portland, OR	306	1,855	2.67%	20	Denver	235	1,265	1.82%

HUD's fiscal year begins Oct. 1.

Source: Department of Housing and Urban Development

Perspectives

The Poignancy of a Loan

Lending Stories from NRMLA Members

In this column, we have previously featured the happy results of reverse mortgages. But the results are not always "happy" — sometimes a reverse mortgage offers poignant solace. Here we share some stories of reverse mortgage that come to seniors' aid, even as they are struggling through their last years.

Watching Over You

One of my clients passed away recently. It made me think back to when we met. He was sick, and his primary reason for getting the reverse mortgage was to ensure his wife would be able to stay in the home and have extra money when he was no longer there to take care of her. I spent hours with him explaining the reverse mortgage, returning to his home several times over to go over every line and every detail. He wanted to be sure he was doing the right thing. He was able to use the reverse mortgage to pay for his long-term care expenses in his final days. I know that he had peace of mind and that the reverse mortgage had made a difference in their lives.

— *as told by Amy Catling, GIA Mortgage Corporation, York, ME*

A Wedding Story

We had a borrower contact us as his wife had recently been diagnosed with cancer. Obviously, the prognosis was grim. Due to the cost involved in the illness and preparation for the inevitable, they needed funds to prepare for her funeral arrangements. He wanted to surprise his wife of over 50 years and marry her in another religious ceremony. When they were first married, they could only afford a civil one with minimal family and friends. After she passed, he called to tell us and that he was happy because he was able to do everything as they planned before she passed. May my husband love me like that after 50 years of marriage.

— *as told by Nilda Aquino-Herrera, American Heritage Financial Group, Miami, FL*

Guiding Light

The account manager at the ReverseLeadClub.com Ron Dove received an email one evening from a prospective senior looking for a reverse mortgage. [The Senior] gave a very sad but often very typical scenario: His wife had just passed away and his son had just been diagnosed with Leukemia. His home was also going into foreclosure due to all the expenses they incurred taking care of his sick wife prior to her death. Our account manager Ron just happened to check the email very late around midnight, after hours, one night and replied to the senior that one of our reverse mortgage lenders just may be able to help him. Ron received a reply email early the next morning from the gentleman. He started off the email by sharing some unbelievable information with us. He told us due to all he had been through with the death of his beloved wife and what he was about to endure with his son's illness and maybe a foreclosure that it was too much to handle, and he was considering taking his life that night before. He told Ron that his email coming in that time of night was what he believed a sign to him, and that it stopped him from considering suicide. He told Ron that he had literally saved a life that night. It was a fluke that Ron was even awake and sending emails to customers at that hour, which makes this even more incredible. Ron was able to pass this senior off to one of our lead clients for assistance. This story still gives me chills today, months after it happened as I write it.

— *as told by Todd Cefaratti, ReverseLeadClub.com, Gilbert, AZ*

There's No Place Like Home

I closed a reverse mortgage for an elderly man and his wife for the sole purpose of letting him take care of his wife's Parkinson's disease at home. The husband had devoted his life to his wife, and not quite a year after closing the reverse mortgage, his wife died. I received a note from him thanking me for helping him to make her last days spent with him in their home and not a nursing facility.

— *as told by Sara Powell, Wells Fargo Reverse, Dallas, TX*

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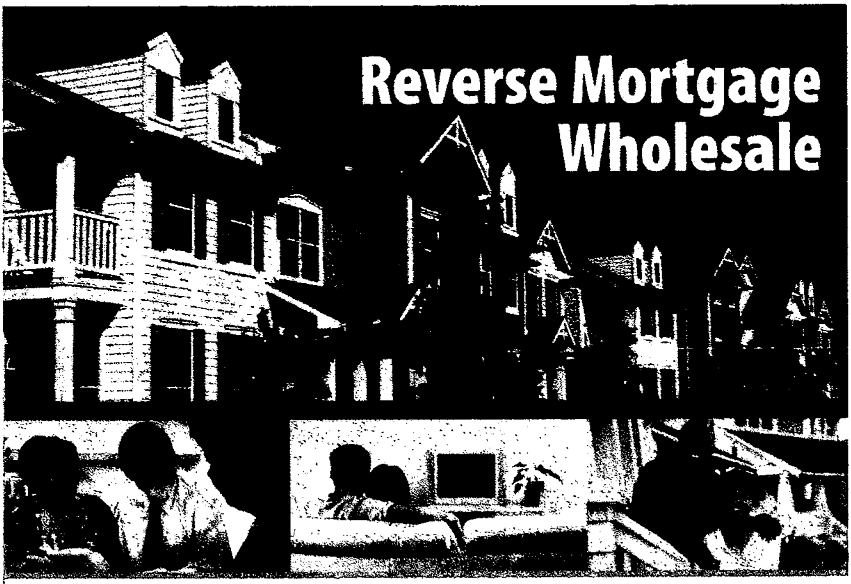

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Senator McCASKILL. Thank you, Mr. Bell.
Mr. Claggett.

STATEMENT OF DANIEL CLAGGETT, MANAGING ATTORNEY, LEGAL SERVICES OF EASTERN MISSOURI, ST. LOUIS, MO

Mr. CLAGGETT. Chairwoman McCaskill——

Senator McCASKILL. Oh, excuse me. Before you begin, Mr. Claggett, I was asked to make an announcement.

There's a couple of folks who parked their cars in the drive and we need you to move them. A Mazda with License Plate AAA 6U2D and a Buick with Plate 922 SLR, if you all would move your cars, I think there's a larger vehicle that needs to get through and they can't get through. A Mazda and a Buick parked in the drive, if you would please move them.

Thank you. Go ahead, Mr. Claggett.

Mr. CLAGGETT. Thank you. Chairman McCaskill, Chairman Kohl, Ranking Member Martinez, and Members of the Special Committee, thank you for inviting me to testify today on the important topic of reverse mortgages.

I'm a staff attorney with Legal Services of Eastern Missouri which provides legal aid to low-income clients, including many low-income seniors, and I testify here today on behalf of Legal Services of Eastern Missouri, the National Consumer Law Center and the low-income clients that these organizations serve.

Ms. Chairwoman, Mr. Chairman, and Members of the Committee, as you are aware, this country is in the midst of the worst foreclosure crisis since the Great Depression. This crisis has been driven in significant part by improvident subprime lending that has resulted in a credit crunch of historic proportions.

But despite the grim economic outlook, the mortgage industry has found a bright spot: the reverse mortgage market. More than 100,000 seniors used reverse mortgages in 2008 to tap more than 17 billion in home equity. Loan volume has more than doubled since 2005 and since 2001 the number of reverse mortgages originated has increased an incredible 1,500 percent.

The continued availability of reverse mortgages in these tough economic times is good news for seniors who need to cash out some of their home equity to supplement social security to meet unexpected medical costs or to make needed home repairs.

But the relative strength of the reverse mortgage market is unleashing other less scrupulous forces. The same players that fueled the subprime mortgage boom ultimately with disastrous consequences are turning to the reverse mortgage market. Lenders, brokers, and even Wall Street know that there are currently 15 million potential reverse mortgage borrowers sitting on trillions of dollars of equity, a gold mine waiting to be excavated, and the graying of the baby-boomer generation will make that gold mine deeper and richer.

As a result, there is now an urgent need for more resources at the Federal and state level to protect consumers from reverse mortgage abuse and to help seniors preserve their home equity and to ensure that reasonably priced and fairly structured reverse mortgages are available for those who truly need them.

The National Consumer Law Center will be releasing a report in the coming weeks that will detail needed protections and improvements in the reverse mortgage market. These recommendations will include strengthening borrower counseling which today remains inconsistent and under-funded, banning yield spread premiums which incentivize brokers to make loans more profitable for lenders and investors at the expense of the borrowers, regulating proprietary reverse mortgages which are developed and sold by private financial institutions.

While the use of these products has slowed to a trickle, economic recovery over the next few years is likely to reinvigorate proprietary reverse mortgage products. To date, they remain almost entirely unregulated at the Federal level and subject to widely varying state regulations.

Improving data collection on reverse mortgages and other equity conversion products that are not currently reportable under the Home Mortgage Disclosure Act, and, last and most importantly, a suitability standard for reverse mortgages must be created.

Seniors frequently depend on lenders, brokers, and other third party intermediaries for guidance through a market that offers multiple distribution channels, a welter of "educational" resources and many complex products and financial choices.

Brokers and lenders often use impressive-sounding credentials to imply special knowledge and expertise. But because mortgage lenders are considered business transactions where each party ostensibly protects its own economic interests, in most states brokers and lenders owe no fiduciary duty to borrowers and when problems arise, brokers and lenders disavow any relationship of trust and confidence with borrowers.

The same market forces that rewarded volume business with huge profits in the subprime market are growing in the reverse market. Some of the nation's largest banks are expanding their reach in the reverse mortgage market.

Mortgage brokers, who once reaped profits from subprime and exotic loans, are now turning to reverse mortgages, and securitization, which allowed subprime loan originators to disassociate themselves from the downside risks of abusive lending, is becoming more commonplace in the reverse mortgage industry.

The subprime mortgage crisis was driven by profiteering among all players in the industry and without regard to its impact on the lives of millions of Americans saddled with inappropriate mortgages. It is important to act now to save our seniors from the same scourge. We cannot wait until millions of elderly homeowners have been victimized to address the problems we know already exist.

Thank you for the opportunity to testify here today. We look forward to working with the Special Committee to address these issues.

[The prepared statement of Mr. Claggett follows:]

Written Testimony
of

Daniel Claggett
Attorney
Legal Services of Eastern Missouri, Inc.

and on behalf of the
National Consumer Law Center

Before the United States Senate Special Committee on Aging

June 29, 2009

Chairman Kohl, Ranking Member Martinez, and members of the Special Committee, thank you for inviting me to testify today on the important topic of reverse mortgages. I am a staff attorney with Legal Services of Eastern Missouri, which provides legal aid to low-income clients, including many low-income seniors. I testify here today on behalf of Legal Services of Eastern Missouri, Inc., the National Consumer Law Center[1] and the low-income clients that these organizations serve.

Mr. Chairman and members of the committee, as you are aware this country is in the midst of the worst foreclosure crisis since the Great Depression. This crisis has been driven in significant part by improvident subprime lending and has resulted in a credit crunch of historic proportion. Despite the grim economic outlook, the mortgage industry has found a bright spot—the reverse mortgage market.

More than 100,000 seniors used reverse mortgages in 2008 to tap more than 17 billion in home equity. Loan volume has more than doubled since 2005, and since 2001 the number of reverse mortgages originated has increased an incredible 1500%. The continued availability of reverse mortgages in these tough economic times is good news for seniors who need to cash out some of their home equity to supplement social security, to meet unexpected medical costs or to make needed home repairs.

But the relative strength of the reverse mortgage market is unleashing other less scrupulous forces. The same players that fueled the subprime mortgage boom—ultimately with disastrous consequences—are turning to the reverse market. Lenders, brokers and even Wall Street know that there are currently 15 million potential reverse mortgage

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[1] The National Consumer Law Center, Inc. (NCLC) is a non-profit Massachusetts Corporation, founded in 1969, specializing in low-income consumer issues, with an emphasis on consumer credit. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, government, and private attorneys representing low-income consumers across the country. NCLC publishes a series of sixteen practice treatises and annual supplements on consumer credit laws, including *Truth In Lending*, (5th ed. 2003) and *Cost of Credit: Regulation, Preemption, and Industry Abuses* (3d ed. 2005) and *Foreclosures* (1st ed. 2005), as well as bimonthly newsletters on a range of topics related to consumer credit issues and low-income consumers. NCLC attorneys have written and advocated extensively on all aspects of consumer law affecting low-income people, conducted training for thousands of legal services and private attorneys on the law and litigation strategies to deal predatory lending and other consumer law problems, and provided extensive oral and written testimony to numerous Congressional committees on these topics. NCLC's attorneys have been closely involved with the enactment of the all federal laws affecting consumer credit since the 1970s, and regularly provide extensive comments to the federal agencies on the regulations under these laws.

borrowers sitting on trillions of dollars of equity—a gold mine waiting to be excavated. And, the graying of the baby boomer generation will make that gold mine deeper and richer.

As a result, there is now an urgent need for more resources at the federal and state level to protect consumers from reverse mortgage abuse, to help seniors preserve their home equity and to ensure that reasonably priced and fairly structured reverse mortgages are available for those who truly need them.

The National Consumer Law Center will be releasing a report in the coming weeks that will detail needed protections and improvements in the reverse mortgage market. These recommendations will include:

• Strengthening borrower counseling, which to date remains inconsistent and underfunded.

• Banning yield spread premiums, which incent brokers to make loans more profitable for lenders and investors at the expense of borrowers.

• Regulating proprietary reverse mortgages, which are developed and sold by private financial institutions. While the use of these products has slowed to a trickle, economic recovery over the next few years is likely to reinvigorate proprietary reverse mortgage products. To date, they remain almost entirely unregulated at the federal level and subject to widely varying state regulation.

• Improving data collection on reverse mortgages and other equity conversion products that are not currently reportable under the Home Mortgage Disclosure Act.

Lastly, and most importantly, a suitability standard for reverse mortgage products must be created. Seniors frequently depend on lenders, brokers and other third party intermediaries for guidance through a market that offers multiple distribution channels, a welter of "educational" resources and many complex products and financial choices. Brokers and lenders often use impressive sounding credentials to imply special knowledge and expertise. But because mortgage loans are considered business transactions where each party ostensibly protects its own economic interests, in most states brokers and lenders owe no fiduciary duty to borrowers, and when problems arise brokers and lenders disavow any relationship of trust and confidence with borrowers.

The same market forces that rewarded volume business with huge profits in the subprime market are growing in the reverse market. Some of the nation's largest banks are expanding their reach in the reverse mortgage market. Mortgage brokers, who once reaped profits from subprime and exotic loans, are now turning to reverse mortgages. And, securitization, which allowed subprime loan originators to disassociate themselves from the downside risks of abusive lending, is becoming more commonplace in the reverse mortgage industry.

The subprime mortgage crisis was driven by profiteering among all players in the industry and without regard to its impact on the lives of millions of Americans saddled with inappropriate mortgages. It is important to act now to save our seniors from the same scourge. We cannot wait until millions of elderly homeowners have been victimized to address the problems we know already exists.

Thank you for the opportunity to testify here today. We look forward to working with the Special Committee to address these issues.

Senator MCCASKILL. Thank you, Mr. Claggett.

Let me start with a question, Mr. Bell, that I kind of raised with the last panel.

If the market right now—would you agree with the previous testimony that there are really no proprietary reverse mortgages being marketed right now?

Mr. BELL. Yes, and I believe there probably won't be any for many years to come.

Senator MCCASKILL. OK. But yet, we are increasing the number of HECM mortgages, reverse mortgages that are actually being closed?

Mr. BELL. We are growing. This year we're up about four percent from last year.

Senator MCCASKILL. OK.

Mr. BELL. We are growing some.

Senator MCCASKILL. There used to be proprietary reverse mortgages, correct?

Mr. BELL. There were a handful. The market was always 90 percent HECM and there was a fledgling propriety market that served a population that HECM didn't serve because they had homes of much higher value, typically values of a million dollars and up.

Senator MCCASKILL. OK. Well, but if this is a good lending tool, if this is a good value for the Federal Government, why isn't there a proprietary market?

Mr. BELL. There are a lot of reasons there is not a proprietary market. First of all, it's a small market. Even with the growth we've had, we're doing a 100,000 loans a year nationwide.

Now, in the forward mortgage business, if you look at the major companies, any one company alone might make millions of loans a year, not a 100,000. So it's really a product that does not have the kind of market demand for it at this point to draw other players into it. It's very complex to do. It's time-consuming. You need to invest in different systems. You need to invest in different personnel and train them differently.

So there are a handful of major companies that have done it, but they've done it because they are consumer-oriented companies and found that they had demand from some of their clientele to help them with their finances at the later stages in their life and they were unable to fit them into another forward mortgage product or a home equity loan because they did not have steady enough income or likely prospect of their income continuing to make a loan that requires payment, so they chose to get involved in the FHA reverse mortgage product.

Senator MCCASKILL. But there's very little regulation over proprietary reverse mortgages compared to others.

Mr. BELL. Well, I would say to the contrary, that I don't agree that there's very little regulation, because we're subject to the rules that other mortgages are. We're subject to FTC rules, to RESPA rules. Bank examiners look at what loans lenders are making from a safety and soundness, standpoint.

There are not specific laws for proprietary reverse mortgages, except in several states, and more and more states are looking at implementing them now. We're actively working with a number of different states on various pieces of state legislation. Also, within the industry, there's an awful lot of self-regulation and self-policing.

By the way, we have a Code of Ethics and Professional Responsibility that requires all members of our organization to follow a number of procedures in effect, making the same rules as HECM applicable to all other reverse mortgage products.

When there was activity in proprietary products out there, every proprietary product had counseling. It wasn't required by law, but it was required by NRMLA, and as a result, any company that wanted to be a member of our organization, had to require counseling on their products.

Senator MCCASKILL. What percentage of the reverse mortgages that have been closed in the last 18 months have been done by members of your organization?

Mr. BELL. My guess would be that probably upwards of 70 percent of the HECMs, because the last 18 months there have only been HECMs, have been made by our members. If they haven't been made by our members, at some point they transferred to a member because of the way the industry is structured.

There are essentially two players in a reverse mortgage transaction, actually three. There is a company that originates the loan. They're the one that finds the deals with the customer.

Senator MCCASKILL. The marketers.

Mr. BELL. Well, they're all FHA-approved correspondents. The marketers could be separate from the correspondents. Correspondents may buy leads from a lead generation company which is a whole other topic that we can get into.

Then there is the seller servicer who operates the loan during the life of the loan. Once a loan is closed, the seller servicer is the company that operates the loan. Then, of course, on top is the investor which at this point is usually Fannie Mae. Fannie Mae purchases 100 percent of the HECM loans at this point, with the exception of the small number that have been going into Ginnie Mae securities, which is emerging as an alternative to Fannie Mae. This is a very important alternative, I might add, because Fannie Mae has been pushing its yield requirements upward and that's had an adverse impact on consumers.

So the introduction of the Ginnie Mae, which it was said in the prior panel, just started this year but it's actually been in effect for a couple years now, provides major relief and an opportunity to work with other investors than Fannie Mae.

Senator MCCASKILL. OK. I guess the point I'm trying to make about proprietary versus—you know, you just went through the—you got the front group—I shouldn't call it the front group. The originating organization, you have the servicing organization, and then you have the investor.

Mr. BELL. Right.

Senator MCCASKILL. The investor is us, right?

Mr. BELL. No.

Senator MCCASKILL. It's the taxpayers?

Mr. BELL. No, not true at all.

Senator MCCASKILL. Well, it——

Mr. BELL. Well, I guess now that we own Fannie Mae, yes, but prior to the taxpayers taking over Fannie Mae,——

Senator MCCASKILL. Well, we own it now. The success of Fannie Mae is completely dependent upon the American taxpayers, right?

Mr. BELL. Well, the success of Fannie Mae is based on its prudence in acquiring loans.

Senator MCCASKILL. I should say the risk associated with Fannie Mae is the taxpayers' risk.

Mr. BELL. That is correct.

Senator MCCASKILL. We learned that. We've learned that. Fannie Mae began to go belly up and we had to step up and provide the money. So we've learned unequivocally that the taxpayer is the one that has to step in if Fannie Mae flounders.

So what I'm trying to figure out is if this is a good product—you know, I get people calling me all the time and say to me, you know, Claire, why doesn't the Federal Government get its big nose out of the private market? You know, we just get government out of business, business would thrive in this country.

But clearly this is a product that people are making money off of, but the only risk really if these mortgages don't work is with the government right now.

Does the originator have any risk? Is there any risk at all associated with the originator?

Mr. BELL. There is risk right down the line. There's the risk that if the loan is not made properly, HUD might not issue an insurance certificate on it. If the investor purchased a loan that it thought was to be an FHA-insured loan and it turns out that it is in fact not an FHA-insured loan, the seller servicer would be required to purchase that loan back from Fannie Mae. So it is at risk for funding it there and then would have some recourse back to the correspondent that it acquired the loan from, as well. So there is risk along the way.

Senator MCCASKILL. There's risk if they don't do it right?

Mr. BELL. There's risk if they do not do it right.

Senator MCCASKILL. OK. But I'm talking about risk in terms of investment risk, in terms of the loan not being able to in fact be repaid. Is there any risk at all with the originator——

Mr. BELL. Well,——

Senator MCCASKILL [continuing]. In terms of the loan not being repaid?

Mr. BELL. Well, let's talk about the loan itself as opposed to the origination. There is a chance that when the loan becomes due and payable, that the balance due on it could be greater than the value of the house at that time. In a normal market, we're not in a normal market now but let's assume a normal market for a moment, that might occur if there were a confluence of three factors.

The borrower living longer and staying in the home longer than had been anticipated, outliving the actuarial tables, or (2) the property value declining below the expectation at the time of underwriting, or (3) interest rates shooting up beyond the expected interest rate which is based upon a long term interest rate. While you might have any one of those factors occur in any particular loan, the chances of having all of those factors in a loan are rare and, once again, this is a pooled insurance program.

It's not the taxpayer that's at risk. It's the FHA Insurance Fund. The Insurance Fund——

Senator McCASKILL. Well, why aren't proprietary—then why aren't there proprietary loans being made now——

Mr. BELL. Because——

Senator McCASKILL [continuing]. If there's no risk?

Mr. BELL. Because there's not enough volume out there for somebody to make the investments—to pursue this.

Senator McCASKILL. Well, these companies have the investment. They're doing HECMs now. Why don't they do proprietary?

Mr. BELL. They are not the same systems that required for HECMS as for proprietary loans because HUD provides software for HCMS. The other reason is that the proprietary market, when it was there, once again I mentioned before it was for much higher-value homes.

The difference is on FHA, because there is mortgage insurance, if the loan is upside down at the end, the investor, the lender, has the opportunity to file a claim with FHA for the difference. It means that they advance more money than they would on a proprietary product that didn't have that insurance.

Senator McCASKILL. Yeah. Because the government is on the hook, they can make more money upfront.

Mr. BELL. No, no.

Senator McCASKILL. Yes.

Mr. BELL. No.

Senator McCASKILL. Because they can make—they can loan more money because they're not taking the risk, Mr. Bell. That's exactly the point. That's the whole reason this front end has become incredibly scrutinized right now, because the back end—and by the way, as we pointed out in the last panel, there's a long tail here.

We have lots of reverse mortgages that have been made that we will not know in this current market whether or not they are upside down maybe for another 5 or 10 year, when we could have interest rates up and property values down.

Mr. BELL. We do know that we've had reverse mortgages that we've made since 1989 that have paid off completely and have been extremely profitable to the U.S. Government putting billions of dollars into the FHA Fund. This year, for the new budget, the Secretary has decided to ask for credit subsidy based on some new changes to the assumptions of home price depreciation for the 2010 book of business as well as interest rate assumptions. But, if you look at prior years, the program was considered to be extremely cash positive, so much so that the Department itself, under the prior Administration which was a pretty fiscally conservative Administration,——

Senator McCASKILL. We might quarrel about that.

Mr. BELL. Right. I guess—as I heard myself saying that.

Senator McCASKILL. I don't think so.

Mr. BELL. But in this particular program, it was. They were even talking about reducing the mortgage insurance premium because one of the criticisms of the program is that consumers pay a large upfront charge to get involved in these loans and the most significant portion of that upfront charge is the mortgage insurance premium that's paid to the Federal Government. It is not the fees that are paid to the lender which are capped.

Senator MCCASKILL. Which, by the way, this is an equal opportunity sin. You are exactly right. I discovered when we started looking into this product that part of the problem was Congress's voracious appetite for more money to spend. They love this product, the appropriators do, because we're able with CBO scoring to actually create money for us to spend today based on these loans being executed.

So it is—and that's why I think it is another reason that we need to take a careful look at this product because I ran into appropriators when I was trying to limit this, they were wanting to take the roof off because they love having this money to spend and they're spending it every year. We're spending it every year that are coming from these loans. This is not sitting off in some insurance fund. They're spending it. They're spending it.

So I think that—but I think the overall point I was trying to make was that the risk here for these loans being upside down is not being borne by the private market, even though the private market is out there marketing them.

Let me ask you this. Do any of your members do commercials that say this is a government benefit?

Mr. BELL. A government benefit, no.

Senator MCCASKILL. None of your members have any commercials——

Mr. BELL. If they do that—if they did that and—it is to be reported to us, we would take swift action through our Ethics Committee. We have done that on a number of occasions. Now, some of them may say that it is an FHA-insured reverse mortgage, which is factually correct, but to say it's a government benefit is completely unacceptable, misleading. It's a violation of our Code of Ethics and Professional Responsibility. It's part of our Ethics Advisory Memoranda, and we do take action against anybody that does have ads of those sorts.

Senator MCCASKILL. I promise I've got questions for both Mr. Claggett and Mr. Zeman, but I have one more question, Mr. Bell.

Are you aware why in the recently passed legislation the House exempted reverse mortgages on all the Truth-in-Lending requirements?

Mr. BELL. Yes, there has been a tendency over time to adopt legislation to deal with mortgages across the board and includes reverse mortgages. Then we find very often it doesn't work because reverse mortgages are so different.

For instance, a lot of the concern about predatory lending is with negative amortization mortgages. So if you were to say that reverse mortgages come under a prohibition on negative amortization mortgages, that would be the immediate end of reverse mortgages. A reverse mortgage is a negative amortization mortgage by definition. That's the whole concept behind it.

So because of that, lawmakers have decided that rather than just taking forward mortgage concepts and applying them across the board to reverse mortgages, reverse mortgages really need to be handled differently. They're a very different product.

The only thing they have in common with mortgages, with forward mortgages is the word "mortgage". They are very, very different type of instruments.

Senator MCCASKILL. Well, both of them embrace an obligation to pay.

Mr. BELL. They do, but they have a lot of different aspects. Once again, just taking a forward mortgage policy—I use the taxes and insurance escrow as an example, just taking a forward mortgage concept and applying it to a reverse mortgage means that consumers that might benefit from the reverse mortgage would be precluded from getting it, so that really doesn't serve anybody's purpose.

Instead the decision has been to deal with reverse mortgages in a separate regime than is handled for forward mortgages.

Senator MCCASKILL. Well, the AARP brought this to our attention, that they had been left out of the legislation, reverse mortgages, and I'm sure that you will be happy to work with us in the Senate to make sure that we put appropriate measures in this consumer-oriented bill in terms of protecting consumers that do appropriately apply to reverse mortgages.

I think the problem is, is that if we're dealing with the subject matter of consumer information and making sure a consumer is informed, you may be well and right that an escrow for insurance and taxes is not something that must be included in reverse mortgage, but it would not surprise you to know that there might be people that may not realize that the reverse mortgage did not include the payment on insurance and taxes and those go unpaid and then you've got a situation where that homeowner is in fact—has not been fully informed.

Mr. BELL. Right. We do try to make sure that all borrowers understand their obligations to pay taxes and insurance. There is a form that is often part of the closing package that reminds them of that. It is something that comes out with reminder notices and servicing notices that go out monthly.

In fact, we're working with HUD to make that a required practice, rather than a voluntary practice. Counselors also are another backstop in making sure that people understand their taxes and insurance are an obligation.

Senator MCCASKILL. Well, the motivation for the insurance—I know when I entered into mortgages, the bank requires that they can document the insurance is paid, but the problem with reverse mortgages is if there's no insurance on the home and the home burns down, who is responsible for paying back the loan?

Mr. BELL. That would probably be a claim to FHA at that point.

Senator MCCASKILL. It would be the taxpayer's.

Mr. BELL. The loan would become due and payable.

Senator MCCASKILL. The taxpayers have an interest in that piece of property being insured. They're on the hook.

Mr. BELL. Once again, it's not the taxpayers' money, it's the Insurance Fund, which has been paid for by those people who have utilized the program through the mortgage insurance premiums that they pay into the Fund.

Senator MCCASKILL. But the point is, is that that money is not being provided, I mean, and by the way, it's just like social security or any other government-insured program. If the money is not there, the taxpayers pay. If those insurance premiums are not sufficient to cover the losses, the taxpayers pay and so what I'm saying is there is a great motivation on the part of the government to make sure that the tax—not just the taxes are paid but clearly the insurance is paid. That would be important.

Mr. BELL. There's no question there's a great motivation on everybody's part to make sure the taxes and insurance are paid. I have no argument with you on that.

Senator MCCASKILL. OK. Let's talk about this rate spread and the rate lock.

Would you go into that a little bit more, Mr. Zeman, and explain what has happened recently that has changed the rate payment and the cost of these loans to the consumer?

Mr. ZEMAN. Peter may be of some help here, too.

Frankly, I never had to know about this. I learned about it in January and February, about rate locks, the elimination of rate locks and the introduction of yield spread premiums.

As I said in my testimony, I thought the cap on origination fee meant that was the most a lender could earn, but I have come to understand that that's entirely different and it's very complicated.

Fannie sets a price, par price for the loans it will purchase from the lenders. It used to be that they'd lock in that rate. We'd know what that rate was in plenty of time for the loan to close. Now we don't know that rate.

As a counseling problem,—I realize I'm jumping around here. As a counseling problem, I can't know what Fannie Mae's par rate is. I don't know why that's not public information, but I can't know that. If I can't know that, how can I adequately advise my borrowers? If the rates change, how does the borrower know the reason for that rate change? Is it because of the marketplace pressures? Very likely it could be, but it's a chance for an unscrupulous lender to make more money.

An interesting quirk to this that I've learned is that a borrower taking out a lot of money at closing potentially benefits the lender who has sold the loan at a higher rate than par in a great way.

An abuse I heard of from a lender was that one of their sales people encouraged the borrower to take out a lot of money at closing, money that the borrower didn't need, did not need access to at that point. Well, that's a very unwise decision for the borrower. They'd be better off perhaps leaving the money in the line of credit in their HECM loan. To take it out would seem to have only benefit then in that case to the lender who now gets a payment of a yield spread premium.

But again, Peter, I know you've got more knowledge about this yield spread premium issue than I do.

Senator MCCASKILL. I'm really interested as to why it changed.

Mr. BELL. Well, what changed are, first of all, a number of things. Getting back to our conversation a few minutes ago about Fannie Mae, the taxpayers being on the hook for Fannie Mae, Fannie Mae is under legislative mandate to reduce its holdings. They can grow through 12/31 of this year and beginning next year, they have to shrink by 10 percent every December. When Fannie Mae buys a reverse mortgage, they're buying a loan that grows in asset value as the balance grows.

Therefore, Fannie has decided that it really needs to not be as actively involved in the reverse mortgage business as it has been and the only way to do that is to draw other investors into the market. Other investors felt they've been crowded out because Fannie Mae had such a lower cost of funds that other investors were unable to compete with them to enter the market.

So Fannie decided that it was going to push its yield requirements upwards in order to reach a level where other investors may be interested in coming in and purchasing HECM assets.

But the other part of that is not just a matter of picking a number and pushing it there, they moved to live pricing. Capital is a commodity. It's no different than gold, wheat, and soybeans. It has a market price. That market price is constantly moving. The cost of capital is constantly moving.

So Fannie moved, as part of this effort to draw other investors into the marketplace, to a live pricing system whereby their yield requirements are constantly changing in responses to market movement.

When a lender commits to an interest rate on a loan, it does not know exactly what the price will be on the day that the loan closes because you don't know exactly the amount of time—a HECM typically takes 6 to 8, sometimes 10 weeks—to go from application to closing. So, therefore, you can have a lot of movement in the pricing.

So the lender may end up earning a correspondent fee that gives it some benefit if the yield requirement is lower on the day they finally close and deliver the loan. They might also pay a discount and lose money on that loan if it happens to be higher on that day.

It's a dynamic market. Believe me, nobody's happy about it. It's made it more challenging for just about everybody involved in the business and it's made it much more challenging for us to serve seniors, but it is——

Senator McCASKILL. But it is——

Mr. BELL [continuing]. Just a fact of reality of the capital markets.

Senator McCASKILL. But it is true that it creates an incentive for someone who is not scrupulous to push a borrower to pull more money out because they will make more money if they do, correct?

Mr. BELL. That could be. That would be a violation of our Code of Ethics and Professional Responsibility. Once again, a responsible lender would not do that and we would take sanctions on any reports of lenders doing that.

Usually when the borrower's taking out the full amount of money, there's one of two things going on in probably upwards of 90 percent of the cases where this happens.

One is they're paying off an existing mortgage amount and they need that full amount of money to eliminate that other mortgage. The other thing is it might be a fixed rate HECM which is a relatively new development in the marketplace and the lenders require a full withdrawal on a fixed rate HECM for the following reason.

If I know how much money you're taking, if I know you're taking a $150,000 from your HECM and that's it, that's the amount available, I could price that, I know my cost of money. But if you have a $150,000 available and you say I want to take $50,000 today and I don't know when I'm going to take the rest, I'll leave the rest in a line of credit, I might come back in three years, I might come back in six years, I might come back in nine years and draw it down, I can't do that on a fixed rate because I don't know what my cost of money will be at that point in time.

So I could lock and fix today for the full amount you're going to take, but I can't do that if it's going to be a line of credit.

The department just asked us to work with them to come up with a hybrid HECM that will give a fixed rate for the amount that's drawn upfront but a variable rate for the future draws which would accommodate that issue.

Senator MCCASKILL. Is there any sense of the people in the rooms you're sitting with in Washington that—I mean, I'm—I'm not a dumb person. I'm pretty smart. I've got a law degree. I've spent a lot of time in law practice and in the legislature, and I have spent a year and a half trying to completely understand this and this is complicated and the yield spread issue is complicated and what Buz is telling you is that he's a good counselor and he is telling you that he cannot counsel seniors with any certainty about how much these loans are even going to cost him prior to the time they sign away their life savings.

Mr. BELL. Well, no, they know prior to closing. There's a full disclosure with full numbers——

Senator MCCASKILL. Do they get counseling again?

Mr. BELL [continuing]. Prior to counseling. They can go back to the counselor——

Senator MCCASKILL. No.

Mr. BELL [continuing]. If they choose to.

Senator MCCASKILL. But they're not required to.

Mr. BELL. They are not required to.

Senator MCCASKILL. So what——

Mr. BELL. You can add a second step to the counseling process if that would be desirable.

Senator MCCASKILL. How about if we just make lock-in rates?

Mr. BELL. Well, the problem with locking-in rates, as, you know, that's been done——

Senator MCCASKILL. We used to do it.

Mr. BELL [continuing]. Historically—yes, and then we had periods where no money was available because the locks were below where the cost of capital was.

Senator MCCASKILL. Well, I——

Mr. BELL. That's why most governments do not set interest rates anymore. In fact, that's why HUD does not set the interest rates or the margin rates on HECMs.

Senator MCCASKILL. They're using Libor?

Mr. BELL. I'm sorry?

Senator MCCASKILL. Are they using Libor? Is that what they're using?

Mr. BELL. HECMs are allowed to be done with either a CMT, a Treasury, based on the 1-year Treasury, or based on the Libor. However, Fannie our sole investor announced earlier this year that they will no longer buy CMT based loans. Therefore, they have forced the whole industry to use Libor, but Libor actually yields lower interest rates and as a result a higher benefit to borrowers than did the CMT.

Senator McCASKILL. Well, I think that obviously the follow-up to this hearing, once of it is with Fannie to talk about what is going on as relates to these loans because I worry that in the process of adjusting to this market, that we're shifting the risk to taxpayers completely and totally, and second, we're making it so much more complex for seniors to truly understand where they stand and what they're getting into and what the consequences are to them and their families.

After all, that's how we began down this road. It started as an idea to make it a simple, understandable transaction that would be affordable for seniors to access some of their equity to deal with the problems they're facing, and if we get to the point that one of the best counselors in the country on this, first of all, doesn't even understand what's going on, doesn't understand how to explain it to the people as to what's going on with the rates, and the rate is a pretty important component of this whole thing, I think we've got an issue.

I think somebody in Washington needs to go, wait a minute, I think we are so caught in the weeds of this market and the cost of money and what's going on in this economy that we're losing sight that seniors aren't getting the information they need and deserve before they enter into these instruments.

Mr. Claggett, would you comment on that in terms of the people you're talking to? Have you dealt with clients that have had problems with these mortgages?

Mr. CLAGGETT. Your Honor, we have—currently, we have two cases that involve some of the issues we're talking about today. One is a client who didn't understand that she would have to escrow her taxes and insurance and that's went for several years and ultimately the lender paid it and now is insisting that she pay it back, so there's a threat of foreclosure there.

We have another client that didn't understand that she wasn't going to get the full appraised value of her house when she took out a reverse mortgage and was understandable upset when she learned it was about half of that money, and on a variation of the case that you mentioned with Mary Heinzer who's being represented by Lewis Rice and Fingersh under our Legal Services Pro Bono Program, on a variation of that situation, this particular client that we're handling, she took out a reverse mortgage that paid off a forgivable loan that was for home repairs and sort of to add insult to injury that work was done in connection with that forgivable loan was done in a shoddy workmanlike manner.

So as in Ms. Heinzer's case where the money was released and all leverage over the contractor to fix the problem is now gone, that's similar to what was happening in this client's situation, as well.

Senator McCASKILL. Mr. Zeman, let me try to finish up here. Right now with the rate not being locked and knowing that you're counseling, what's the average amount of time that passes between the time you counsel someone and the time they close one of these loans?

Mr. ZEMAN. We usually don't know that for sure. The approach to counseling that I take is to do an intake, set up a counseling session probably about a week later. It gives me a chance to get a packet to them ahead of time so that they can review the materials. Then we do the main counseling session. I follow up a few days later to follow up on any specific questions.

But most typically, that's the end of the counseling process. The client is on their own, if you will, from then on and may or may not decide to proceed with the loan. I'm available to be called. In some cases, I will make it a point to call. The cases I follow up and make such points are usually cases that involve somebody eligible for public benefits. I want to make sure that they pursued those.

So I typically will not know how long it takes or when the loan closes.

Senator MCCASKILL. How did you discover that you could no longer tell someone what the comparative price of this obligation was going to be as compared to, for example, a home equity loan? I mean, I would assume that's part of the counseling; that there's a variety of ways you can try to get at your equity in your home. One is a traditional home equity loan, and I would assume that these people would want to know how much is a home equity loan going to cost versus how much is a reverse mortgage going to cost.

Mr. ZEMAN. Absolutely. Now, I can tell them a lot. I work up comparisons, but they really are guesses. I don't know, can't know exactly what they're going to encounter when they go to the marketplace to choose a lender.

In some cases, they've talked to a lender first and so they may have an idea of what that lender offers. In this current marketplace, though, the variety of costs, the variety of margins out there from lender to lender could vary considerably and you may find a few that still offer lock-ins or you may not.

So again, the challenge for me to explain it to a client is I don't know exactly what the marketplace is going to be like. I don't know what you're going to get charged as far as a rate. I can give you these estimates and projections, but, boy, is it a challenge.

I would have a difficult time—I'm pretty knowledgeable, and I would have a difficult time knowing whether or not I was going to get the best deal from a given lender in this marketplace.

Senator MCCASKILL. I do think we've still got work to do on the counseling and the testimony today and, Mr. Bell, I appreciate the efforts that your organization is making in regards to counseling. I certainly know that counseling is incredibly important in this area.

I think it's important to remember that we're not there. I mean, when the GAO does a secret shopper program and I believe his testimony was 14 out of 15 or 15 out of 15? 15 out of 15 counseling sessions that GAO sat in were not sufficient in terms of information that was provided, whether or not they were actually counseling for the amount of time they were charging for, all of those issues.

If you're 15 for 15 in a secret shopper program, then I'm not sure the seniors are getting the kind of help they need before they enter into one of these loan agreements, and I think Congress has a responsibility to make sure that we continue to maybe institutionalize the GAO Secret Shopper Program so that the counselors know that in any given moment the person sitting across from them could be someone that is going to be passing judgment on whether or not they're doing an adequate job of informing seniors of all the risks and the rewards that come with the reverse mortgage.

Mr. ZEMAN. There's actually a well-thought-out Secret Shopper Program that AARP has been working on since 2006. It's on the shelf now, but I was involved in it. It's ready to go. It's not just targeted at finding inadequate counselors—although that would be a major important step to find all the egregious errors, but the effort is designed to work with HUD and improve counseling.

A second shooper would have the occasion to praise a counselor for the great work, he covered everything, or you might have missed these few things and here's how to do it better, or you need to go back to a training session, and we've got one to offer to you to help you get all this information down a little bit better.

So it doesn't necessarily have to be totally punitive, but, boy, once this study gets out, I guarantee you that most counseling agencies are going to be looking a lot more closely at HUD regulations and what is required.

Senator MCCASKILL. I'll be anxious to follow up with HUD IG on a follow-up to the GAO's efforts at assessing counseling. It's a little bit like the appraisals. If we aren't getting good appraisals, we have fraud. If we aren't getting good counseling, we're going to have people that get caught up in situations that they're not prepared to handle.

I want to thank all of the witnesses today. I appreciate you being here. I think that my closing comments would be that to any senior that is looking at a reverse mortgage go carefully, go thoroughly, make sure you understand all the fine print, and remember the most important thing that you can ever know whenever you're embarking upon any kind of financial transaction, if it sounds too good to be true, it usually is.

Thank you very much.[Applause.]

[Whereupon, at 11:07 a.m., the hearing was adjourned.]

APPENDIX

Prepared Statement of Senator Mel Martinez

Good morning. Thank you, Senator McCaskill, for holding this important hearing today. Reverse mortgages are unique financial instruments that have risen in popularity in recent years. Although these products have been around since the 1970's, they are little understood by the general public. I hope that we can use today's hearing to shine some light on reverse mortgages and the positive effect they can have on our aging population.

According to the American Housing Survey, nearly twenty-five million American homeowners have no mortgage debt, and more than twelve and a half million of them are sixty-five or older. For many elderly homeowners, the equity in their homes represents their largest assets. Reverse mortgages offer unique financial flexibility for America's fast-growing aging population. While traditionally, reverse mortgages have been used to provide for the most basic living expenses, such as food, medicine or home repairs; today's retirement-age population is seeking more creative financial planning tools to help guide them through their golden years.

A reverse mortgage is a smart, accessible option for older adults in need of long term care. Long term care is expensive. An average nursing home stay costs more than 70,000 dollars a year in my home state of Florida and in many states across the country. The average cost for a home health aide ranges from $19 to more than $30 dollars an hour. When one is in need of these services, it is comforting to know that a reverse mortgage can be utilized to help pay for these valuable services.

By using financial planning tools like reverse mortgages, life insurance, and long term care insurance many seniors are able to afford the quality care they need without relying on Medicaid for long term care. By ensuring these options are available, the federal and state governments are helping seniors age with the dignity and independence all older Americans deserve.

As with many financial tools, I understand that there have been instances of predatory practices involving reverse mortgage products. Congress must have absolutely no tolerance for the unscrupulous actions of individuals or companies.

The recent housing crisis has shed light upon the fact that many consumers entered into complex financial arrangements that they did not fully understand. It is important to recognize that consumers are only able to make sound decisions when armed with good information. Instead of limiting financial options, we should ensure the transparency, availability, and accuracy of financial information.

Reverse mortgage programs are an important tool used by many Floridians. In fact, in the last fiscal year alone, Florida witnessed a one-hundred and sixteen percent increase in the number of home equity conversion mortgages. As these products continue to increase in popularity, Congress has a responsibility to ensure that our elderly are properly protected while still given every opportunity to make the personal financial decisions that are right for them.

Thank you.

MORTGAGE BANKERS ASSOCIATION
Investing in communities

July 1, 2009

The Honorable Claire McCaskill
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator McCaskill:

On behalf of the Mortgage Bankers Association (MBA), we appreciate the opportunity to submit this statement on reverse mortgages for your field hearing on reverse lending. While MBA supports the entry of lenders into the reverse mortgage market, we also appreciate that these mortgages are marketed to a potentially vulnerable population, and we wholeheartedly support enhanced protections for these elderly consumers. The consumer protections should include adequate counseling standards and a clear plan for the payment of taxes and fees of the mortgaged property. MBA's reverse mortgage model state bill is intended to be a proactive instrument that will provide safeguards for consumers and lenders.

MBA believes that counseling should be mandatory for all reverse mortgage borrowers. Our model bill requires that a lender refer the prospective borrower to a HUD-approved housing counseling agency that provides face-to-face and telephone counseling. In addition, under the model bill, a lender could not accept a final and complete application for a reverse mortgage from an applicant or assess any fees upon an applicant without first receiving certification from the applicant (or the applicant's authorized representative) that they have received counseling from an agency.

In addition, the counseling session must include the following elements: 1) Options other than a reverse mortgage that are available to the homeowner, including other housing, social service, health and financial options; 2) Other reverse mortgage options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans and property tax deferral; 3) The financial implications of entering into a reverse mortgage; and 4) A disclosure that a reverse mortgage may have tax consequences, affect eligibility for assistance under federal and state programs, and have an impact on the estate and heirs of the homeowner.

MBA's model bill would also provide that upon the request of the borrower, other parties would be allowed to attend the counseling sessions with the borrower, which may be beneficial for some applicants and reassuring to other family members or concerned individuals. There should not, however, be a legal obligation or duty on the lender to inform, notice or advise any other party of the opportunity to attend the counseling.

The Housing and Economic Recovery Act (HERA) created restrictions on cross-selling other financial products when originating a reverse mortgage loan in order to prevent any undue pressure on the borrower. MBA supports this concept and in its model bill also prohibits the selling of other financial instruments with the proceeds of a reverse

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mortgage, excluding title insurance, hazard, flood or other peril insurance. Aside from the financial products associated with enhancing the mortgage for the good of the borrower and the lender, such as mortgage insurance, MBA believes that annuities should not be required as a condition of obtaining a reverse mortgage. In addition, the timing of offering an annuity should be properly oriented around obtaining the reverse loan. Specifically, MBA advocates that offering an annuity to the borrower prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement should be prohibited. The reverse lender should not refer the borrower to anyone for the purchase of an annuity, excluding homeowner's insurance, prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement.

As a protection to the borrower and the lender, MBA advocates that lenders, upon issuing a reverse mortgage, form a set-aside account of the estimated costs of three years of both taxes and insurance payments from the borrower's payout. Should the borrower fail to pay taxes and insurance on the mortgaged property, lenders would be permitted to use the set-aside funds to pay the mortgaged property's taxes and insurance. If the borrower pays the taxes and insurance on the mortgaged property without incident, the value of the set-aside account would be used to offset the amount of cash, interest and fees the borrower or the borrower's estate must repay to the lender.

Thank you again for providing us the opportunity to share our model reverse mortgage proposal with you. MBA supports strong counseling requirements, limits on cross selling and escrow for taxes and insurance. We look forward to working with you and your staff on this important issue.

Sincerely,

John A. Courson

John A. Courson
President and Chief Executive Officer

STATEMENT OF THE FINANCIAL COUNSELING RESEARCH ROUNDTABLE

BEFORE A HEARING, "REVERSE MORTGAGES: LEAVING SENIORS AND TAXPAYERS ON THE HOOK?", OF THE SENATE SPECIAL COMMITTEE ON AGING UNITED STATES SENATE

OHCS SENIOR CENTER, UNIVERSITY CITY, MO

Monday, June 29, 2009

Chairman Kohl, Ranking Member Martinez, Senator McCaskill, and Members of the Committee,

The Financial Counseling Research Roundtable appreciates the opportunity to provide this written statement in connection with the Committee's hearing on "Reverse Mortgages." The Financial Counseling Research Roundtable is comprised of the nation's leading nonprofit organizations providing Americans with bankruptcy, housing, consumer credit, and financial counseling. The organizations that are members of the Roundtable provided counseling services, of various types, to over 1 million consumers last year in all 50 States and the District of Columbia and employ thousands of Americans.

The Need for Strong Consumer Protection for Homeowners Considering Reverse Mortgages

The Financial Counseling Research Roundtable is pleased to see that the Committee is examining the need for additional consumer protection for homeowners considering a reverse mortgage. The Roundtable agrees that this is an important issue, and we support the efforts of the Committee to ensure that homeowners understand the risks and benefits of a reverse mortgage. Mandatory reverse mortgage counseling plays an important role in safeguarding homeowners that are considering a Home Equity Conversion Mortgage ("HECM") backed by the U.S. Department of Housing and Urban Development ("HUD"). Moreover, such counseling could play an important role in safeguarding homeowners considering a proprietary reverse mortgage.

When used properly, reverse mortgage loan products can be beneficial to consumers by providing funding for home improvement projects, medical needs, or long-term financial security that otherwise would be unattainable. For many seniors, reverse mortgage loan products allow them to keep their home and pay for necessities that would have otherwise forced them to move in their twilight years despite a desire to stay in their homes and communities. Having said that, we know from our view on the front lines that reverse mortgage loan products are not for every senior, so we naturally support efforts to promote education and counseling to help prepare consumers to decide whether to accept a reverse mortgage and understand their own financial situation.

The Value of Reverse Mortgage Counseling for Consumers and the Reverse Mortgage Process

We welcome the opportunity to provide the Committee with information on reverse mortgage counseling.

First and foremost, we believe it is important to recognize that reverse mortgage counseling (and other forms of credit counseling) benefit consumers by providing them with the financial education needed to understand what a reverse mortgage product is and is not. The decision to consider a reverse mortgage can be a complicated process under any circumstances, but without counseling and education, the reverse mortgage process would truly be daunting. Mandatory counseling for HECM borrowers does not ensure that mortgage lenders follow the requirements applicable to their conduct (including with regard to how they interface with counseling agencies), but it does offer the best opportunity to ensure that homeowners are provided with the information and tools they need to evaluate the options presented to them based on their own individual circumstances.

In these difficult economic times, Americans need more financial counseling and education – not less. Americans are facing unprecedented financial difficulties with the economy in crisis, asset and home prices crashing, and record levels of household debt. Consumers need more help than ever navigating the current confusing and frightening economic environment and the decision to consider a reverse mortgage. Now is a time for policymakers to be promoting more financial counseling and education such as mandatory HECM counseling.

Additional Information on Counseling and Its Role in the Reverse Mortgage Process

Clearly, reverse mortgage counseling and other forms of counseling have great educational benefits for consumers. Nonetheless, there are a few who have suggested that the benefits of counseling are more limited and that counseling is actually a mere check-off in receiving a certificate of completion required to obtain a HECM. To be clear, our counselors do not rubber stamp a homeowner's completion of a counseling session. Our counselors are highly trained, and must comply with a number of HUD requirements applicable to HECM counseling. Nonprofit HUD-approved organizations that provide counseling spend significant amount of time counseling homeowner's about their individual financial situation and alternatives to reverse mortgages. In fact, our experience is that a significant number of homeowners that obtain counseling do not go on to receive a HECM loan. Roundtable members welcome reasonable and fair requirements established by HUD, including their counseling protocol.

We also would like to address directly one other issue that is sometimes raised with respect to reverse mortgage counseling (and other forms of financial counseling) – namely, that in-person counseling is preferable to telephonic counseling. As the discussion above indicates, it is clear that reverse mortgage counseling has great value for consumers. We believe the measure of counseling is not the way it is delivered, but rather the message it conveys and the sum of the education provided. How a homeowner chooses to receive this education should not be the issue, but rather the quality of the experience. Counseling should be viewed as an integral feature and one that homeowners can accomplish through any medium with which they are most comfortable given their circumstances. While the members of the Roundtable offer both in-person as well as telephone counseling, there is adequate research to substantiate that in-person counseling offers no greater benefits than telephone counseling.

<u>Conclusion</u>

Thank you for the opportunity to present this written statement on behalf of the Financial Counseling Research Roundtable and our members that provide homeowners with reverse mortgage counseling. We appreciate the Committee's efforts to examine the needs of consumers considering reverse mortgages. We believe that reverse mortgage counseling provides valuable benefits for consumers and our society at large. We support mandatory counseling requirements and the efforts of the Committee to promote safeguards for consumers.

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