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Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW., Room 10276
Washington, DC 20410-0500

Re: Docket No. FR 5353-P-01; Federal Housing Administration (FHA): Strengthening the Home Equity Conversion Mortgage Program

To Whom It May Concern:

Thank you for the opportunity to comment on the Proposed Rule, Federal Housing Administration (FHA): Strengthening the Home Equity Conversion Mortgage Program. Our office appreciates the Department of Housing and Urban Development's (HUD) efforts to reduce risks to borrowers, to provide sustainable solutions for homeowners, and to ensure the long-term sustainability of the program through the Proposed Rule.

Our comments are based on our experience working with homeowners facing foreclosure, advocating for seniors whose assets have been preyed upon by unscrupulous brokers and financial advisers, and providing assistance to consumers facing problems with tax liens, utility bills, and other household expenses. Home equity conversion mortgages (HECMs) are the FHA's version of reverse mortgages. Reverse mortgages are available to persons aged 62 and over and, therefore, serve a population of homeowners whose incomes may be reduced and whose home may be their most significant asset, reflecting years of investment and savings. Because reverse mortgages must be paid back when the borrower no longer occupies the home as a principal residence, it is important that elderly borrowers understand the financial implications of participating in the HECM program, including the fees and ongoing charges associated with HECMs.

We have worked directly with seniors who have experienced difficulties with their reverse mortgages and who have struggled to obtain the help or cooperation from the servicers of those mortgages. We support HUD's efforts in the Proposed Rule to improve the standards of HECM loan servicers and mortgagees. It is critical that we take steps to protect seniors, to ensure their ability to stay in their homes, and to help them maintain economic security. Below, we provide comments on several specific portions of the proposed regulations.

(1) Limiting Disbursements Is Crucial to Protecting the Assets of Seniors

We strongly support maintaining limits to disbursements for the first year of a HECM, and we are encouraged by the proposal to allow the Commissioner some flexibility in setting disbursement limits to respond to market changes. However, we would caution HUD against setting limits to a point where it eliminates access to the program for many potential borrowers. The Proposed Rule, under § 206.25, codifies RMSA Mortgagee Letter 2014-21. This rule protects seniors from fraudulent transactions and from unscrupulous agents immediately investing the entire proceeds of their reverse mortgage in insurance or other investment products.

Our office has received several complaints from seniors who were convinced to withdraw the maximum amount of money from their reverse mortgage loan proceeds at closing and immediately invest the entirety of their loan proceeds in financial products including variable annuities and variable life insurance policies. At least one senior was threatened with foreclosure because she lacked access to the necessary liquid funds to pay her property taxes after an insurance agent invested her reverse mortgage loan proceeds in a variable annuity.

(2) Property Inspections Subsequent to Closing Should Not Be Required or Included in the Rule

HUD seeks comments on whether to establish a requirement for mortgagees to conduct periodic inspections for the life of the HECM and whether to allow the cost of those inspections to be added to the borrower's loan balance as a reasonable and customary charge. Our office recommends that HUD reject the periodic inspection requirement. We are concerned that such a requirement may subject seniors with reverse mortgages to burdensome and unnecessary charges. These seniors have an incentive to maintain the upkeep of their homes and do not need to be burdened with more inspection fees added to their loan obligations.

Should HUD proceed with these requirements, we suggest that the regulations include specific guidance regarding the frequency of inspections and the types of repairs that would necessitate action by the homeowner. Allowing routine property inspections without well-defined rules concerning what is a violation of the borrower's obligation to maintain the property in good repair could lead to additional and unnecessary foreclosures. Additionally, we suggest that the cost of such inspections should be covered by the mortgagee, in order to eliminate the incentive to conduct unnecessary inspections during the life of the mortgage. We also suggest that HUD not allow inside inspections as their limited value is outweighed by their intrusive nature and by the possibility of abuse of vulnerable homeowners.

(3) Utilities Should Not Be Included as a Property Charge Under § 206.205

HUD requests comments on whether to amend the definition of "property charges" to include utilities. Utilities should not be included in this definition, because they are much different than other types of fees already included in the term property charge. First, utilities do not all have the same timing requirements for payment. Second, utility charges can vary

significantly from month to month. And, third, there are many alternate payment methods for utilities. Some utility companies and local governments have discount programs for seniors, while local charities assist seniors and low-income citizens with utility costs. As a result, some seniors who may otherwise be eligible for such assistance programs would face foreclosure if utility costs are included in the definition of property charges and the borrower fails to timely pay those charges.

In addition, we are concerned about how effectively this requirement would be administered. Our office has seen many instances of mortgage servicers struggling to properly account for local tax exemptions, and we are concerned that servicers will similarly struggle with receiving and maintaining accurate records that account for utility assistance programs. In our experience, mortgagees have had difficulty understanding local tax exemptions for seniors, resulting in unwarranted fees and, on occasion, foreclosure actions against the senior homeowner. We are concerned that by including utilities in the definition of property charges, mistakes and misunderstandings on the part of the mortgagee will result in the trigger of due and payable events and, potentially, foreclosures that could otherwise be avoided.

(4) <u>The 30-Day Response Period Under § 206.205 to Explain a Missed Property Charge Should be Extended</u>

HUD's Proposed Rule under § 206.205 requires that the mortgagee notify the borrower and Commissioner that a property charge has not been paid within 30 days of the mortgagee receiving notification of a missed payment, if there are no HECM funds available. The borrower would then have 30 days to respond to the mortgagee to explain the circumstances which resulted in the non-payment. We suggest that this time period be extended to 90 days. Thirty days is a short amount of time to respond to the mortgagee's request regarding the non-payment, particularly where there is a delay in the mortgagee's processing or mailing of the initial notice. Our office has received numerous complaints from borrowers who have received letters from mortgagees that are dated up to several weeks before the date on which the homeowner received the notice, without any apparent reason or explanation for the delay.

In addition, the Proposed Rule summary of proposed amendments to § 206.205 states that "[i]f the borrower is unable or unwilling to repay the mortgagee for any funds advanced by the mortgagee to pay property charges outside of a LESA, the mortgagee shall submit a due and payable request under the provisions of § 206.27(c)(2)." There is no time frame or guidance concerning how the mortgagee is to determine that the borrower is unwilling or unable to repay. A longer, 90-day period for responding and making arrangements to pay the charge, and a requirement that the mortgagee have actual contact with the borrower, would ensure that the borrower has time to gather funds to pay the charge and avoid possible foreclosure. The Proposed Rule also allows for penalties for late payments for property charges that are the direct result of the borrower's error or omission. Mortgagees should not be permitted to charge such fees or penalties until the borrower has a chance to contest or correct the non-payment of the property charge.

(5) Non-Borrowing Spouses Should Be Allowed to Stay in Their Homes Whenever Possible

We also support the codification in § 206.55 of the Deferral Period requirements set out in previous RMSA Mortgagee Letters, to provide a deferral of the due and payable status upon the death of the borrower for a Non-Borrowing Spouse. We would also encourage HUD to consider extending the time that a Non-Borrowing Spouse has to establish legal ownership or legal right to remain in the property after the death of the last surviving HECM borrower from 90 to at least 120 days under § 206.55. Ninety days is not long enough to obtain a marketable title in many instances. Protecting spouses of borrowers, who sometimes were persuaded by loan officers to remove themselves from the deed in order to increase the amount of available funds, is critical, because many non-borrowing spouses experience significant economic upheaval at the time that they are mourning the passing of a loved one. Since January 2013, our office has received over 150 complaints concerning reverse mortgages, and most commonly they have concerned a surviving spouse or relative who remained in the home after the borrower passed away or who was trying to settle the deceased borrower's estate. Non-borrowing spouses need these additional protections to ensure their own economic stability.

(6) A Dedicated Team Trained to Answer HECM Questions Would Ensure Seniors Have Access to Information from Mortgagees

HUD recognizes that the current requirement that the mortgagee provide the borrower with the name of an employee who has been specifically designated to respond to HECM loan inquiries is impractical. In response, HUD has proposed to eliminate the requirement from the regulations and, instead, require that the servicer make a person available to speak with the HECM borrower. We agree with the proposed requirement in § 206.203 to provide borrowers with a dedicated telephone number that they can call and speak to employees designated to address inquiries concerning HECM mortgages. Our concern with this proposal is that it does not ensure that the servicer's designated employee is equipped specifically to answer questions about the HECM program. Accordingly, we suggest that mortgagees be required to provide borrowers with a dedicated telephone number that they can call and speak to employees on a team specifically trained to address inquiries concerning HECM mortgages.

To ensure that borrowers can quickly get in touch with a person who can assist them, it may also be beneficial to provide this contact information in the monthly statements that have been proposed in the Rule. This monthly disclosure should be made in addition to the requirement to provide the information annually in § 206.203 or when the servicer or employee group changes.

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Thank you for the opportunity to comment on the Proposed Rule. We are optimistic that the Proposed Rule in its final form will ensure that HECM borrowers, all of whom are seniors, have better access to information and are better protected from unnecessary foreclosures. Please contact us if you have any questions relating to our comments.

Sincerely,

/s/ Janice Fahey

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