National Reverse Mortgage Lenders Association
1400 16th Street, N.W.
Washington, DC 20036

March 23, 2012

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

Re: Federal Housing Administration (FHA) Risk Management Initiatives: Revised Seller Concessions [Docket No. FR-5572-N-01]

Dear Sir or Madam:

We write to provide comments on the Revised Seller Concessions of the Federal Housing Administration (FHA) which was published in the Federal Register on February 23, 2012, and upon which the FHA requested comments. This comment letter describes the views of the National Reverse Mortgage Lenders Association (NRMLA).

National Reverse Mortgage Lenders Association (NRMLA) is the national voice of the reverse mortgage industry, serving as an educational resource, policy advocate and public affairs center for lenders and related professionals. NRMLA was established in 1997 to enhance the professionalism of the reverse mortgage business. Our mission is to educate consumers about the pros and cons of reverse mortgages, to train lenders to be sensitive to clients' needs, to enforce our Code of Ethics and Professional Responsibility[1], and to advise policy makers on reverse mortgage issues.

Introduction

NRMLA commends the FHA for taking steps to protect the Mutual Mortgage Insurance Fund (MMIF), while attempting to lessen the impact of the rule on the broader mortgage market. We do note, however, that much of the very detailed and extensive research outlined in the rule publication, and upon which the rule is based, does not address or speak to the FHA-insured Home Equity Conversion Mortgage purchase program (or HECM for Purchase).

Our comments are two-fold. First, we request that the FHA remove the restrictions on seller concessions in connection with HECM for Purchase transactions. Second, we respectfully request that the FHA not clarify that interested parties under the seller concession rule includes mortgagees. In the alternative, if the FHA will maintain its clarification that interested parties under the seller concession rule includes mortgagees, we respectfully request that the rule exempt HECM mortgagees from the definition of interested party under FHA guidelines.

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[1] http://www.nrmlaonline.org/nrmla/ethics/conduct.aspx

HECM for Purchase

As part of the Housing and Economic Recovery Act of 2008, Congress amended Section 255 of the National Housing Act (codified at 12 U.S.C. § 1715z-20) in 2008 to allow for the HECM for Purchase program.[2] The FHA implemented the HECM for Purchase program initially through the publication of Mortgagee Letter 2008-33, and subsequently Mortgagee Letter 2009-11.

The principal limit with respect to a HECM for Purchase loan transaction is calculated in accordance with HECM regulations at 24 CFR 206.3, HUD Handbook 4235.1 REV-1, and applicable Mortgagee Letters. At closing, a HECM for Purchase borrower must provide a monetary investment which will be applied to satisfy the difference between the HECM principal limit and the sale price for the property, plus any HECM loan related fees that are not financed into the loan, minus the amount of the earnest deposit. A HECM for Purchase borrower may choose to provide a larger investment amount in order to retain a portion of the available HECM proceeds for future draws.

Mortgagee Letter 2009-11, however, goes on to state that the FHA prohibits seller contributions (also known as "seller concessions"), the use of loan discount points, interest rate buy downs, closing cost down payment assistance, builder incentives, gifts or personal property given by the seller or any other party involved in the transaction. This includes customary charges that are normally paid on behalf of the borrower by the seller.

Given the large monetary investment required by a senior in connection with a HECM for Purchase loan transaction, that these transactions do not represent a large portion of the loans which the FHA insures, that the new rule will limit such concessions to 3%, and that the rule making does not posit or further justify limiting the use of seller concessions in connection with HECM for Purchase loan transactions, we respectfully request that the FHA allow seller concessions in connection with HECM for Purchase loan transactions. NRMLA and its members would support a condition under the rule, as revised to allow seller concessions in HECM for Purchase loan transactions, that such seller concessions not be used to otherwise qualify a senior for a HECM for Purchase transaction.

We suggest that allowing seller concessions in HECM for Purchase loan transactions will not place the MMIF at risk, and that HECM seniors should be allowed to benefit from such seller contributions similarly as do forward mortgage FHA single-family purchase money borrowers.

Definition of Interested Party

Second, in our view, we understand from our members that it has not been clear in the past that a mortgagee is an interested party in connection with a FHA-insured single-family loan. Lenders often offer borrowers credits towards closing costs in connection with home loans. HECMs are no different. We believe that by clarifying that a mortgagee is an interested party in connection with a FHA-insured single-family loan, such clarification will place some lenders at risk for past practices, when such prior guidance or interpretation of the rule in this manner was by FHA's own indication not clear (thus the perceived need in the view of the FHA for a "clarification" on this item).

We believe lenders should continue to be allowed the pricing flexibility through the ability to offer certain lender credits towards closing costs without running afoul of FHA rules or guidance. As you know, such practices have been very common in the mortgage industry for quite some time and allow lenders to bring

[2] *See* Pub. Law No. 110-289, § 2122(a)(9), adding and renumbering subsection (m) to Section 255 of the National Housing Act.

secondary market pricing into the primary point of sale mortgage market, providing for more supple consumer facing pricing, a greater array of program offerings, and in most cases, lower overall cost to consumers (thus enchaining access to credit and achieving housing goals).

In the unfortunate event that the FHA does not adopt our suggestion in this regard with respect to excluding mortgagees from the definition of an interested party for purposes of the seller concession rule, we respectfully request that that such clarification not be made retroactive.

Conclusion and Request

We trust that the FHA will find our comments above helpful. After you have had a chance to review these comments, please let us know if you have any questions or need any additional information. We appreciate your favorable consideration of our comments.

Very truly yours,

Steve Irwin, Executive Vice President, National Reverse Mortgage Lenders Association
1400 16th Street NW
Suite 420
Washington, DC 20036
sirwin@dworbell.com
202-939-1776

Cc: Peter Bell, President & CEO, NRMLA
James A. Brodsky, Weiner Brodsky Sidman Kider PC, Outside General Counsel, NRMLA
Jim Milano, Weiner Brodsky Sidman Kider PC