NRMLA Ethics Advisory Opinion 2015-1

Freedom of Choice Remaining Draw Options After 12 Months/Ethical Obligations and Restrictions

February 4, 2015

The Ethics and Standards Committee (the "Committee") of the National Reverse Mortgage Lenders Association ("NRMLA"), the trade association of the reverse mortgage lending industry, enforces the NRMLA Code of Ethics and Professional Responsibility (the "Code of Ethics"). All NRMLA Members are required to comply with the Code of Ethics as a condition of their continued membership in NRMLA. If the Committee determines that a NRMLA Member has not complied with the Code of Ethics, sanctions may be imposed, up to and including the termination of NRMLA Membership. Committee decisions enforcing the Code of Ethics may be made public.

The Committee also interprets the Code of Ethics and, from time to time, proposes changes to it for consideration and approval by the NRMLA Board of Directors. This Ethics Advisory Opinion 2015-1 is such an interpretation of the Code of Ethics.

In Mortgagee Letter 2013-27 (September 3, 2013), HUD established a limitation (an "Initial Disbursement Limit") on the amount of HECM loan proceeds that may be advanced at loan closing or during what it defined as the "First 12-Month Disbursement Period" after loan closing. It defined the Initial Disbursement Limit as the greater of sixty percent of the defined Principal Limit of the HECM loan or the sum of defined Mandatory Obligations plus ten percent of the Principal Limit.

This Initial Disbursement Limit applied to <u>all</u> HECM loans (except those with a defined Single Disbursement Lump Sum Payment Option to which the Initial Disbursement Limit concept was not applicable).

In Mortgagee Letter 2014-11 (June 18, 2014), among other things HUD focused on the period following the First 12-Month Disbursement Period, when the Initial Disbursement Limit no longer was effective to limit remaining amounts under the HECM loan that a mortgagor may draw.

In Mortgagee Letter 2014-11, in the Committee's view, HUD made two key points with respect to such remaining amount draws: (1) that mortgagees, whether through pricing options, marketing or advertising, may <u>not</u> "encourage" mortgagors to take that remaining amount after that period "whether they need it or not;" and (2) that it is mortgagors, and not mortgagees, who are to be permitted to determine, in their discretion and according to their view of their needs and without "encouragement" from mortgagees to do otherwise, the "timing or amount" of such remaining draws. See ML 2014-11, page 3.

In this Ethics Advisory Opinion 2015-1, the Committee refers to these two points as the mortgagor "Freedom of Choice" requirements.

It is the Committee's view that NRMLA Members are required under the Code of Ethics to honor the mortgagor Freedom of Choice requirements, and not, through pricing options, marketing, advertising or otherwise, to take any actions that directly or indirectly encourage HECM loan mortgagors with remaining draw amounts following the First 12-Month Disbursement Period to draw such remaining amounts in any manner (including, for example, drawing all such remaining funds) other than in the manner, and with such timing and in such amounts, as such mortgagors themselves determine are appropriate to meet their needs.

The Code of Ethics requires, as one of its Values, that NRMLA Members "provide services to consumers with diligence and due care, promptly, thoughtfully, in a manner considerate of the interests of consumers and fully in compliance with all applicable legal and regulatory requirements." Rule 104 of the Code of Ethics further bars NRMLA Members from communicating with consumers "in any manner inconsistent with applicable law."

These provisions, and others in the Code of Ethics, underscore the Committee's determination, as described above, with respect to NRMLA Members that, through their actions or failure to act, directly or indirectly undermine or interfere with the mortgagor Freedom of Choice requirements engage in actions that are inconsistent with their obligations under the Code of Ethics. NRMLA Members that are determined by the Committee to have so acted will be sanctioned by the Committee. As noted above, such sanctions may include the termination of the NRMLA membership of such NRMLA Member, and, as provided under the Code of Ethics, such termination (and the reasons for it) may be publicly announced by NRMLA.

NRMLA Members routinely and overwhelmingly engage in conduct consistent with the letter and spirit of the Code of Ethics. All the more reason, then, that there is no place in NRMLA for NRMLA Members that fail fully to honor and respect their ethical obligations and restrictions under the Code of Ethics and under this Ethics Advisory Opinion 2015-1 with respect to the remaining draw options available to mortgagors after the First 12-Month Disbursement Period.

NRMLA Members, seniors, and others are urged to bring to the attention of NRMLA's President and the Committee concerns they may have about potential violations of the Code of Ethics directly or indirectly by NRMLA Members, including with respect to potential violations of the mortgagor Freedom of Choice requirements described in this Ethics Advisory Opinion 2015-1, for consideration and action by the Committee in accordance with the procedures described in the Code of Ethics. A form for this purpose also may be found at the NRMLA website, at www.nrmlaonline.org.