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ETHICS ADVISORY OPINION 2008-02

Ethical Cross-Selling of Other Financial and Insurance Products and Services April 21, 2008

The Standards and Ethics 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 is the Committee’s second formal interpretation of the new NRMLA Code of Ethics since its adoption in its current form by the NRMLA Board of Directors late last year. It is Ethics Advisory Opinion 2008-02 (Ethical Cross-Selling of Other Financial and Insurance Products and Services). The first such opinion, Ethics Advisory Opinion 2008-01 (Ethical Advertising), was issued as of February 28, 2008. Ethics Advisory Opinions, and the NRMLA Code of Ethics, are published on the NRMLA website, NRMLAOnline.org.

Introduction. Ethics Advisory Opinion 2008-02 (Ethical Cross-Selling of Other Financial and Insurance Products and Services) addresses a very important aspect of the relationship between NRMLA Members and the seniors whose interests they are pledged to serve: the manner and extent to which NRMLA Members, consistent with the applicable requirements of the Code of Ethics, may refer, recommend, originate for or sell to, their senior reverse mortgage consumers (collectively, “cross-selling to seniors”), financial or insurance products or services (including but not limited to annuities) other than reverse mortgage loans.

There is a growing concern among seniors and their advocates and legislators, and among NRMLA Members and NRMLA itself, that some NRMLA Members are engaging, participating or tolerating the cross-selling to seniors of financial or insurance products or services (including annuities), other than reverse mortgage loans, in a manner that is not consistent with applicable requirements of the Code of Ethics.

In this Ethics Advisory Opinion, we refer to such practices, collectively, as “Unethical Cross-Selling.”

Unethical Cross-Selling violates the NRMLA Code of Ethics. There is no place in NRMLA for NRMLA Members who engage in Unethical Cross-Selling.

The purpose of NRMLA Ethics Advisory Opinion 2008-02 is to provide additional and specific guidance to NRMLA Members about what constitutes Unethical Cross-Selling.

Discussion. The first **Value** that the NRMLA Code of Ethics embraces is **Fairness**. Fairness under the Code of Ethics requires that NRMLA Members “treat consumers with respect and dignity, and in a manner that is fair, reasonable, and as they would want to be treated.” Additional **Values** embraced under the Code of Ethics require **Integrity, Competence, Diligence, and Professionalism.**

To that end, **Rules 102, 103, 107, 301, 302, 303, 402, 501, and 605** bar direct and indirect Unethical Cross-Selling to seniors of financial and insurance products (including annuities) other than reverse mortgage loans.

Rule 102 of the Code of Ethics requires that NRMLA Member compensation be reasonable in amount and be clearly and timely described to consumers.

Rule 103 of the Code of Ethics states that NRMLA Members directly or indirectly offering or providing goods or services to consumers (including, for example, insurance or investment products) in conjunction with or that are related to their reverse mortgage lending activities for such consumers, shall do so only in a manner consistent with applicable law and under terms and conditions that are clearly and timely described to consumers.

Rule 107 of the Code of Ethics requires that NRMLA Members describe to consumers the range of programs and products offered by the Member that may provide “a bona fide advantage to such consumers.”

Rule 301 of the Code of Ethics requires NRMLA Members accurately to describe both the costs and benefits of the products and services presented to consumers.

Rule 302 of the Code of Ethics bars NRMLA Members from requiring, directly or indirectly, that consumers purchase other products or services in order to obtain reverse mortgage loans.

Rule 303 of the Code of Ethics generally requires NRMLA Members to arrange for the disbursement of reverse mortgage proceeds directly to seniors.

Rule 402 of the Code of Ethics generally requires NRMLA Members to advise consumers to seek legal, tax, and investment counsel and advice prior to making decisions involving reverse mortgages, and bars NRMLA Members not qualified and appropriately licensed to provide such counsel and advice to consumers from doing so rather than referring such consumers to those who are so qualified and licensed.

Rule 501 of the Code of Ethics requires NRMLA Members to exercise reasonable efforts to secure sufficient information to determine the consumer’s needs and objectives.

Rule 605 of the Code of Ethics generally requires NRMLA Members to comply with all applicable regulatory requirements.

Unethical Cross-Selling Rules and Examples. These Code of Ethics Values and Rules, singly and together, support the Committee’s conclusions that the following practices constitute Unethical Cross-Selling that violate the NRMLA Code of Ethics.

First, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to require an applicant for a reverse mortgage to purchase another financial insurance product or service (including an annuity) as a condition for obtaining a reverse mortgage. Examples of such Unethical Cross-Selling include disbursing the proceeds of a reverse mortgage directly to the provider of another financial insurance product or service, and requiring consumers to pay such disbursed reverse mortgage proceeds to such provider of another financial product or service at or in connection with the closing of such reverse mortgages.

Second, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to refer, recommend, offer, originate for or sell to, consumers applying to or obtaining reverse mortgages from that NRMLA Member (collectively, “cross-selling activities”), financial or insurance products or services (including but not limited to annuities), other than reverse mortgage loans, unless that NRMLA Member meets all of the following requirements in connection with such cross-selling activities:

(1) it is qualified and appropriately licensed to engage in such activities (including, as required and appropriate, licensed as an insurance professional or investment advisor);

(2) it acts in full and strict compliance with all applicable requirements and regulations (collectively, “complies with legal requirements”);

(3) it actually performs and provides all goods, facilities and services reasonably required to originate and sell such other financial products and services;

(4) it is fully liable to the consumer, under law, for cross-selling activities and other financial products and services that fail to comply with legal requirements;

(5) it makes reasonable efforts to secure sufficient information to determine the consumer’s needs and objectives with respect to such other financial products and services before engaging in cross-selling activities and originating or selling other financial products and services for or to such consumer; and

(6) it determines that the other financial products and services that it originates or sells as a result of its cross-selling activities are products and services that provide a bona fide advantage to such consumers.

In this Ethics Advisory Opinion, such a NRMLA Member meeting all of these requirements with respect to its cross-selling activities is referred to as a Fully Qualified Professional.

In short, it is violation of the NRMLA Code of Ethics for a NRMLA Member to engage in any cross-selling activities if it is not, and if it does not meet the requirements of, a Fully Qualified Professional as described in this Ethics Advisory Opinion.

Third, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to engage in any cross-selling activities involving deferred fixed rate annuities with surrender charges, deferred variable rate annuities with surrender charges, and any financial product that applies a penalty for early withdrawal or cancellation (including but not limited to multi-year certificates of deposit), or any other financial services or products, if they do not provide a bona fide advantage to such consumers when they are paid for or financed with the proceeds of their reverse mortgages.

Fourth, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to fail to provide to a consumer obtaining a reverse mortgage from such NRMLA Member, on a timely basis, at least the following written information related to cross-selling activities (collectively, the “Cross-Selling Cautions”):

1) that annuities and other financial and insurance products can be very complex; and

(2) that consumers are strongly cautioned against purchasing any such products or services with the proceeds of reverse mortgages without first consulting with a Fully Qualified Professional.

The Cross-Selling Cautions may be provided through the written publication describing them that NRMLA intends to develop for the benefit of NRMLA Members, when it is made available, or through a publication of the NRMLA Member, and this requirement is effective for reverse mortgages initiated after the Delayed Effective Date, which is 60 days after the publication of this Opinion.

Such information is provided to a consumer on a timely basis (and it is thus considered to be Timely Information if it is provided to the consumer at or before any cross-selling activities commence.

Fifth, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to receive unreasonably high compensation as a result of its cross-selling activities. Unreasonably high compensation is compensation in excess of that which complies with legal requirements including, as applicable, compensation limits established by insurance commissioners with respect to insurance products including annuities.

Sixth, it is a violation of the NRMLA Code of Ethics for a NRMLA Member to fail to provide timely information, clear information, and complete information, about all compensation to be received or received, directly and indirectly, in connection with the origination or sale of a reverse mortgage and as a result of its cross-selling activities of any other financial service product or service. Clear information is information that is plainly presented to and readily understandable by consumers. Complete information describes all amounts paid or received, and identifies who paid and received them.

Indirect Code of Ethics Violations. Under this Ethics Advisory Opinion 2008-02, NRMLA Members may not engage in Unethical Cross-Selling either directly (such as through their own employees, agents and branch offices) or indirectly (such as through their affiliates or business partners). Both direct and indirect Unethical Cross-Selling by a NRMLA Member violates the NRMLA Code of Ethics.

Conclusion. NRMLA Members, seniors, and others are urged to bring to the Attention NRMLA's President and the Committee concerns they may have about potential unethical Cross-Selling directly or indirectly by NRMLA Members, for consideration and action by President and Committee in accordance with the procedures described in the Code of Ethics. Contact information for NRMLA may be found at its website at NRMLAOnline.org.