



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

OFFICE OF HOUSING

**Responses to Issues Pertaining to the HECM Assignment Process
As Discussed with NRMLA Members April 2008**

1. Will HUD now accept assignment if parties have been added to Title after the loan closing?

Yes, as long as one original borrower remains on title.

2. Assignments are being rejected if the signatures on the Note do not match the signatures on the Deed of Trust. The borrower is required to sign both the Note and security instrument, but according to HECM Handbook 4235.1, Rev -1, Chapter 4, section 4-5 parts 2 and 3, a lender "may" but is not required to obtain the signature if the Trustee on the Note.

HUD has been experiencing difficulties in some states enforcing its loan documents when the Trustee has not signed both the Note and the security instrument. Therefore, HUD intends to clarify in a mortgagee letter that for all future HECM loans, the trustee "must" sign the Note as well as the security instrument. Until that publication, HUD strongly advises HECM originators to obtain the Trustee's signature on both loan documents.

With respect to existing documents that have not been executed by the Trustee, HUD is requesting that the Servicer, at its discretion, either obtain the needed signatures on the security instruments or submit a letter from the Servicer's attorney, with the assignment package, that provides authority under state law that conclusively demonstrates the signatures may be different on the security instruments.

3. There are issues surrounding the timing of receipt of Title Certifications from HUD's contractor. Assignments are being approved and claims are filed in a timely manner, but it is taking up to two months to receive Title Certifications.

HUD cannot give final title approval until the assignment is recorded, and HUD's contractor has no control over the recording time frames. However, servicers are not required to wait until final title approval has been received in order to file an assignment claim. Upon receipt of preliminary approval, servicers may send the assignment for recording and file their claim.

4. Can servicers obtain written instruction from HUD relating to the filing of claims for non-FNMA investors? Servicers are looking for instruction relating to the changing of the mortgagee number for the note holder in IACS (F 12) so that the servicer may file a claim on behalf of the no-FNMA investor.

Servicers can change the mortgagee number to the current note holder on the MUO3 screen in IACS. Instructions for completing this screen can be viewed by hitting the F9 key while on the MUO3 screen. This process is the same for FNMA or non-FNMA investors.

Instructions for filing claims are provided in Mortgagee Letter 94-44.

5. **Timely Assignment Approval:** The assignment volume is drastically increasing due to the age of loan portfolios. The increased volumes and the change to a different HUD servicer are most likely causing assignments to be delayed.

HUD hired a new servicing contractor in September 2007. During the initial stages of transition there was a delay in assignment approvals, however the backlog was caught up by the end of December and we are not aware of any current delays. On the conference call, HUD was pleased to hear servicers agree that the turnaround time is much improved. However, should a servicer experience delays, we do want to know about it. We encourage you to follow the Issue Escalation Protocol outlined below.

At recent HECM training sessions in Tulsa, servicers were provided an assignment checklist. This workflow aid was recently posted on the HUD website at <http://www.hud.gov/offices/hsg/sfh/nsc/rep/hecmasgn.pdf>

6. The HUD Servicing Center recently changed their practice to allow Servicers to submit loans for assignment at 97.5%. Will HUD consider lowering the percentage to 97% MCA?

HUD recently reduced the threshold percentage for submitting assignment claims in order to provide extra flexibility for servicers. Prior to making the change, our contractor studied the growth of HECM balances and determined that they increase by approximately .5% per month. Based on that analysis we agreed to allow servicers to submit assignment requests at 97.5% of MCA. This starts the review process earlier and hopefully will eliminate instances where the debt exceeds MCA before preliminary assignment approval can be obtained. While we won't close the door on future changes to the threshold, we first intend to monitor this reduction to see if it is effective.

7. Will HUD reduce the number of days to approve an assignment from 15 business days (3 weeks) to 10 business day (2 weeks)? Three weeks is too long considering the narrow window from 97% / 98% to 100% MCA.

Assignment review is a paper intensive, manual process. While most cases are processed in less than 15 days, the complexity of the review and the increased assignment volumes that HUD is experiencing, do not allow us to reduce processing time immediately. However, we are always interested in enhancing service and streamlining workflow and we will look for ways to improve our performance in this area. Servicers can do their part by submitting complete, well documented assignment packages, which are easier and faster to review. We encourage all servicers to utilize the assignment checklist as a way to expedite approval time.

8. **Current Taxes/Insurance:** It is required that the taxes and insurance be current when the assignment is approved. Ensuring taxes/insurance are paid as of the day the loan is submitted for approval or on the approval date can be a moving target when working with a taxing authority. There are many times when the taxes/insurance moves into a delinquent status during the 15+ business days it takes HUD to approve the assignment. The taxes are

not delinquent until after the economic loss date (penalty date) not the actual due date. Will HUD consider approving the assignment as long as taxes/insurance are paid current within 30 calendar days prior to submission for approval?

HUD may not accept assignment if “an obligation of the mortgagor is not performed”. Paying taxes and insurance is an obligation of the mortgagor (or mortgagee when an escrow has been established) and therefore, prior to assignment, the mortgagee must ensure that these obligations are paid current. Paid current means paid by the due date not the date a penalty may be assessed.

Servicers should review the tax and insurance payment status prior to submitting an assignment package and if these obligations have a pending due date, servicers should make arrangements to pay them in order to avoid assignment delays.

9. Will HUD approve an assignment when the customer is on a tax payment plan that is allowed by the State and/or Taxing Authority?

Yes, provided the borrower(s) are current on the plan. The servicer should provide information about the payment plan in the assignment request package and provide some form of verification that the borrower is current on the plan.

10. Assignments Over 100% MCA: When a loan is assigned past 100% MCA, there is a loss to the investor or Servicer. Untimely assignment approvals have caused losses to the Servicer/Investor in 2007. The percentage beyond the 100% is included in the principal balance and is collected with the loan is paid in full. Will HUD consider paying the loss back to the Servicer/Investor at the time the loan pays off by allowing the Servicers to submit a request to HUD through a "deferred claim"?

Per regulations at 206.129 b, and handbook 42351.1 Rev. 1, CH 8-4 B, HUD cannot pay a claim for more than the MCA. There is no provision in regulations for a deferred or supplemental claim and the complexity of creating this type of structure, including the required system changes and accounting issues, does not at this time appear to be justified by the few cases in which this is a problem.

HUD recently changed its assignment submission threshold to help servicers avoid situations in which the loss exceeds 100% of MCA. Prevention appears to be a more effective strategy than creating a supplemental claim process.

However, HUD will explore ways to compensate Servicers for losses incurred when HUD or its agent are responsible for delays. We can make no promises at this time but will consult with other HUD offices involved with the HECM process.

11. If the occupancy certification does not expire (annual certification as of the anniversary date) prior to assignment submission to HUD, why is the Servicer required to obtain an updated certification?

Occupancy certifications are current for one year from the anniversary date (not the date signed.) Servicers should not be required to obtain an updated occupancy certification if a current certification is submitted with the assignment package.

If the occupancy certification will expire during the review period, HUD's servicing contractor, CLS-MGC, will be responsible for sending the occupancy certification letter to the borrower.

INQUIRIES

HUD's loan servicing contractor is responsible for reviewing and responding to assignment requests, with HUD overseeing the process. Inquiries should be made in the following order:

C&L Service Corporation-Morris Griffin Corporation (CLS-MGC)

Zena Person - Contract Manager
1-866-377-8667 - Phone
1-866-249-0626 - Fax
ZPerson@cls-mgc.com

National Servicing Center

Jane Anderson - Government Technical Monitor (GTM)
1-800-594-9057 extension 8961 - Phone
1-918-292-8984 - Fax
hecmhelp@hud.gov

Sally Bene - Program Director
1-800-594-9057 extension 8957 - Phone
1-918-292-8988 - Fax
hecmhelp@hud.gov

For policy issues unrelated to a specific case, please address those concerns to:

Sally Bene – See information above.

Gail Bradshaw - Housing Program/Policy Specialist
1-202-402-3209 - Phone
1-202-708-5966 - Fax
Gail.L.Bradshaw@hud.gov