



2017 NRMLA Annual Meeting

NOV. 13 – 15 • SAN FRANCISCO

Introductions

- ▶ **Justin Burch, The Collingwood Group, Washington, DC**
- ▶ **Rick Gilmartin, Nationstar, Irving, TX**
- ▶ **Jim Milano, Weiner Brodsky Kider, Washington, DC**
- ▶ **Michelle Rogers, Buckley Sandler LLP, Washington, DC**

Recent CFPB Issuances/ Consent Orders/Judgments

- ▶ **August 24, 2017 Issue Brief** on reverse mortgages
 - ▶ Cautions against taking a reverse mortgage to delay claiming Social Security benefits
- ▶ **May 2017 Monthly Complaint Report**
 - ▶ Report focused on complaints submitted by “older consumers” and included a section addressing reverse mortgage complaints

Recent CFPB Issuances/ Consent Orders/Judgments

▶ **October 2016 Reverse Mortgage Servicing Examination Procedures**

- ▶ CFPB is actively reviewing mortgage servicers' procedures

▶ **2015 and 2016**

- ▶ Reverse mortgage lenders entered into consent orders and judgments to settle claims alleging deceptive reverse mortgage advertising

▶ **2015 Report** regarding reverse mortgage advertising

Recent DOJ Issuances and Settlements

▶ **False Claims Enforcement**

- ▶ DOJ's focus shifts to reverse mortgages
- ▶ DOJ does not think a moratorium on enforcement actions pending a new taxonomy framework is warranted
- ▶ But Secretary Carson indicated that the use of the False Claims Act against lenders could be coming to an end

▶ **DOJ Settlement** with reverse mortgage servicers

- ▶ 2017 settlement resolved allegations of False Claims Act and FIRREA violations
- ▶ 2015 settlement resolved allegations of False Claims Act violations

Recent HUD Reverse Mortgage Issuances/Updates

- ▶ **HUD-OIG issued a Final Civil Action** against a reverse mortgage servicer
 - ▶ HUD-OIG assisted DOJ and the U.S. Attorney's Office for the Middle District of Florida in the civil investigation
- ▶ **Congresswoman Maxine Waters introduced the Preventing Foreclosures on Seniors Act**
 - ▶ Proposed bill would reform the HECM program to prevent unfair foreclosures on seniors

Reverse Mortgages – Federal Regulatory Updates

- ▶ Reverse Mortgage Developments – What’s Happened since the enactment of Dodd-Frank?
- ▶ Recent CFPB Consumer Advisory Board Meeting
- ▶ Most Recent HECM Regulatory Changes

Advertising – CFPB Report to Congress

- ▶ **2011** - The Dodd-Frank Act required the CFPB to conduct a study on reverse mortgage transactions within one year.
- ▶ **2012** – CFPB releases report: [Reverse Mortgages – Report to Congress](#)
 - ▶ Takeaways
 - ▶ Reverse mortgages are complex products and difficult to understand.
 - ▶ Reverse mortgage borrowers are using the loans in different ways than in the past which increases risks to consumers.
 - ▶ Product features, market dynamics, and industry practices also create risks for consumers.
 - ▶ Counseling, while designed to help consumers understand the risks associated with reverse mortgages, needs improvement in order to be able to meet these challenges.
 - ▶ Some risks to consumers appear to have been adequately addressed by regulation, but remain a matter for supervision and enforcement, while other risks still require regulatory attention.

Advertising - **June 2015** – CFPB conducted a focus group study on reverse mortgage ads

- ▶ CFPB interviewed 60 homeowners in Chicago, Los Angeles, and DC. The study found:
 - ▶ Consumers found it difficult to understand that reverse mortgages are loans
 - ▶ False impression that reverse mortgages are a risk-free government benefit
 - ▶ Difficult to read fine print
 - ▶ Celebrity endorsements imply reliability and trust
 - ▶ False impressions about financial security and staying in the home for the rest of the consumer's life

Advertising -**October 2015** – Final Judgment and Order Against Reverse Mortgage Lender

- ▶ CFPB alleged the Lender's advertising activities violated the MAP Rule and UDAAP.
 - ▶ CFPB's allegations about the Lender's ads:
 - ▶ Created a misleading impression that the ad was from a government agency or from a lender with a special affiliation or relationship with the government;
 - ▶ Misleading impression that no monthly payments or repayments are required;
 - ▶ Borrower **or** a spouse living in the home was the only condition required to avoid repayment;
 - ▶ Created a false sense of urgency; and
 - ▶ Failed to maintain copies of ads.
- ▶ Penalty: \$13,000 civil money penalty

Advertising - December 2016 – Three Consent Orders

CFPB alleged that the lender violated the MAP Rule/UDAAP by allegedly:

- ▶ Stating that consumers will make no monthly payments for the duration of the reverse mortgage;
 - ▶ Disseminating advertisements promoting reverse mortgage refinancing at no cost to the consumer;
 - ▶ Stating that consumers with reverse mortgages can live in their home for the rest of their lives, and that consumers would never be forced from their home;
 - ▶ Advertising to Spanish speaking consumers that its reverse mortgage product came from the United States Housing Department;
 - ▶ Providing disclosures that were neither clear nor prominent in its advertisements; and
 - ▶ Not maintaining advertisement records for the statutorily required two years.
- ▶ Lenders were ordered to pay \$65,000 in civil money penalties, along with injunctive relief.

Advertising - **December 2016** – Three Consent Orders

CFPB alleged that a large national reverse mortgage lender violated the MAP Rule/UDAAP by allegedly:

- ▶ Stating that consumers with reverse mortgages cannot lose their homes, and the consumers have a right to stay in their homes for the remainder of their lives;
 - ▶ Stating that consumers make no monthly payments and a reverse mortgage provides tax-free cash;
 - ▶ Using testimonials that a consumer is now debt free or completely out of debt after obtaining a reverse mortgage; and
 - ▶ Providing disclosures that were neither clear nor prominent in its advertisements.
- ▶ Lender was ordered to pay \$400,000 in civil money penalties.

Advertising - **December 2016** – Three Consent Orders

CFPB alleged that another large national reverse mortgage lender violated the MAP Rule/UDAAP by allegedly:

- ▶ Stating that consumers with reverse mortgages would not be responsible for payments during the course of the loan;
 - ▶ Asserting that a consumer with a reverse mortgage cannot be forced to leave;
 - ▶ Stating that a consumer can leave his home to whomever he wishes, and that heirs could keep the mortgaged property after the consumer's death;
 - ▶ Advertising that reverse mortgages can eliminate all of a consumer's debt; and
 - ▶ Creating a sense of urgency for consumers to obtain a reverse mortgage when no time limit existed.
- ▶ Lender was ordered to pay \$325,000 in civil money penalties.

CFPB Report – Aug. 24, 2017

CFPB Report Warns Taking Out a Reverse Mortgage Loan Can Be an Expensive Way to Maximize Social Security Benefits

- ▶ Warns older consumers that taking out a reverse mortgage loan to bridge gap in income and delay taking Social Security benefits until a later age
- ▶ Decreased home equity could limit options to handle future financial needs
- ▶ Report found, ***in general***, costs and risks of taking out a reverse mortgage exceed the cumulative increase in Social Security lifetime benefits that homeowners would receive by delaying Social Security benefits
- ▶ CFPB included a consumer guide and video to help borrowers and their families understand how reverse mortgages work so that they can make an informed decision before agreeing to borrow
- ▶ Report criticized by Financial planning experts as limited and shortsighted

Consumer Advisory Board Fall 2017 Meeting

- ▶ The Consumer Advisory Board met in Tampa, Florida on November 2, 2017, and on the agenda was **Know Before You Owe: Reverse Mortgages**.
- ▶ In Director Cordray's prepared remarks, he describes *Know Before You Owe* as “meaning that before consumers make important decisions and take on more financial responsibility, they should be informed about the costs and risks and terms of those choices.”
- ▶ Will Past be Prologue?
 - ▶ Past Efforts and Ideas for federal reverse mortgage disclosures

HECM Regulatory Changes

- ▶ Proposed May 2016; Issued in Final Form January 19, 2017; Effective Sept. 19, 2017
 - ▶ Borrowers and Mortgagors
 - ▶ Expected Rate and Expected Rate Locks
 - ▶ HECM for Purchase
 - ▶ Certificate of Occupancy
 - ▶ Seller Concessions
- ▶ Mortgagee Letter 2017-12 issued Aug. 29, 2017
 - ▶ Changed MIP and PLF structure
 - ▶ Refinances and MIP (?)
 - ▶ Effective for all HECMs with case numbers assigned on or after Oct. 2, 2017

Keys to mitigating and managing risk

- ▶ FHA Audit activity
 - ▶ Extrapolation
 - ▶ Issues of concern
- ▶ Review methods and tools companies have at their disposal