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

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prainfo@occ.treas.gov

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
Attention: 1557–0246
400 7th Street SW
Suite 3E–218
Washington, DC 20219.

Re: Notice for Request for Comments: OCC Agency Information Collection Activities: Information Collection Renewal; Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks; OCC – 1557-0246

We are pleased to provide this letter which responds to the request of the Office of the Comptroller of the Currency ("the OCC") for comments on its Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks ("Guidance"). This comment letter describes the views of the National Reverse Mortgage Lenders Association ("NRMLA") and its Members.

When the Guidance was originally issued approximately 12 years ago, most of NRMLA's largest Members were regulated by the OCC. Other Members were and continue to be subject to oversight by one of the following regulatory agencies: the Board of Governors of the Federal Reserve System (the "Board"); the Federal Deposit Insurance Corporation ("FDIC"); the National Credit Union Administration ("NCUA"); or state agencies that supervise financial institutions (represented by the State Liaison Committee ("SLC") of the FFIEC).[1] Herein, we refer to such regulatory agencies collectively as the "Agencies."

NRMLA is the principal nationwide trade association for financial services companies that originate, service, and invest in reverse mortgages. NRMLA was founded to enhance the professionalism of those engaged in reverse mortgage lending, and NRMLA is dedicated to ensuring quality and integrity in reverse mortgage lending. Over 90% of the reverse mortgages in the United States today are originated or purchased by NRMLA Members.

NRMLA supported then, and supports now, efforts to enhance further consumer protection provisions for seniors, and NRMLA continually strives to augment prudent and best business practices of its Members. In that regard, we note that upon becoming a NRMLA Member, an institution agrees to follow the NRMLA Code of Ethics and Professional Responsibility ("Code of Ethics"). The Code of Ethics contains Values shared and Rules applicable to all NRMLA Members and is supplemented from

[1] 75 Fed. Regis. 50801 (Aug. 17, 2010).

time to time by Ethics Advisory Opinions on such matters including, but not limited to, Ethical Advertising and Ethical Offers of Other Financial and Insurance Products and Services.

NRMLA Members agree to follow the Code of Ethics and maintain responsibility for the actions or failures of their employees, agents and representatives. NRMLA also has an Ethics and Standards Committee with policies and procedures to receive, review and act upon matters brought before it by its Members or consumers. As a trade organization, however, NRMLA is limited by law regarding the actions it can take against Members, but does take action in some instances, including probation, suspension or debarment from association membership. NRMLA does not have authority over non-members. In any event, the Code of Ethics augments a robust set of laws and regulations which already apply to NRMLA Members and non-members alike. Further, we are aware that most NRMLA Members have adopted robust internal policies, controls and procedures, many of which encompass and address the items outlined in the Proposed Guidance.

Background on Interagency Guidelines

On December 16, 2009, the Agencies sought comment on the proposed Guidance, which they subsequently issued in final form on August 17, 2010. The Guidance focuses on the need to provide adequate information to consumers about reverse mortgage products, to provide qualified independent counseling to consumers considering these products, and to avoid potential conflicts of interest. The Guidance also addresses related policies, procedures, internal controls, and third-party risk management.

On January 28, 2022, the OCC issued a Notice and Request for Comment on *Agency Information Collection Activities: Information Collection Renewal; Comment Request; Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks* (or "the Notice").[2]

The Notice indicated that:

- information collection requirements contained in the Guidance address the implementation of policies and procedures, training, and program maintenance. Institutions offering reverse mortgages should have written policies and procedures that prohibit the practice of directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf;
- policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage;
- legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products; and
- training should be designed so that relevant lending personnel are able to convey information to consumers about product terms and risks in a timely, accurate, and balanced manner.

The Notice invited comments on the following items:

(a) Whether the collection of information is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;
(b) The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;
(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

[2] 87 Fed. Regis. 4711 (Jan. 28, 2022).

(d) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

While we do not have comments on most of the items above, we do want to comment upon the quality, utility, and clarity of the information in the context of the Guidance itself.

Observations on Statements Contained in the Guidance in Light of Changes in Reverse Mortgage Programs

We would like to make some observations on statements contained in the Guidance, particularly program and industry information that has changed since the Guidance was first issued in 2010.

First, in 2015, the Federal Housing Administration ("FHA") which administers the Home Equity Conversion Mortgage (or "HECM") loan program and insures such loans, put into place additional underwriting requirements (called "Financial Assessment") to assure that seniors obtaining HECM loans have the financial wherewithal to meet and maintain their obligations under a HECM loan, especially in the area of paying for "property charges" (i.e., real estate taxes and hazard insurance) associated with their homes.[3]

Further, under HECM Financial Assessment, if a borrower meets the assessment as part of loan underwriting, a lender is not required to turn down the loan; however, the senior will be required to obtain a "Life Expectancy Set Aside" account (or a "LESA") with his or her HECM loan. A LESA is akin to an escrow account on a forward mortgage loan, and assures there will be borrower loan proceeds available in the future with which to pay a borrower's property charges.[4]

NRMLA supported these HECM program improvements made by FHA. And, based on information available to our Members, we understand that such program changes assisted in reducing HECM borrowers' defaults for non-payment of property charges.

In addition, since the Guidance was first issued in 2010, there has been a significant increase in origination of proprietary (or private) reverse mortgage loans. These loan programs are offered and sponsored at this time primarily by non-bank mortgage companies, with support from the secondary market and/or structured finance facilities. However, some depository institutions may originate these private reverse mortgage loans for delivery to such non-bank mortgage companies.

The Guidance also references possible revisions to Regulation Z under consideration at the time such Guidance was issued. Those changes were not made to Regulation Z. However, NRMLA continues to confer with the Consumer Financial Protection Bureau ("CFPB") to discuss how TILA disclosures for reverse mortgages may be streamlined (as they were for forward mortgages as part of the "TRID" effort) in order to make such disclosures clearer and more meaningful for seniors. Currently, creditors must provide two sets of Regulation Z disclosures with reverse mortgages—one with the Total Annual Loan

[3] See Department of Housing and Urban Development (HUD) FHA Mortgagee Letter 2014-22 (Nov. 10, 2014); and, Mortgagee Letter 2015-06 (Feb. 26, 2015).

[4] Given the nature of reverse mortgage transactions, however, since escrow accounts are generally fully funded by payments made by the borrower either at closing or as part of monthly payments, or both, we generally do not recommend using escrow accounts for reverse mortgage loans.

Cost (TALC) rate disclosures, and another general set of TILA disclosures depending upon whether the loan is open-end or closed-end credit. Further, for closed-end reverse mortgages, lenders are still required to provide a Good Faith Estimate and HUD-1 Settlement Statement as required under RESPA's implementing regulation, Regulation X. We understand that this volume of disclosures may sometimes be inconsistent, and may overwhelm or confuse seniors. This would seem to be at cross-purposes with some of the policy goals behind the Guidance.

While Regulation Z and Regulation X are under the purview of the CFPB, NRMLA would like to discuss further with the OCC these issues, and that, currently, very few institutions subject to the OCC's (or the Agencies') supervisory authority and oversight are involved in originating reverse mortgages. We believe that reverse mortgages provide a valuable service to our nation's seniors and that more depository institutions should consider offering reverse mortgages in order to better serve the communities in which they operate.

Conclusion

We appreciate this opportunity to comment on the Notice, and we look forward to following up with the OCC in the near future.

Very truly yours,

Steve Irwin, President
NRMLA
1400 16th Street, Suite 420
Washington, DC 20036
202-939-1776
sirwin@dworbell.com

Cc: Peter Bell, CEO, NRMLA
James Brodsky, Weiner Brodsky Kider PC
Jim Milano, Weiner Brodsky Kider PC
Soroush Shahin, Weiner Brodsky Kider PC
Joel Schiffman, Weiner Brodsky Kider PC