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MORTGAGE BANKERS ASSOCIATION

April 13, 2023

The Honorable Julia Gordon  
Assistant Secretary for Housing and Federal Housing Commissioner  
Federal Housing Administration  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street, SW, Rm 9132  
Washington, D.C. 20410-0001

**RE: FHA Info 2023-25; Draft Mortgagee Letter Proposing Modifications to HECM Assignment Claim Type 22 Submission Criteria**

Dear Commissioner Gordon,

The Mortgage Bankers Association (MBA)<sup>1</sup> appreciates the opportunity to offer comments to the Federal Housing Administration's (FHA) Info 2023-25, Draft Mortgagee Letter Proposing Modifications to the Home Equity Conversion Mortgage (HECM) Assignment Claim Type 22 Submission Criteria. MBA strongly supports FHA's proposed changes to HECM Assignment Claim Type 22 and applauds efforts by FHA to improve claims filing procedures to reduce administrative burdens, eliminate complexity and expedite claims payments.

Specifically, FHA proposes to improve the claims filing procedures by decreasing the assignment claim threshold to 97% of the Maximum Claim Amount (MCA) and providing additional time for servicers to deliver the original note and mortgage to 90 days. FHA also proposes additional time for servicers to file a claim to 12 months. The provisions outlined in the draft ML are important steps to enhance the HECM program and provide market stability for HECMs and the senior citizens that rely on this product.

Today, MBA recommends that FHA take additional action to further achieve FHA's policy objectives of streamlining HECM claim assignments for mortgage servicers and providing market stability. Accordingly, FHA should:

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<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,100 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).

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1. Extend waivers for certain documentation requirements to all mortgagees.
2. Accept the assignment of all HECMs immediately after the Ginnie Mae 98% Buyout
3. Accept loans that become due and payable or delinquent after reaching MCA as an assignable Buyout.

**Expand required documentation waivers for all mortgagees.**

The documentation requirements waivers currently available to Reverse Mortgage Funding (RMF) Transferees following their bankruptcy should apply to all lenders. The Request for Waiver of Housing Directive (The Waiver) dated February 1, 2023, and approved on February 2, 2023, removes overly burdensome and unnecessary documentation requirements lenders must submit in both the Compliance Package and the Servicing Package directed under ML 2017-05. These waivers, in addition to other recommendations in this letter, will help further mitigate the liquidity burden issuers face due to the current assignment process and thereby improve counterparty risk for FHA and Ginnie Mae. The Department of Housing and Urban Development's (HUD) rationale for eliminating these unnecessary documentation requirements for RMF Transferees also supports our recommendation for extending these waivers to all HECM mortgagees permanently.

Extending the waiver will not expose HUD to excessive risk. Documentation no longer required under the Waiver will not preclude the HUD from assuming servicing responsibilities for the related loan, including foreclosing the Property, nor relieve lenders from responsibility for meeting all conditions for assignment eligibility and the lender attesting to the same. Lenders will continue to be obligated to repurchase HECMs within 30 days of notice from HUD of any defects.

**Accept the assignment of all HECMs immediately after the Ginnie Mae Buyout.**

The assignment of all HECMs should be acceptable to FHA immediately after the Ginnie Mae mandated 98% buyout rather than waiting until servicers resolve any loans in default. This would remove the prohibitive costs of holding non-assignable loans and reduce the costs of holding assignable ones by reducing the time it takes to be reimbursed. Shifting the administrative burden of overseeing servicing on loans in which borrowers are behind on their taxes or insurance, have vacated their property, or have passed away will increase the administrative costs to the FHA. However, FHA could make up those costs by holding the loan on their balance sheet but allowing the servicing to remain with the existing servicer.<sup>2</sup> This would also immediately relieve warehouse capacity constraints and negative carry for servicers. It would also improve the health of the MMI Fund because the FHA earns the note rate (which is higher than the government's cost of funds) for a more extended period while servicers continue to meet all the rules/timelines as they are currently required to do.

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<sup>2</sup> We recognize that whether these moves together come at a net cost may ultimately limit what the FHA has the authority to do. Under federal Credit Reform Act guidelines, the FHA would need an appropriation before taking any steps that would increase the costs on loans already insured. FHA will need to determine what mix of policy options will be cost neutral or better.

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**Accept loans that become due and payable or delinquent after reaching MCA as an assignable buyout.**

In addition, FHA should accept loans that become due and payable or default after reaching 98% MCA as an assignable buyout. When a borrower has vacated their home or passed away, servicers are forced to foreclose on the estate, sell the house, and then file a claim with the FHA for the cost of buying the loan out of the pool. This process can take months or years to resolve, during which time the loan sits on the servicer's balance sheet while the servicer covers the taxes, insurance, and maintenance costs. This proposal would reduce liquidity strains for servicers and limit unnecessary and disruptive servicing transfers that could confuse borrowers.

MBA greatly appreciates FHA's continued use of the FHA Drafting Table and the opportunity to comment on the FHA Info 2023-25; Draft Mortgagee Letter Proposing Modifications to HECM Assignment Claim Type 22 Submission Criteria. Should you have questions or wish to discuss this issue further, please contact John McMullen at [jmcmullen@mba.org](mailto:jmcmullen@mba.org).

Sincerely,

A handwritten signature in cursive script, appearing to read "Pete Mills".

Pete Mills  
Senior Vice President  
Residential Policy and Strategic Industry Engagement  
Mortgage Bankers Association

# Request for Waiver of Housing Directive

U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner

1. Field Office National Servicing Center	2. Program and DAS (e.g., multifamily development) Single Family Housing
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3. Waiver Requested by (person, entity, HUD employee)  
Graham Mayfield, Acting Director, Office of Single Family Asset Management, published January 18, 2017.

4. Waiver Item (directive number, date, page, paragraph,-etc.)  
Partial Required Documentation Compliance Package and Required Documentation Servicing Package requirements from Mortgagee Letter 2017-05.

Relief Sought

In consideration of the November 30, 2022, Chapter 11 bankruptcy filing of Reverse Mortgage Funding LLC (RMF), this temporary partial waiver of Claim Type 22 documentation requirements is being issued for FHA-approved mortgagees accepting transfer (RMF Transferees) of RMF HECMs.

See Page 2 for a list of waived document requirements for RMF Transferees.

5. Did a check of SharePoint indicate Prior Approval of a factually similar waiver?  Yes (skip No. 6)  No (go to No. 6) If previously approved, give Counsel's name and date of approval.  
Elizabeth Davis on January 19, 2023

6. Counsel Determination. The Waiver Proposal **does not conflict**  **conflicts**  with statutory or regulatory provisions (cite rule or provision)

Counsel (signature) <b>Elizabeth Davis</b> Digitally signed by Elizabeth Davis Date: 2023.02.01 18:04:07 -05'00'	Date 2.1.23
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7. Employee Justification (attach additional pages if necessary)

In consideration of the risk to HUD resulting from the Chapter 11 bankruptcy filing by RMF; HUD determined that this temporary partial waiver is necessary to ensure stability with the HECM program and to facilitate a streamlined transfer of HECMs to RMF Transferees. HUD is waiving certain Claim Type 22 Required Documentation Compliance Package and Required Documentation Servicing Package requirements for RMF HECM assignment claims submitted by RMF Transferees only. This partial waiver does not apply to assignment claims submitted by RMF.

## Field Office Concurrence

Name Julie A. Shaffer	Title Acting Deputy Assistant Secretary for Single Family Housir	Date 2.2.23
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8.  Granted  Not Granted Housing Director (signature)  
**JULIE SHAFFER** Digitally signed by JULIE SHAFFER  
Date: 2023.02.02 11:35:46 -05'00'

## Comments

This partial waiver provides technical corrections and replaces the initial partial waiver issued on January 19, 2023. The following corrections were made to page two of this partial waiver to better align with Mortgagee Letter 2017-05: Item #2 in the Compliance Package section was added, and items #4 and #5 of the Servicing Package section were inverted.

This partial waiver will remain in effect for assignment requests through July 31, 2023.

Public reporting burden for this collection of information is estimated to average xx minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Distribution: (includes waivers granted and denied)

Original to Field Office;

One copy to each of the following:

Director, Organizational Policy, Planning and Analysis Division, Room 9116, HUD Headquarters, HRO  
Assistant General Counsel, Multifamily Mortgage Division, HUD Headquarters, Room 9230, CAHAA

And one copy to either of the following:

Office of the Deputy Assistant Secretary for Single Family Housing, Room 9282, HUD Headquarters, HU  
Office of the Deputy Assistant Secretary for Multifamily Housing, Room 6106, HUD Headquarters, HT

**Relief Sought of Mortgagee Letter 2017-05, Home Equity Conversion Mortgage (HECM) Claim Type 22 (CT-22) Assignment Requests**

The documentation requirements that FHA is waiving from Mortgagee Letter 2017-05:

**Compliance Package (Numbering taken from Mortgagee Letter for clarity)**

1. Cover letter, which includes the FHA Case number, borrower's name, property address (and mailing address, if different from the property address), and telephone number;
2. WAIVER NOT APPLICABLE TO ITEM
3. Property tax statement confirming taxes are current or a screenshot from the website of the county (in which the property is located) confirming taxes are current;
4. If the borrower is participating in an approved tax deferral program, evidence of the terms of the deferral from the taxing authority confirming that the deferral does not jeopardize HUD's lien position;
5. Payment Plan that must be signed by the borrower and must coincide with the current "Active" Payment Plan status in HERMIT;
6. WAIVER NOT APPLICABLE TO ITEM
7. WAIVER NOT APPLICABLE TO ITEM
8. Annual Occupancy Certification signed by HECM borrower;
9. WAIVER NOT APPLICABLE TO ITEM
10. WAIVER NOT APPLICABLE TO ITEM
11. WAIVER NOT APPLICABLE TO ITEM
12. Power of Attorney, Life Estate Deed, Trust or Conservator documents if applicable;
13. Name, address and contact number for any applicable HOA/Condo Association, along with evidence all such HOA/Condo fees are current;
14. Copy of any applicable Compliance Inspection Report (form HUD92051) and confirmation that the Repair Set-Aside balance is zero;
15. Death Certificate, if applicable;
16. Where the HECM has a Line of Credit (LOC) or Modified Payment Plan and has a negative Net Principal Limit (NPL), an explanation as to why the NPL is negative and whether the Borrower(s) is on a Repayment Plan; and
17. Documentation outlining the Borrower's participation in, and any remaining funds from, a Hardest Hit Funds (HHF) program of any kind, if applicable.
18. WAIVER NOT APPLICABLE TO ITEM
19. WAIVER NOT APPLICABLE TO ITEM
20. WAIVER NOT APPLICABLE TO ITEM

**Servicing Package (Numbering taken from Mortgagee Letter for clarity)**

1. WAIVER NOT APPLICABLE TO ITEM
2. WAIVER NOT APPLICABLE TO ITEM
3. Loan application and addendums;
4. WAIVER NOT APPLICABLE TO ITEM
5. Complete Origination appraisal and any subsequent appraisals obtained, if applicable;
6. Current flood certificate, if property lies in a flood zone;
7. HUD-1 Settlement Statement; and
8. Name Affidavit, if applicable.