Regulatory Changes:

Formalizing Best Practices To Ensure That You Meet New Compliance Requirements

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The Process

- Presented By: Karim Hatata

The Process – I R A C

Issue → Rule → Application → Control

Issue/Intent

– Concern that necessitates a change to current processes or regulations
  - The need to protect the integrity and accuracy of appraisals

Rule/Regulation

– Response from regulators in order to address an industry issue
  - Appraisal Independence

Application

– Internal process changes that need to be made in order to comply with the rule
  - Policies and Procedures (Appraisal Management Company guidelines); Training

Control

– Quality Control audit questions and file review to ensure process is being followed

See The Road Ahead

- Numerous Resources To Keep Up With Industry Changes
  - Review correspondence sent from State Banking Departments or HUD regarding upcoming law or regulatory changes
  - Subscriptions services to third party vendor companies (Compliance Newsletters)
  - Subscribe to e-mail regulatory alerts from law firms specializing in the mortgage industry; trade organizations (NRMLA); loan officer training companies; and/or investor companies to whom you sell or broker loans
  - Attend conferences, webinars, and training programs regarding regulatory topics hosted by law firms or trade organizations

Be Proactive Not Reactive

- Have A Process To Identify And Implement Changes
  - Dedicate resources within your organization to implement written policies and procedures to maintain compliance
  - Get started early and engage all departments to prepare for the changes
    - Solicit feedback on how changes may affect your current Sales or Operations processes
  - Inform and train your employees and brokers about the changes and your new or updated polices and procedures
  - Test to make sure your policies and training is effective

Mortgagee Letter 2009-28 Appraiser Independence

- Presented By: Karim Hatata

Mortgagee Letter 2009-28 Appraiser Independence

- What Is It?
  - Mortgagee Letter 09-28 issued by HUD in September 2009 outlined changes to the appraisal ordering process
- Effective Date
  - January 1, 2010
- Provisions
  - The lender, Appraisal Management Company (AMC) or any other third party may not prohibit an FHA Appraiser from recording in the appraisal report the fee the appraiser was paid for the performance of the appraisal
  - FHA Roster appraisers must be compensated at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised.

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Mortgagee Letter 2009-28 Appraiser Independence (cont.)

- Provisions
  - The fee for the actual completion of an FHA appraisal must represent only the charge for the performance of the appraisal; it may not include a fee for management of the appraisal process or any other activity
  - Any management fees charged by an AMC or other third party must be for actual services related to ordering, processing or reviewing of appraisals performed for FHA financing
  - AMC and other third party fees must not exceed what is customary and reasonable for such services provided in the market area of the property being appraised
  - Lender must ensure appraisers are competent in the type of property and geographic area
  - Lender must ensure that Mortgage Brokers do not select, retain or compensate in any manner an FHA roster appraiser
  - Lender must ensure that FHA roster appraisers are not selected, retained or compensated in any manner by a member of a lender’s staff who is compensated on a commission basis tied to the successful completion of a loan

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Mortgagee Letter 2009-28 Appraiser Independence (cont.)

- Impact
  - Lenders must review their underwriting procedures for verification of compliance with Appraiser Independence for loans accepted from wholesale brokers and revise, as needed
  - Lenders must review internal retail appraisal ordering procedures for compliance and revise, as needed
  - Brokers must review their internal appraisal ordering process and provide safeguards to ensure appraiser independence
  - All Retail, Wholesale, Operations/Underwriting, and Compliance/Quality Control staff must be familiar with the revised regulations
- Appraisal Management Companies (AMC)
  - ML 09-28 does not require the use of an AMC
  - Use of AMC's can provide the required safeguards, as long as there is no contact between certain broker or lender staff and the appraiser

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Mortgagee Letter 2009-28 Appraiser Independence (cont.)

- Best Practices
  - Implement procedures to make sure that the individual ordering the appraisal is has no direct incentive (including commissions) to close the loan
    - Employee cannot report to an Officer who is not independent of the loan production process
  - Ask questions, such as:
    - How do the brokers that submit loans to you order their appraisals?
    - What is their compliance or quality control process?
    - Do they use one AMC primarily or multiple AMCs?
  - Perform due diligence to be sure that the AMCs you accept appraisals from have their own policies, procedures, and controls
  - Audit the appraisals themselves; check comparable properties and values on Multiple Listing Service

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Final Rule FR 5356-F-02 & Mortgage Letter 2010-20

- Presented By: Karim Hatata

Final Rule FR 5356-F-02 & Mortgage Letter 2010-20

- What Is It?
  - Mortgagee letter 10-20 issued by HUD in June 2010 and the accompanying rule, provided changes in mortgage relationships, net worth requirements, and allows Third Party Originators (TPO) to originate FHA loans
- Effective Dates
  - May 20, 2010 – Loan Correspondent “Mini-Eagle” Elimination
  - September 2010 – Principal-Agent Changes
  - May 20, 2010 – Net worth increase phased approach began

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Final Rule FR 5356-F-02 & Mortgage Letter 2010-20 (cont.)

- Provisions
  - Eliminated HUD approval and monitoring of Loan Correspondents "Mini-Eagle"; Brokers who are non-FHA approved can originate FHA mortgage loans through an FHA approved sponsoring lender
    - After May 20, 2010, FHA no longer accepting new applications for loan correspondent approval
    - Sponsoring lender will be responsible for all actions of the broker
    - Made changes to the Principal-Authorized Agent relationship
      - Loan no longer must close in the name of the Principal-can close in either party's name
      - Principal must originate, Agent must underwrite the loan
      - Both entities must have unconditional Direct Endorsement approval
    - Increased net worth requirements for FHA approved small business lenders and mortgagees
    - Certain entities or individuals cannot participate in the HECM program

Final Rule FR 5356-F-02 & Mortgage Letter 2010-20 (cont.)

- Ineligible Participants
  - A lender or mortgagee shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is:
    - Currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;
    - Under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

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Final Rule FR 5356-F-02 & Mortgage Letter 2010-20 (cont.)

- Ineligible Participants (cont.)
  - Subject to unresolved findings contained in a HUD or other governmental audit, investigation, or review;
  - Engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;
  - Convicted of, or who has pled guilty or nolo contendre to, a felony related to participation in the real estate or mortgage loan industry—
    - During the 7-year period preceding the date of the application for licensing and registration; or
    - At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;
  - In violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or
  - In violation of any other requirement as established by the Secretary.

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Mortgagee Letter 2009-28 Appraiser Independence

- Impact
  - Current Loan Correspondents can maintain approval until 12/31/10 and then must apply to become a mortgagee or become a TPO
    - Areas approved for business do not change for current loan correspondents
    - TPOs can originate anywhere they are state licensed, but must also conform to lender's areas approved for business
  - Increased risk and liability for lenders accepting loans from non-FHA approved TPOs will require enhanced scrutiny and more resources to perform reviews
  - Lenders will want to ensure that the TPO does not have any outstanding issues, such as suspension or disbarring, unresolved audit findings, not in compliance with the SAFE Act, etc.
  - Increased net worth requirements will likely push many existing mortgagees to become TPOs and make it more difficult for new entities to become approved

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Mortgagee Letter 2009-28 Appraiser Independence (cont.)

- Best Practices
  - Perform your due diligence-make sure that the brokers from whom you're accepting loans have good compliance controls in place
  - Review your brokers using all resources available to ensure they don't have past issues (For example, public records, State Banking Department announcements, Mortgage Asset Research Institute reports)
  - Implement internal policies and procedures to check on broker compliance (For example, SAFE Act)
  - Enable good internal dialogue between various departments such as Compliance/Quality Control, Operations, Wholesale/Broker Management and have regular meetings to share feedback, discuss findings, and make decisions on continued or initial approval

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State Regulatory Update

- Presented By: Karim Hatata

State Regulatory Update

- Arizona HB 2242 Reverse Mortgages
  - "Reverse Mortgage" definition has exception for Home Equity Conversion Mortgages insured by FHA
- Louisiana HB 1468 Reverse Mortgages
  - Document Requirements
    - The first page of the mortgage must contact the following statement in 10 point boldface font: "This mortgage secures a reverse mortgage loan"
  - Reverse Lender Duties
    - Reverse Mortgage Counselor must discuss seven items with the borrower:
      - How unexpected medical or other events causing the borrower to move out of the borrower's home earlier than anticipated will impact the total annual cost of the reverse mortgage loan
      - The extent to which the borrower's financial needs would be better met by options other than a reverse mortgage loan, including less costly home equity lines of credit, property tax deferral programs, or governmental aid programs
      - Whether the borrower intends to use the proceeds of the reverse mortgage loan to purchase an annuity or other financial or insurance product and the consequences of doing so

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State Regulatory Update (cont.)

- Reverse Lender Duties (cont.)
  - The effect of repayment of the reverse mortgage loan on other residents of the domicile that is securing the reverse mortgage loan after all borrowers are deceased or permanently abandon the domicile
  - The borrower's ability to finance routine or catastrophic home repairs, especially if the maintenance is a factor that may determine when the reverse mortgage loan becomes payable
  - The impact that the reverse mortgage loan may have on the borrower's tax obligations and eligibility for government assistance programs, and the effect that losing equity in the domicile securing the reverse mortgage loan will have on the borrower's estate and heirs
  - The ability of the borrower to refinance alternative living accommodations, such as assisted living or long-term care, after the borrower's equity is depleted
- The lender must provide the borrower with a checklist outlining the seven items the borrower must discuss with the counselor
- Maryland SB 878/HB 799 Maryland Reverse Mortgage Loans Act
  - Reverse Mortgage Counselor must discuss seven items with the borrower
  - The lender must provide the borrower with a checklist in 12 point font or larger outlining the seven items the borrower must discuss with the counselor

State Regulatory Update (cont.)

- Massachusetts SB 2407 Neighborhood Stabilization
  - Effective 8/1/2012: reverse mortgage loan applicants must receive in-person counseling if the applicant's income is less than 50% of the area median income and the applicant has less than $120,000 in assets (excluding home)
- Minnesota SB 2340 Reverse Mortgages
  - A borrower shall not be bound for seven days after the borrower's acceptance, in writing, of the lender's written commitment to make the reverse mortgage loan, and cannot be required to close or proceed with the loan during that time period
  - The lender shall provide the borrower with written notice of the seven-day cooling off period, which must be on a separate sheet of paper and in at least 10 point type
  - A borrower may not waive these provisions
- Pennsylvania Reverse Mortgage Practices
  - Provides guidance to licensees regarding the PA Banking Department's interpretation of the proper conduct of making, originating or servicing reverse mortgage loans and to inform licensees of the proper use of, and risks associated with, reverse mortgage loans

Arizona – House Bill 2242

Presented By: Matt Yoon

Arizona – House Bill 2242

- Effective July 29, 2010
  - Definition of "reverse mortgage"
  - Means a nonrecourse consumer credit obligation in which all of the following apply:
    - A consensual security interest has been created in the borrower's principal dwelling;
    - Any principal, interest, or shared appreciation or equity is due and payable only after the borrower dies, the dwelling is transferred, or the borrower ceases to occupy the dwelling as a principal dwelling;
    - Cash advances may be provided to the borrower based on the equity or value of the principal dwelling or if the reverse mortgage proceeds are used to purchase the dwelling that secures the reverse mortgage; and
    - It is not a HECM.

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Financial Counseling

- Adequate counseling must be provided by a counselor who is an independent third party (i.e., the counselor may not be associated with or compensated by a party involved in originating, servicing or funding the loan or selling any type of financial product).
- Prior to accepting an application or assessing fees, the originator must provide the borrower with a list of at least 5 housing counseling agencies, of which at least 2 that can provide counseling by phone, and receive a certification that counseling has been provided.

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New Disclosures

- At least 10 days prior to closing, originator must make available a statement that informs the borrower:
  - That the borrower's liabilities are limited;
  - Of the borrower's rights, obligations, remedies with respect to temporary absences from the home, late payments and payment default by the originator; and
  - All conditions requiring satisfaction of the loan obligation
- Before entering into the transaction, the originator must disclose:
  - All costs charged by the originator, including costs of estate planning, financial advice, and other services that are related to the reverse mortgage but not required in order to obtain the reverse mortgage;
  - All terms and provisions of insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, and any additional and secondary liens; and
  - The projected total costs of the reverse mortgage based on the projected total future loan balance for at least two loan terms, a short term mortgage and a loan term equaling the actuarial life expectancy of the borrower.

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New Disclosures (cont.)

- Reverse mortgage must prominently disclose interest rate or other fees to be charged that begins on the date that the reverse mortgage becomes due and payable and that ends when repayment in full is made. HB 2242 also provides for provisions of reverse mortgage, such as permissible payment structures.
- Reverse mortgage must contain restrictions that ensure that the borrower does not fund any unnecessary costs for obtaining the loan, including any costs of estate planning, financial advice or other related services.

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New Disclosures (cont.)

- Reverse mortgage may be prepaid in whole or in part without penalty at any time.
- Reverse mortgage becomes due and payable under certain defined circumstances.
- Originators may not enter into any agreements that would obligate borrowers to purchase annuities, investments or long-term care insurance or refer a borrower to anyone for the purchase of annuities before the closing of the reverse mortgage or before the expiration of the borrower's right to rescind if a rescission period applies.

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New Disclosures (cont.)

- Enforcement
  - Violations constitute and unlawful practice and is subject to enforcement through private action and prosecution by the Attorney General.
  - b. Any violative provisions in a loan agreement are unenforceable against the borrower.
  - c. These are not the exclusive remedies.

Louisiana – Act 418 (2010)

Presented By: Matt Yoon

Louisiana – Act 418 (2010)

- Effective August 15, 2010.
- Definition of a "reverse mortgage":
  - Means a nonrecourse loan secured by immovable property where the loan provides purchase money proceeds for the acquisition of a principal domicile or cash advances based on the equity or value in a borrowers inhabited principal domicile and in the residence and payment of principal or interest is not required until the entire loan becomes due and payable.
- "Program reverse mortgage" means a reverse mortgage insured by HUD (i.e., a HECM) and "conventional reverse mortgage" is a reverse mortgage loan other than a program reverse mortgage.

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Louisiana – Act 418 (cont.)

- Reverse mortgage must comply with certain requirements, such as :
  - Prepayment permitted in whole or in part at any time without penalty.
  - If a reverse mortgage provides for periodic advances to a borrower, the advances may not be reduced in amount or number based on any adjustment in the interest rate.
- Reverse mortgage loan may become due and payable under certain circumstances.
- Repayment of a reverse mortgage loan is subject to the following:
  - Temporary absences not exceeding 60 consecutive days may not cause the mortgage to become due and payable.
  - Absences exceeding 60 days but less than 1 year may not cause the mortgage to become due and payable as long as borrower has taken prior action which secures and protects the home in a manner satisfactory to the lender, as specified in the loan agreement.
  - Lenders must prominently disclose any interest rate or fees to be charged during the period that commences on the date that the loan becomes due and payable and that ends when repayment in full is made.

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Louisiana – Act 418 (cont.)

- The first page of any mortgage must contain the following statement in 10-point boldface type: “This mortgage secures a reverse mortgage loan.”
- A reverse mortgage lender may not enter into any agreements that would obligate borrowers to purchase annuities, investments or long-term care insurance or refer a borrower to anyone for the purchase of annuities before the closing of the reverse mortgage or before the expiration of the borrower’s right to rescind if a rescission period applies.

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Louisiana – Act 418 (cont.)

- Counseling
- Lenders must provide prospective borrowers with list of at least 5 HUD-approved counseling agencies.
  - In connection with conventional reverse mortgages, lenders may not pay any counseling service fees without disclosing to borrower that this could create a conflict of interest.
  - Lenders may not accept a final and complete application or assess any fees without first receiving a housing counseling certificate.
  - Borrowers must discuss certain items with the counselor as set forth below.

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Louisiana – Act 418 (cont.)

- Lenders who offer, sell, or arrange the sale of a reverse mortgage loan must provide a notice that sets forth certain items the borrower should discuss with a loan counselor:
  - How unexpected medical or other events causing the borrower to move out of the borrower's home earlier than anticipated will impact the total annual cost of the reverse mortgage loan.
    - The extent to which the borrower's financial needs would be better met by options other than a reverse mortgage loan, including less costly home equity lines of credit, property tax deferral programs, or governmental aid programs.
    - Whether the borrower intends to use the proceeds of the reverse mortgage loan to purchase an annuity or other financial or insurance product and the consequences of doing so.
    - The effect of repayment of the reverse mortgage loan on other residents of the domicile that is securing the reverse mortgage loan after all borrowers are deceased or permanently abandon the domicile.
    - The borrower's ability to finance routine or catastrophic home repairs, especially if the maintenance is a factor that may determine when the reverse mortgage loan becomes payable.
    - The impact that the reverse mortgage loan may have on the borrower's tax obligations and eligibility for government assistance programs, and the effect that losing equity in the domicile securing the reverse mortgage loan will have on the borrower's estate and heirs.
    - The ability of the borrower to refinance alternative living accommodations, such as assisted living or long-term care, after the borrower's equity is depleted.

Louisiana – Act 418 (cont.)

- Cooling off period
  - For conventional reverse mortgages, at least 7 calendar days prior to closing, the lender must provide the borrower with a loan term sheet or commitment letter outlining the proposed terms of the loan and inform the borrower that the borrower is not obligated to proceed with the loan transaction.

Maryland – HB 799 Amends the *Reverse Mortgage Homeowners Protection Act*

- Presented By: Matt Yoon

Maryland – HB 799

- Effective October 1, 2010
- Definition of a “reverse mortgage”
  - Means a nonrecourse loan secured the borrower’s principal dwelling that provides the borrower with purchase money proceeds, a lump sum payment, periodic cash advances, a line of credit, or any combination of the foregoing based on the equity or value of the borrower’s principal dwelling and which requires no payment of principal and interest until the full loan becomes due and payable.

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Maryland – HB 799 (cont.)

- Reverse mortgage loans in Maryland must conform with HECM guidelines, regardless of whether the loan is insured by HUD.
- However, non-HUD insured loans are not subject to:
  - The $6,000 limitation on origination fees for HECMs;
  - Restrictions that impose maximum claim amounts or other loan limit restrictions; or
  - Require government insurance for the loan.
- Lenders and brokers of non-insured loans are not required to be HUD-approved.

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Maryland – HB 799 (cont.)

- A reverse mortgage lender or broker may not require a borrower to purchase annuities, long-termi care policies or other financial or insurance products as a condition of receiving a reverse mortgage.
- Lenders and brokers may require borrowers to purchase title insurance, hazard, flood, or other peril insurance and any other financial or insurance product that is required for HECMs.

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Maryland – HB 799 (cont.)

- Lenders and brokers may not refer borrowers to any person for the purchase of any annuity or other financial or insurance product before the later of:
  - The closing of the reverse mortgage; or
  - The expiration of the borrower's right to rescind.
- However, lenders and brokers may offer or refer borrowers to a person for the purchase of:
  - Title insurance;
  - Hazard, flood or other peril insurance; or
  - Other products that are customary under a reverse mortgage loan.

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Maryland – HB 799 (cont.)

- Disclosures
  - On receiving a reverse mortgage loan application, the lender or broker must provide the borrower with a written checklist in 12-point type or larger, advising the borrower to discuss various items with a counseling agency counselor:
    - How unexpected medical or other events causing the borrower to move out of the borrower's home earlier than anticipated will impact the total annual cost of the reverse mortgage loan.
    - The extent to which the borrower's financial needs would be better met by options other than a reverse mortgage loan, including less costly home equity lines of credit, property tax deferral programs, or governmental aid programs.
    - Whether the borrower intends to use the proceeds of the reverse mortgage loan to purchase an annuity or other financial or insurance product and the consequences of doing so.
    - The effect of repayment of the reverse mortgage loan on other residents of the domicile that is securing the reverse mortgage loan after all borrowers are deceased or permanently abandon the domicile.
    - The borrower's ability to finance routine or catastrophic home repairs, especially if the maintenance is a factor that may determine when the reverse mortgage loan becomes payable.
    - The impact that the reverse mortgage loan may have on the borrower's tax obligations and eligibility for government assistance programs, and the effect that losing equity in the domicile securing the reverse mortgage loan will have on the borrower's estate and heirs.
    - The ability of the borrower to refinance alternative living accommodations, such as assisted living or long-term care, after the borrower's equity is depleted.
  - If a borrower obtains counseling before applying for a reverse mortgage loan, the counseling agency (rather than the lender or broker) must provide the borrower with the checklist.

Maryland – HB 799 (cont.)

- Enforcement
  - Violations for HUD-insured loans is subject to the penalties provided for under the HECM program.
    - Violations for non-HUD insured loans will be subject to penalties for unfair or deceptive trade practices under the Maryland Consumer Protection Act, which includes civil penalties, cease and desist orders as well as a private right of action.

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Massachusetts – SB 2407

- Presented By: Matt Yoon

Massachusetts – SB 2407

- Effective date is November 1, 2010 except that the in-person counseling requirement is effective August 1, 2012.
- Adds a new significant requirement of face-to-face counseling.
- Applies to borrowers who:
  - Have a gross income of less than 50% of the area median income, as determined by HUD; and
  - Have assets, excluding a primary residence, valued at less than $120,000.

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Massachusetts – SB 2407 (cont.)

- A lender is prohibited from making a reverse mortgage to such borrowers unless:
  - The borrower affirmatively opts in writing for the reverse mortgage; and
  - At or before closing, the lender has received written certification from a counselor with a third party organization that the mortgagor has received counseling in person relative to the appropriateness of the loan transaction and has completed an approved counseling program offered by the third party organization.
  - The third party counseling organization must have been approved by the Office of Elder Affairs for such counseling purposes.

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Massachusetts – SB 2407 (cont.)

- Enforcement
  - A reverse mortgage executed by a borrower that has not received such counseling will render the terms of the reverse mortgage unenforceable.

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Minnesota – SF 2430

- Presented By: Matt Yoon

Minnesota – SF 2430

- Effective date is August 1, 2010.
- Amends existing reverse mortgage law.
- Definition of a “reverse mortgage” -- means a loan made to a borrower where:
  - The committed principal amount is paid to the borrower in equal or unequal installments over a period of months or years, interest is assessed, and authorized closing costs are incurred as specified in the loan agreement.
  - The loan is secured by a mortgage on residential property owned solely by the borrower; and
  - The loan is due when the committed principal amount has been fully paid to the borrower, or upon sale of the property securing the loan, or upon the death of the last surviving borrower, or upon the borrower terminating use of the property as principal residence.

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Minnesota – SF 2430 (cont.)

- Limitation on outstanding loan balance:
  - The outstanding loan balance as project by the lender as projected to the anticipated time of payment to the borrower of the final installment may not exceed 80% of the appraised value of the property at inception of the loan.
  - If upon reappraisal at any time during the term of the loan, the projected outstanding balance does not exceed 70% of the reappraised value, the schedule of the lender's installment payments may be extended and the amount of the committed principal amount increased up to the foregoing 80% limitation.

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Minnesota – SF 2430 (cont.)

- Counseling Requirement
  - Prior to accepting a final and complete application or assessing any fees, a lender must:
    - Refer the borrower to an independent housing counseling agency approved by HUD that has no business relationship to the lender and which does not itself make loans or refer borrowers to any person that makes loans.
    - The lender must provide at least 3 counseling agencies and positively promote the benefits of counseling to the borrower; and
    - Receive a signed housing counseling certificate.
  - SF 2430 sets forth certain requirements for the counseling, such as:
    - Counseling sessions must be no less than 60 minutes;
    - The advantages and disadvantages of a reverse mortgage loan must be reviewed;
    - There must be a review of alternative loan options to the borrower;
    - There must be an explanation of the financial implication of entering into a reverse mortgage loan, including the costs of the loan.
    - There must be an explanation that the lender may not condition a loan on the purchase of an annuity, investment, life insurance or lon-term case insurance product, and that a reverse mortgage cannot obligate the borrower to purchase any of the foregoing items.
    - There must be an explanation that following the receipt of a written commitment and prior to the expiration of the 7 day cooling off period (as discussed below), the borrower may seek additional information and an analysis of the commitment from the counselor.
  - Violations will result in a $1,000 civil penalty payable to the borrower.

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Minnesota – SF 2430 (cont.)

- Seven Day Cooling Off Period
  - A borrower must receive a 7 day cooling off period after the borrower’s written acceptance of the lender’s written commitment to make the reverse mortgage loan and cannot be required to close or proceed during that time period.
  - The lender must provide written notice of the 7 day cooling off period, which must be on a separate sheet of paper and in at least 10-point type.
  - A borrower may not waive these requirements.
- Rescission. A borrower may rescind any reverse mortgage loan within 3 days of execution as provided under Regulation Z.
  - Violations will result in a $1,000 civil penalty payable to the borrower.

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Minnesota – SF 2430 (cont.)

- A Lender, Broker or Originator May Not:
  - Require the purchase of an annuity, investment, life insurance, or long-term care insurance product as a condition of obtaining a reverse mortgage loan;
  - Enter into any agreement to make a reverse mortgage loan that obligates the borrower to purchase an annuity, investment, life insurance, or long-term care insurance product; or
  - Receive compensation for providing the borrower with information relating to an annuity, investment, life insurance, or long-term care insurance product.

Minnesota – SF 2430 (cont.)

- Enforcement
  - Lenders who fail to make loan advances as required and fails to cure an actual default forfeits any right to repayment of the outstanding loan balance with respect to non-federally insured mortgages.
  - The mortgage may also be declared null and void by a court of competent jurisdiction.

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Pennsylvania – Statement of Policy for Reverse Mortgages

- Presented By: Matt Yoon

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Pennsylvania – Statement of Policy for Reverse Mortgages

- Published July 10, 2010
- Defines proper conduct of mortgage lenders and helps protect Pennsylvania's older homeowners
- Applies to licensees under the Mortgage Licensing Act and Consumer Discount Company Act (CDCA applies to loans of $25,000 or less) that make, originate or service reverse mortgage loans.
- While FHA's reverse mortgage program has well established standards, Department of Banking has concerns about proprietary reverse mortgages such as:
  - Proprietary lender unable to service (i.e., make payments)
  - Decline in market value of collateral to level that is less than value of the proprietary reverse mortgage.

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Pennsylvania – Statement of Policy for Reverse Mortgages (cont.)

- Financial Strength
  - Lender should not offer reverse mortgage loans unless it has the financial ability to make disbursements and service the loans as required.
  - If licensee knows or suspects that its financial situation or ability to service disbursements is at risk, it should notify the Department of Banking to discuss possible solutions.

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Pennsylvania – Statement of Policy for Reverse Mortgages (cont.)

- Reverse Mortgage Loan Agreements
  - Lenders of proprietary products should consider the negative effects of not being able to make disbursements and therefore should insert consumer protections such as:
    - Releasing borrowers from loan obligations in case licensee or assignee cannot service loans.
    - Provide for release of lien in case licensee or assignee is unable to make required disbursements.
    - Not include provisions that permit a licensee or assignee to discontinue disbursements or otherwise alter terms because of declining equity in collateral.
  - If borrower fails to pay property charges, lender should discuss options with borrowers to cure the default prior to foreclosure.

NRMLA National Reverse Mortgage Lenders Association

Pennsylvania – Statement of Policy for Reverse Mortgages (cont.)

- List of Suggested Guidelines, such as:
  - Ensuring originators are familiar and knowledgeable about reverse mortgages.
  - Requiring applicants to seek counseling from a HUD-approved counselor.
  - Discuss alternatives to reverse mortgage loans.
  - Consider establishing an escrow account for property charges.
  - Limit and disclose fees and charges to what is reasonable.
  - Consider effect of reverse mortgage on nonborrower spouse.
- Conflicts of interest, such as:
  - A licensee should not offer ancillary or third party products if licensee would receive a financial benefit.
  - Accept or receive fees for refer applicants to other individuals for purposes of obtaining products or services to be financed with reverse mortgage proceeds.

Pennsylvania – Statement of Policy for Reverse Mortgages (cont.)

- Suitability
  - A lender should not offer reverse mortgage loans that the license knows or should reasonably know is unsuitable or contrary to the wishes or expectation of the applicant.
  - Examples include:
    - Applicant does not intend to reside in the property on a long-term basis.
    - Does not understand terms and conditions of a reverse mortgage loan.
    - Would receive disbursements that are not enough to meet needs or justify the cost.
- Servicing should be performed in a timely manner as agreed under the terms of the loan documents.
- Mental capacity -- licensees should take steps to confirm the applicant understands the reverse loan transaction.
- Powers of attorney -- licensees should not continue with the transaction until the power of attorney documents are verified as current and valid.

Thank You