



Department of the Treasury Financial Crimes Enforcement Network

Advisory

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**Subject: Advisory to Financial Institutions on Filing Suspicious Activity Reports
Regarding Home Equity Conversion Mortgage Fraud Schemes**

The Financial Crimes Enforcement Network (FinCEN), in consultation with the U.S. Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG), is issuing this advisory to highlight reverse mortgage fraud schemes potentially related to the Federal Housing Administration (FHA) Home Equity Conversion Mortgage (HECM) program so that financial institutions may better assist law enforcement when filing Suspicious Activity Reports (SARs).¹ With the recent difficulties within the housing market, the ability of homeowners to access existing home equity quickly through the HECM and other reverse-mortgage programs may be increasing their attractiveness as a target for financial fraud.² This advisory contains examples of common fraud schemes and potential "red flags" for fraudulent activity related to HECMs. To assist law enforcement in its efforts to target this type of fraudulent activity, this advisory also suggests key words for financial institutions to use when completing SARs involving fraud related to the HECM program. Using this additional information, the vigilance of financial institutions together with law enforcement efforts against illicit mortgage-related activities will make an important contribution to the economic recovery of the housing market.

This advisory supports the efforts of the Financial Fraud Enforcement Task Force (FFETF), the U.S. Department of Treasury's broader initiatives to ensure that U.S. financial institutions are not used as conduits for illicit activity, including fraud against the elderly and the FHA, and a FinCEN and HUD OIG mortgage fraud initiative.³

¹ HUD OIG is the primary investigative agency with respect to potential mortgage fraud against U.S. Federal Housing Authority (FHA) programs, including HECMs.

² Statement of the Honorable Kenneth M. Donohue, Inspector General, Department of Housing and Urban Development before the Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Washington, D.C. April 2, 2009. See <http://www.hud.gov/offices/cir/test090402a.pdf>.

³ Financial institutions are reminded of their obligations under the Bank Secrecy Act (BSA) and the regulations at 31 CFR Part 103 to implement risk-based policies, procedures, and processes, including those relating to customer due diligence, to avoid misuse of the U.S. financial system and aid in the identification of potentially suspicious transactions.

Description of the HECM Program

HUD and FHA established the HECM proprietary reverse mortgage program in 1989. The HECM program, which allows seniors age 62 and older to withdraw some of the equity in their homes, is the only reverse mortgage program insured by the U.S. government (through the FHA). HECM loans are provided through FHA approved lenders. Seniors seeking a HECM loan must meet minimum property standards and discuss the program requirements and associated financial implications with a HECM loan counselor before proceeding. The total loan amount is based upon the appraised home value and other factors, up to a maximum of \$625,500. There are five methods of receiving the proceeds on a scheduled or unscheduled basis, including via one or more direct payments, a line of credit, a fixed value annuity, or a combination thereof. Financing costs may be paid from the proceeds of the HECM loan. Lenders are repaid in full upon sale of the home, death of the senior, and certain other circumstances.⁴

Recently, HECMs have increased in popularity. In 2009, the FHA insured more than 114,000 HECMs, nearly 100 percent of the reverse mortgage market. That same year, HUD expanded the HECM program to allow seniors to purchase homes using HECMs. The “HECM for Purchase” program allows seniors to purchase homes with no mortgage payments if they are able to contribute a substantial down payment.⁵

As the HECM program has become more popular, public reports of financial crimes against seniors involving the FHA program have become more prevalent. Law enforcement and HUD officials have identified new trends and schemes involving thefts from seniors by family members, loan officers, and others as well as the use of unsuspecting seniors in property flipping and other HECM-related fraud schemes.⁶

Potential Indicators of HECM Fraud Schemes Identified by Law Enforcement and HUD Officials

The following highlights potential indicators of schemes involving the HECM program based upon general typologies received from law enforcement and HUD officials. This information is intended to assist financial institutions in identifying when illicit activities may intersect with their financial institution and HECM or other reverse mortgage-related fraudulent activity. This is not an exhaustive list of common fraud schemes, and the

⁴ A reverse mortgage is a special type of home loan that lets a homeowner convert a portion of the equity in their home into cash or funds. The equity that built up over years of home mortgage payments can be paid to the homeowner. Unlike a traditional home equity loan or second mortgage, however, no repayment is required until the borrower no longer uses the home as his or her principal residence. FHA's HECM provides these benefits. For more information about FHA's HECM program, see <http://www.hud.gov/offices/hsg/sfh/hecm/hecmhome.cfm>.

⁵ A HECM can be used to purchase a primary residence (HECM for Purchase program), if an eligible senior is able to use cash or funds on hand to pay the difference between the HECM loan proceeds and the sales price plus closing costs for the property being purchased. For information on the HECM for Purchase program, see http://www.hud.gov/offices/hsg/sfh/hecm/faqs_hecm.cfm#GEN.

⁶ See http://www.fbi.gov/hq/majorthfts/intelbulletin_reversemortgages.htm and http://www.illinoisattorneygeneral.gov/pressroom/2010_02/20100208.html.

associated “red flags” indicate only *possible* signs of fraudulent activity relating to reverse mortgages. No single red flag will be definitive proof of such activity and may apply to multiple fraud schemes. Instead, it is important to view any red flag(s) in appropriate context with other indicators and facts, such as the specific role of the financial institution within the HECM loan-related transaction(s), as well as knowledge of the associated fraud schemes. In some cases, the fraudulent activity may involve more than one type of fraud scheme, with one constant being the funneling of the victim’s HECM loan proceeds to the perpetrator(s). These schemes also may involve multiple fraudulent actors, ranging from loan officers or processors to appraisers or notaries public to family members or caretakers.

Cross Selling. One common fraud scheme involves the theft of a senior’s HECM loan proceeds through cross selling of financial products in violation of HUD rules.⁷ As a part of this scheme, loan officers or other individuals convince the senior to use HECM loan proceeds to finance the purchase of expensive and unnecessary insurance, annuities, or other financial products. In one particularly egregious example of illegal cross selling, an 84 year old was sold an insurance annuity that did not mature until the senior was 104 years old and carried substantial early withdrawal penalties.

Red Flags

- A senior communicates to the financial institution that he or she has invested HECM loan proceeds in an annuity or other financial product.
- A senior completes a HECM, but deposits little to no funds into his or her bank account.

Cash-out Theft. Another scheme involves the theft of reverse mortgage proceeds by individuals trusted by the senior, including family members, care takers, and loan officers. For example, a senior may receive a HECM cash-out check and provide the check to the loan officer (or other trusted party). The loan officer or other trusted party then co-endorses the check and deposits it to his or her business or personal bank account. The senior is instructed to request cash withdrawals directly from the loan officer or another trusted individual. After the senior obtains several withdrawals, he or she is told all the HECM loan proceeds have been received. The loan officer or other trusted party pockets the remaining funds.

Red Flags

- A senior takes HECM loan proceeds in a lump sum at closing. As noted earlier, seniors have the option of taking HECM loan proceeds at closing in a lump sum, a line of credit, an annuity, or a combination thereof. Fraudsters generally are not interested in a line of credit or an annuity.

⁷ See HUD Mortgage Letter 2008-24 at <http://www.hud.gov/offices/hsg/sfh/hecm/hecmml.cfm>.

- A financial institution’s loan officer deposits or withdraws large amounts of cash or large dollar checks in a manner inconsistent with his income or duties at the institution. The loan officer also may be co-endorsing checks for large amounts and depositing them into business or personal accounts, possibly at another financial institution.
- A HECM borrower withdraws large amounts of cash or has unusual spending activity. The unusual activity may involve purchases associated with a cross-selling fraud scheme

Straw Owner—Property Flipping. HUD OIG recently has noted the use of HECMs to flip properties.⁸ One scheme involves a perpetrator (“straw buyer”) transferring ownership of a typically low-value or problem property to an unsuspecting senior (“straw senior”) without going through a mortgage sale.⁹ Fraudsters then instruct the straw senior to complete paperwork for a HECM loan against the property, using an overstated appraisal, or assume the identity of the senior to do so themselves. Investigators have noted appraisals as high as 1,000% of the actual fair market value of the home.

Red Flags

- A senior homeowner says that he or she received the house free from a special government program. Fraudsters often convince unsuspecting straw seniors that new government programs provide free houses to qualifying seniors.
- An appraisal uses comparable sales that are outdated or outside of the property’s neighborhood.
- A senior’s credit report is inconsistent with information provided in the senior’s HECM loan application.

Straw Owner—Fake Down Payments. A new variation of HECM fraud involves the HECM for Purchase program.¹⁰ Many HECM originators stopped accepting HECM applications from seniors who did not have a seasoned title as a result of the previously discussed property flipping scheme. To get around the new lender rules, fraudsters have started “selling” low-value properties to seniors. Using bogus gifts or fraudulent paperwork, fraudsters create the appearance of a large down payment by the senior to purchase the property. The senior is then instructed to take out a HECM loan on the existing home, based on an overstated appraisal, to complete the purchase of the low-value property.

⁸ See <http://www.reversereview.com/index.php/magazine/features/1897-interview-with-the-hecm-fraud-unit.html>

⁹ The term “straw buyer” refers to the individual perpetrating the HECM fraud. The straw buyer transfers or signs over ownership of the home to the senior victim, or “straw senior,” without going through a normal mortgage sale. This is commonly referred to as “quit claiming” the property deed.

¹⁰ See <http://atlanta.fbi.gov/dojpressrel/pressrel10/atl040810.htm>. Also, see footnote 6.

Distressed Non-senior Mortgages. Distressed mortgagors under the age of 62 will sometimes ask senior parents, other family members, or friends to take a HECM loan for them. In some cases, distressed mortgagors will submit fraudulent paperwork to take out the loan and receive the HECM loan proceeds directly. Fraudsters also may assume the identity of a senior victim and take out a HECM loan without the senior's knowledge.

Red Flags

- A distressed mortgagor quit claim deeds his/her property to parents or other seniors who then take out HECM loans to repay the underlying mortgages.
- HECM loan proceeds are not deposited into the senior's bank account and/or are used to pay off an existing mortgage in the name of someone other than the senior.
- Monthly statements and other paperwork associated with the HECM loan are not sent to the senior's address.

Power of Attorney. In a variety of the fraud schemes noted above, the perpetrator may use a power of attorney (POA) for the senior to apply for and close HECM loans without the full knowledge or participation of the victim. A POA also may be used for either the seller or the buyer in a HECM for Purchase transaction. In many HECM for Purchase schemes, fraudsters purchase properties from homeowners without formally recording the purchase. Instead, the fraudster receives a POA from the homeowner and then "sells" the home to the straw senior using the HECM for Purchase program.

Additional information on reverse mortgage fraud schemes, and mortgage fraud in general, may be found in the six mortgage-fraud strategic analytical reports produced by FinCEN and available at <http://www.fincen.gov/mortgagefraud.html>.¹¹ FinCEN will continue to monitor SARs that identify mortgage loan fraud, and specifically HECM fraud schemes, to provide future analysis on this issue. FinCEN will issue further advisories on this issue as appropriate.

Suspicious Activity Reporting

The activities of financial institutions may intersect with a reverse mortgage fraud scheme in several ways. First, HECMs are available only through FHA approved lenders. HECM originators, sponsors, and servicers collect or have access to HECM loan files, which include copies of deeds, appraisals, bank statements, or proof of down payments. Second, persons or entities perpetrating HECM fraud schemes may seek the services of financial institutions for the purpose of receiving, depositing, or moving illicit

¹¹ [FinCEN Mortgage Loan Fraud Assessment, November 2006](#); [Mortgage Loan Fraud: An Update of Trends based Upon an Analysis of Suspicious Activity Reports, April 2008](#); [Filing Trends in Mortgage Loan Fraud, February 2009](#); [Mortgage Loan Fraud Connections with Other Financial Crime, March 2009](#); Mortgage Loan Fraud Update (published in *The SAR Activity Review - Trends, Tips & Issues* [Issue 16, October 2009]) [PDF Only](#); and Mortgage Loan Fraud Update: Suspicious Activity Report Filings from July 1-September 30, 2009 (February 2010) [PDF Only](#)

funds relating to the scams. Third, financial institutions may become aware of such scams through their interactions with customers who have become victims.

Consistent with the standard for reporting suspicious activity as provided for in 31 CFR Part 103, if a financial institution knows, suspects, or has reason to suspect that a transaction involves funds derived from illegal activity or that activities conducted or attempted by, at, or through the financial institution appear to be indicative of money laundering, terrorist financing, or other violation of law or regulation, the financial institution should file a SAR.¹² As noted in FinCEN's *SAR Narrative Guidance Package*,¹³ financial institutions must provide complete and sufficient descriptions of known or suspected criminal violations or suspicious activity in the SAR narrative sections.

To assist law enforcement in its efforts to target this type of fraudulent activity, we request that, if financial institutions become aware of this type of activity, they include the specific term "HECM" within the narrative portions of all relevant SAR filings and highlight the exact dollar amount(s) associated with the HECM loan proceeds. We further request that the Suspect/Subject Information Section in the SAR filing include all information available for each party suspected of engaging in this fraudulent activity. This includes individual or company name, address, phone number, and any other identifying information.¹⁴ In addition, if financial institutions become aware of any other type of FHA-insured mortgage fraud, we request the term "FHA" be included within the narrative portions of the relevant SAR filings.

In many circumstances, the senior homeowner is a victim of the scam and, therefore, should not be listed as a suspect, unless there is reason to believe the homeowner knowingly participated in the fraudulent activity. When the senior homeowner is simply a victim of a scam, include sufficient information in the narrative portion of the SAR about the senior homeowner and his or her property to assist law enforcement in investigating and prosecuting these potential crimes.

Financial institutions that have questions or comments regarding the contents of this Advisory should contact FinCEN's Regulatory Helpline at 800-949-2732.

Assistance for Consumers

Financial institutions are encouraged to have their customers report HECM fraud, and any other type of FHA fraud, to the HUD OIG Hotline, <http://www.hud.gov/offices/oig/hotline/index.cfm>, 1-800-347-3735, hotline@HUD

¹² Financial institutions shall file with FinCEN to the extent and in the manner required a report of any suspicious transaction relevant to a possible violation of law or regulation. A financial institution also may file with FinCEN a SAR with respect to any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by FinCEN regulations. *See, e.g.*, 31 CFR § 103.18(a).

¹³ See http://www.fincen.gov/narrativeguidance_webintro.html.

¹⁴ If multiple subjects are involved and the financial institution is filing a paper form, the filer should attach an additional copy of the subject information section of the report for each subject.

OIG.gov. Financial institutions also may wish to caution their customers to avoid any business or person that seeks to charge up-front fees for HECM, FHA, and any services related to the U.S. federal government's new loan modification and refinancing programs. More information about the various plans available to homeowners can be found at www.MakingHomeAffordable.gov or by contacting the Homeowner's HOPE Hotline at 1-888-995-HOPE (1-888-995-4673).¹⁵ If a financial institution becomes aware of a customer's unintentional involvement in a foreclosure rescue scam, the customer may be referred to the Federal Trade Commission website, www.ftc.gov. This site contains a publication designed to educate homeowners on mortgage foreclosure rescue scams and also offers contact information for those who may have already fallen victim to a scam. Financial institutions also may consider referring customers to state or local authorities.

¹⁵ Through the HOPE NOW Alliance, consumers have access to free foreclosure prevention counseling intermediaries approved by the Department of Housing and Urban Development, qualifying state housing finance agencies, and NeighborWorks® organizations, which is a national nonprofit organization created by Congress to provide financial support, technical assistance, and training for community-based revitalization efforts.