



U.S. DEPARTMENT OF  
HOUSING AND URBAN DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL

March 27, 2014

**MEMORANDUM NO:**  
2014-PH-1801

## *Memorandum*

TO: Dane M. Narode  
Associate General Counsel for Program Enforcement, CACC

FROM: *//signed//*  
David E. Kasperowicz  
Regional Inspector General for Audit, Philadelphia Region, 3AGA

SUBJECT: Final Civil Action  
James B. Nutter & Co. and Underwriter  
Lender Settled Alleged Violations of Home Equity  
Conversion Mortgage Program

### **INTRODUCTION**

We audited the U.S. Department of Housing and Urban Development's (HUD) oversight of its Home Equity Conversion Mortgage (HECM) program and found that 33 borrowers had more than 1 loan under the program.<sup>1</sup> Having multiple loans violated program requirements because HUD requires borrowers to reside in the mortgaged residence as their principal residence and borrowers may not have more than one principal residence at the same time. We referred the violations to HUD's Office of Program Enforcement for action under the Program Fraud Civil Remedies Act.

### **BACKGROUND**

HUD provides reverse mortgage insurance through its HECM program. The purpose of the program is to enable elderly homeowners to convert the equity in their homes to monthly streams of income or credit lines. To be eligible for a HECM loan, the borrower must be 62 years of age or older, own the property outright or have a small mortgage balance, occupy the property as a principal residence, not be delinquent on any Federal debt, and participate in a consumer information session given by a HUD-approved program counselor.

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<sup>1</sup> HUD Office of Inspector General audit report number 2012-PH-0004, issued February 9, 2012

The loan is secured by the borrower's equity in the home. The borrower is not required to repay the loan as long as the borrower continues to occupy the home as a principal residence, maintains the property, and pays the property taxes and the mortgage insurance premiums. The loan agreement defines "principal residence" as the dwelling where the borrower maintains his or her permanent place of abode and typically spends the majority of the calendar year. A person may have only one principal residence at a time. The borrower must certify to principal residency initially at closing and annually thereafter.

HUD requires lenders of its insured loans to obtain and verify information with due diligence during the origination and servicing process.

One borrower obtained HECM loans on two properties that he owned in Philadelphia, PA. For each loan, he certified that the underlying property was his principal residence. His actions violated HUD's principal residency requirements because he owned both properties at the same time.

HUD's Office of Program Enforcement reviewed documentation for both loans and determined that there was sufficient information to alert the lender, James B. Nutter & Co., and the underwriter that the second property was not the borrower's principal residence. However, there was no evidence that the underwriter or other representatives from the lender attempted to research or resolve the issue.

### **RESULTS OF REVIEW**

HUD's Office of Program Enforcement sent demand letters to the lender and the underwriter for submitting or causing the submission of false certifications to HUD for insurance in connection with the HECM loan. To avoid further expenses and administrative proceedings, HUD and the lender then entered into a settlement agreement in which the lender agreed to indemnify the loan and pay a penalty in the amount of \$7,500 to resolve the matter for itself and the underwriter. The agreement did not constitute an admission of liability or fault by any of the parties. As of February 3, 2014, when HUD's Office of Program Enforcement stated that the case had been resolved, the outstanding balance on the loan was \$72,166. The loan indemnification reduces the risk of loss to HUD's Federal Housing Administration insurance fund by protecting HUD against losses from a future claim.

### **RECOMMENDATION**

We recommend that HUD's Office of General Counsel, Office of Program Enforcement

- 1A. Agree to allow the HUD Office of Inspector General to post the settlement of \$7,500 in HUD's Audit Resolution and Corrective Actions Tracking System as funds put to better use.