



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

October 21, 2014

MEMORANDUM NO:
2015-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
Wells Fargo Bank, NA
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.¹ 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 a 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. HUD insures the mortgages through its Federal Housing Administration (FHA) program, which covers lenders in the event of borrowers' default due to program violations. The purpose of the HECM 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

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

residence, not be delinquent on any Federal debt, and participate in a consumer information session given by a HUD-approved program counselor.

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, and to certify as to the insurability of each loan.

One borrower obtained HECM loans on two properties that he owned in Michigan. 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.

In December 2012, HUD paid an FHA insurance claim on the second loan. As of October 2014, HUD had not sold the property that secured the insured mortgage.

HUD's Office of Program Enforcement reviewed documentation for both loans and determined that there was sufficient information to alert the lender, Wells Fargo Bank, NA, that the second property was not the borrower's principal residence. Therefore, the lender should not have submitted the loan for FHA insurance endorsement.

RESULTS OF REVIEW

On July 16, 2014, HUD's Office of Program Enforcement notified the lender of its intent to file an action under the Program Fraud Civil Remedies Act. To avoid further expenses and administrative proceedings, the lender and HUD negotiated a settlement agreement. In the agreement, HUD alleged that the loan was submitted by the lender with a false certification that it was eligible for FHA insurance endorsement, when it was not actually eligible. To resolve the matter, the lender agreed to pay \$7,500 and indemnify HUD for its losses after the sale of the property. The agreement did not constitute an admission of liability or fault by any party. The lender made the settlement payment on September 23, 2014. Indemnification of HUD's losses will mitigate the impact of any losses from the property sale to HUD's FHA insurance fund.

RECOMMENDATION

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

- 1A. 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.²

² HUD's Office of General Counsel, Office of Program Enforcement, agreed with the recommendation. Therefore, no further action is required.