



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

August 26, 2015

**MEMORANDUM NO:**  
2015-PH-1806

## *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  
Bank of America, 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.<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 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 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 and to certify as to the insurability of each loan.

One borrower obtained HECM loans on two properties that she owned in California. For one of the loans, she certified that the underlying property was her principal residence. For the other loan, Bank of America, NA could not provide annual occupancy certifications. However, the borrower violated HUD's principal residency requirements because she owned both properties at the same time.

In February 2014, HUD paid an FHA insurance claim on the second loan. HUD also sold the property at a loss.

HUD's Office of Program Enforcement found that Bank of America, NA originated the mortgage on the second property despite evidence that the property was not the borrower's principal residence. Therefore, the lender should not have submitted the loan for FHA insurance endorsement.

### **RESULTS OF REVIEW**

HUD's Office of Program Enforcement notified Bank of America, NA 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 which the lender agreed to pay \$98,492 to resolve the matter. However, the lender denied that its origination activities violated HUD-FHA regulations or the Program Fraud Civil Remedies Act. Further, the agreement did not constitute an admission of liability or fault by any party. The lender made the settlement payment in April 2015.

### **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 \$98,492 to HUD's Audit Resolution and Corrective Action Tracking System as an ineligible cost.<sup>2</sup>

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