Supporting Statement for
OMB Control No. 3133-NEW
Reverse Mortgage Products – Guidance for
Managing Reputation Risks
May 2013

A. Justification.

1. Circumstances that make the collection necessary:

The Federal Financial Institutions Examination Council (FFIEC)[1] issued guidance on managing compliance and reputation risks presented by reverse mortgage products.[2] The FFIEC makes recommendations regarding supervisory matters and the adequacy of supervisory tools to the Federal financial institution regulatory Agencies.[3] The FFIEC also establishes standards for examinations of financial institutions that are applied by the Agencies. The Agencies expect that all the financial institutions they supervise will effectively assess and manage risks associated with their lending activities, including those associated with reverse mortgage products. Such institutions will be expected to use the guidance, when finalized, in their efforts to ensure that their risk management and consumer protection practices adequately address the compliance and reputation risks raised by reverse mortgage lending.

The agencies issued the final guidance on August 17, 2010 as interagency guidance in place of the FFIEC.

Reverse mortgages are home-secured loans typically offered to elderly consumers. Institutions regulated by FFIEC members offer two types of reverse mortgage products: the lenders' own proprietary reverse mortgage products and reverse mortgages offered under the Home Equity Conversion Mortgage (HECM) program.[4] Both HECMs and proprietary products are subject to various laws governing mortgage lending including the Truth in Lending Act, the Real Estate Settlement Procedures Act, the Federal Trade Commission Act, and the fair lending laws. HECMs are also subject to an extensive regulatory regime established by HUD, including provisions for FHA insurance of HECM loans that protect both lenders and reverse mortgage borrowers.

Reverse mortgages enable eligible borrowers to remain in their homes while accessing their home equity in order to meet emergency needs, supplement their incomes, or, in some

1 Office of the Comptroller of the Currency (OCC); the Board of Governors of the Federal Reserve System (FRB); the Federal Deposit Insurance Corporation (FDIC); the Office of Thrift Supervision (OTS); the National Credit Union Administration (NCUA), and the State Liaison Committee of the FFIEC (SLC).

2 74 FR 66652 (Dec. 16, 2009).

3 OCC, FRB, FDIC, OTS, and NCUA.

4 A HECM is a reverse mortgage product insured by the Federal Housing Administration (FHA), which is part of the U.S. Department of Housing and Urban Development (HUD), and subject to a range of federal consumer protection and other requirements. See 12 U.S.C. § 1715z-20; 24 C.F.R. Part 206.

cases, purchase a new home, without subjecting borrowers to ongoing repayment obligations during the life of the loan. The use of reverse mortgages could expand significantly in coming years as the U.S. population ages and more homeowners become eligible for reverse mortgage products. If prudently underwritten and used appropriately, these products have the potential to become an increasingly important product for addressing the credit needs of an aging population.

However, reverse mortgages can be highly complex loan products, and it is particularly important to provide adequate information and other consumer protections. It is critical that institutions manage the compliance and reputation risks associated with reverse mortgages. The guidance is intended to assist institutions in their efforts to manage these risks. While FFIEC members have not encountered widespread use of reverse mortgage lending by the institutions that they supervise, the FFIEC members are proposing this reverse mortgage guidance based on the anticipated growth in this lending product.

2. Use of the information:

The guidance describes the general features of, legal provisions applicable to, and consumer protection concerns raised by reverse mortgage products. In addition, the guidance focuses on the need to provide adequate information to consumers about reverse mortgage products; to provide qualified independent counseling to consumers considering these products; and to avoid potential conflicts of interest. The guidance also addresses related policies, procedures, and internal controls and third party risk management.

The guidance includes reporting, recordkeeping, and disclosure requirements applicable to both proprietary and HECM reverse mortgages. However, a number of the requirements currently are standard business practice for proprietary and HECM reverse mortgages and, therefore, under the "usual and customary" standard, do not require Paperwork Reduction Act (PRA) clearance. There are also requirements currently covered under approved TILA-related information collections for propriety and HECM reverse mortgages, and an approved HUD information collection for HECM reverse mortgages.

> The reverse mortgage guidance encourages financial institutions offering proprietary reverse mortgages to follow or adopt relevant Home Equity Conversion Mortgage (HECM) requirements for mandatory counseling, consumer disclosures, restrictions on cross-selling of ancillary products, and reliable appraisals described in HUD's regulations at 24 CFR Part 206. The guidance also encourages institutions offering either HECMs or proprietary reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage and set forth a description of how disbursements can be received and include timely information to supplement the Truth In Lending Act and other disclosures. Further the guidance recommends promotional materials and product descriptions include information about the costs, terms, features, and risks of reverse mortgage products.
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> Additionally, the guidance encourages financial institution to develop and implement policies and procedures regarding reverse mortgages and maintain the policies and procedures as a record of compliance.

Proprietary reverse mortgage products, however, are not subject to the consumer protection provisions of the HECM program, so these requirements would normally be submitted for approval under PRA. However, recent research has shown that, despite the significant growth in reverse mortgages since inception of the HECM program in 1989, the market for proprietary reverse mortgages has diminished to the point where, industry-wide, there are fewer than ten lenders offering such products.[5] This is likely due to the recent decline in housing values, resulting in decreased equity in homes.

Given the minimal number of lenders currently offering proprietary reverse mortgages, the Agencies did not seek OMB approval for the consumer protection provisions in the guidance applicable to propriety reverse mortgages. The Agencies will seek PRA approval, however, once this sector of the market recovers.

Lastly, the guidance includes requirements that apply to both proprietary and HECM reverse mortgages that do not meet the "usual and customary" standard, are not covered by already approved information collections and, therefore, require PRA clearance.

Proprietary Reverse Mortgages

Institutions offering proprietary reverse mortgages will be encouraged under the guidance to follow or adopt relevant HECM requirements for mandatory counseling, disclosures, affordable origination fees, restrictions on cross-selling of ancillary products, and reliable appraisals.

Proprietary and HECM Reverse Mortgages

Institutions offering either HECMs or proprietary reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage. The materials should contain a description of how disbursements can be received and also include timely information to supplement the TILA and other disclosures. Promotional materials and product descriptions should include information about the costs, terms, features, and risks of reverse mortgage products.

Institutions should adopt policies and procedures that prohibit directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf. They should adopt clear written policies and establish internal controls specifying that neither the lender nor any broker will require the borrower to purchase any other product from the lender in order to obtain the mortgage. Policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage. Legal and compliance reviews should include oversight of compensation programs so that lending

5 See the Board's Divisions of Research & Statistics and Monetary Affairs Finance and Economics Discussion Series paper "Reversing the Trend: The Recent Expansion of the Reverse Mortgage Market," http://www.federalreserve.gov/pubs/feds/2009/200942/200942pap.pdf.

personnel are not improperly encouraged to direct consumers to particular products.

Institutions making, purchasing, or servicing reverse mortgages through a third party should conduct due diligence and establish criteria for third party relationships and compensation. They should set requirements for agreements and establish systems to monitor compliance with the agreement and applicable laws and regulations. They should also take corrective action if a third party fails to comply. Third party relationships should be structured in a way that does not conflict with RESPA.

3. Consideration of the use of improved information technology: A credit union may use any means of improved information technology that meets the requirements of the guidance.

4. Efforts to identify duplication:

The information required is not otherwise available.

5. Methods used to minimize burden if the collection has a significant impact on small entities:

This information collection does not have a significant impact on a significant number of small entities.

6. Consequences to the Federal Program if the collection were conducted less frequently:

The compliance and reputation risks raised by reverse mortgage lending would go unchecked.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

Not applicable. This information is collected in a manner consistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency:

The NCUA published a *Federal Register* notice on December 16, 2009 (74 FR 66652) regarding this guidance. No comments were received that addressed the Paperwork Reduction Act implications of the guidance.

9. Payment to respondents:

Not applicable. There is no payment to respondents.

10. Any assurance of confidentiality:

No assurance of confidentiality is provided.

11. Justification for questions of a sensitive nature:

No sensitive questions are asked.

12. Burden estimate:

Number of respondents: 85.

Burden per respondent: 40 hours to implement policies and procedures and to provide training for credit union staff and employees; 8 hours annually to maintain program.

Total estimated annual burden: Initially 3,400 hours, and then 320 hours annually.

Burden estimates associated with Home Equity Conversion Mortgage (HECM) requirements for mandatory counseling, consumer disclosures, restrictions on cross-selling of ancillary products, and reliable appraisals are accounted for in the U.S. Department of Housing and Urban Development's regulations at 24 CFR Part 206. The guidance also encourages institutions offering either HECMs or proprietary reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage and set forth a description of how disbursements can be received and include timely information to supplement the Truth In Lending Act and other disclosures. Burden estimates associated with Truth in Lending Act disclosures are accounted for under the Consumer Financial Protection Board's regulations at 12 CFP Part 1026.

13. Estimates of annualized costs to respondents:

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Not applicable.

14. Estimate of annualized cost to the Federal Government:

None.

15. Change in burden:

The increase in burden is due to the fact that this is a new collection.
+ 85 respondents; + 3400 one-time burden hours, at a rate of 40 burden hours per respondent; + 8 burden hours annually per respondent.

16. Information regarding collections whose results are planned to be published for statistical use:

Not applicable. This information will not be published for statistical use.

17. Display of expiration date:

The information collection does include any forms or documents, on which the expiration date must be displayed. The date will be published in the Federal Register and other related public documents issued by NCUA.

18. Exceptions to certification statement:

None.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.