National Credit Union Administration
SUPPORTING STATEMENT

Reverse Mortgage Products – Guidance for Managing Reputation Risks

OMB Control No. 3133-0187

<u>*Summary of Action*</u>:

The National Credit Union Administration (NCUA) is requesting approval from the Office of Management and Budget (OMB) for renewal of an information collection associated with reporting requirements contained in a guidance document, *Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks* (Reverse Mortgage Guidance). The federal financial institution regulators, including the NCUA, jointly issued the Reverse Mortgage Guidance. The guidance sets forth standards intended to ensure that insured financial institutions, including federally-insured credit unions, effectively assess and manage the compliance and reputation risks associated with reverse mortgage products.

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary:

In August 2010, the Federal Financial Institutions Council (FFIEC) developed a guidance document, <u>Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks</u> (Reverse Mortgage Guidance), to address the unique compliance and reputation risks associated with such mortgages.

The Federal Credit Union Act (FCU Act) is the source of NCUA's authority for all federally chartered credit unions. Under Section 206 of the FCU Act, 12 U.S.C. §1786, the NCUA has authority to ensure compliance with all laws and regulations. Under Section 204 of the FCU Act, 12 U.S.C. §1784, the NCUA Board is granted comprehensive examination powers over both federal credit unions and federally-insured, state-chartered credit unions. Under Section 209(a)(7) of the FCU Act, 12 U.S.C. §1789(a)(7), the NCUA Board may exercise all powers specifically granted and such incidental powers as shall be necessary to carry out the FCU Act. Under Section 209(a)(11), the NCUA Board may prescribe such rules and regulations as it may deem necessary or appropriate to carry out the provisions of the FCU Act. Under Section 107(5) of the Federal Credit Union Act, 12 U.S.C. §1757(5), Federal credit unions are authorized to make loans to members. Section 107(5) of the Federal Credit Union Act also contains limitations on matters such as loan maturity, rate of interest, security, and prepayment penalties. Additional laws and regulations apply to reverse mortgage lending. Consistent with the FFIEC's recommendation and NCUA's authority under the Federal Credit Union Act, NCUA issued the Reverse Mortgage Guidance.

The Reverse Mortgage Guidance is designed to help financial institutions ensure that their risk management and consumer protection practices adequately address the compliance and reputation risks raised by reverse mortgage lending. The Reverse Mortgage Guidance addresses the general features of reverse mortgage products, relevant legal requirements, and consumer protection concerns raised by reverse mortgages. The Reverse Mortgage Guidance focuses on the need for financial institutions to provide clear and balanced information to consumers about the risks and benefits of reverse mortgages.

The agencies have identified areas of the Reverse Mortgage Guidance that fall under the definition of an information collection and these are discussed in further detail below. There are no required reporting forms associated with the Reverse Mortgage Guidance.

Reverse mortgages are home-secured loans typically offered to elderly consumers. Financial institutions currently provide 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.[1] Both HECMs and proprietary products are subject to various laws governing mortgage lending including the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA), 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 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 that present a range of complicated options to borrowers, and it is particularly important to provide adequate information and other consumer protections. Borrowers may depend on the reverse mortgage proceeds for the cash flow needed to pay for health care and other living expenses. Typically, elderly borrowers secure a reverse mortgage with their primary asset – their homes.

Reverse mortgages present substantial risks both to financial institutions and to consumers, and, as with any type of loan that is secured by a consumer's home, it is crucial that consumers understand the terms of the product and the nature of their obligations. While the Reverse Mortgage Guidance addresses consumer protection concerns that raise compliance and reputation risks, the member agencies recognize that reverse mortgage products may present other risks too, such as credit, interest rate, and liquidity risks, especially for proprietary reverse mortgage products lacking the insurance offered under the Federal HECM program. For these reasons, it is critical that financial institutions manage the compliance and reputation risks associated with reverse mortgages. The Reverse Mortgage Guidance is intended to assist financial institutions in their efforts to manage these risks in light of the anticipated growth in

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1 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 CFR Part 206.

this lending product.

2. Purpose and use of the information collected:

The guidance includes recordkeeping and disclosure requirements applicable to both proprietary and HECM reverse mortgages.

Proprietary Reverse Mortgages

Federally-insured credit unions and other financial institutions offering proprietary reverse mortgages are encouraged under the Reverse Mortgage 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

Federally-insured credit unions and other financial institutions offering either HECMs or proprietary reverse mortgages are encouraged under the Reverse Mortgage Guidance to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage. They should set forth a description of how disbursements can be received and 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.

Federally-insured credit unions and other financial 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 personnel are not improperly encouraged to direct consumers to particular products.

Federally-insured credit unions and other financial 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. Use of information technology:

The FCU Act does not prescribe any particular form for this information collection. Therefore, federally-insured credit unions may use any information technology available to reduce the burden imposed by the regulation.

Federally-insured credit unions may use technology to the extent feasible and appropriate to develop and maintain their policies and procedures on reverse mortgage products.

4. Duplication of information:

To the extent federally-insured credit unions already have policies in place that comply with the requirements of the Reverse Mortgage Guidance, no new policies would be necessary. Generally, the requirement to adopt policies and internal controls for reverse mortgage products would be supplementary to a credit union's existing loan policies.

5. Efforts to reduce burden on small entities:

This collection does not have a significant impact on a substantial number of small credit unions.

6. Consequences of not conducting the collection:

If this information were not collected, institutions would not have guidance to ensure that their risk management and consumer protection practices adequately address the compliance and reputation risks raised by reverse mortgage lending.

7. Inconsistencies with guidelines in 5 CFR 1320.5(d)(2):

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency:

A 60-day notice was published in the *Federal Register* on November 14, 2019, at 84 FR 61941, regarding the Reverse Mortgage Guidance. No comments were received.

9. Payment or gifts to respondents:

There is no intent by NCUA to provide payment or gifts for information collected.

10. Assurance of confidentiality:

There is no assurance of confidentiality other than that provided by law.

11. Questions of a sensitive nature:

No questions of a sensitive nature are asked. The information collection does not collect any Personally Identifiable Information.

12. Burden of information collection:

Burden estimates associated with HECM requirements for mandatory counseling, consumer disclosures, restrictions on cross-selling of ancillary products, and reliable appraisals are accounted for in HUD's approved information collection for HECM reverse mortgages.

The total annual burden hours associated with implementation and on-going maintenance is estimated to be 176 hours, as shown in the table below.

The estimate of 17 respondents is based on NCUA Call Report data for Q2 2019 on the number of credit unions reporting reverse mortgage originations and outstanding reverse mortgages.

Reverse Mortgage Guidance Policy and Procedures	Estimated Number of Respondents	Estimated Annual Frequency	Estimated Average Hours per Response	Estimated Annual Burden Hours
Implementation (Disclosure)	1	1	40	40
On-going Maintenance (Recordkeeping)	17	1	8	136
Total				176

The annual cost for the respondents is estimated to be $6,160 (at $35 hourly cost).

13. Capital start-up or on-going operation and maintenance costs:

Other than the costs to respondents that are associated with the usual and customary business practice, there are no capital, start-up or operating and maintenance costs associated with this information collection.

14. Annualized costs to Federal government:

There are no cost to the Federal government.

15. Changes in burden:

Burden has changed due to a change in the NCUA's estimate of respondents. All respondents should have gone through the implementation phase so implementation burden has been reduced from 28 to one (as a placeholder in case a new credit union elects to offer reverse mortgage products). Ongoing burden has been reduced from 28 to 17 respondents.

16. Information collection planned for statistical purposes:

The information is not planned for publication.

17. Request non-display the expiration date of the OMB control number:

Not applicable.

18. Exceptions to Certification for Paperwork Reduction Act Submission:

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.