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LONG-TERM SUSTAINABILITY FOR REVERSE MORTGAGES: HECM'S IMPACT ON THE MUTUAL MORTGAGE INSURANCE FUND

HEARING

BEFORE THE

SUBCOMMITTEE ON HOUSING, TRANSPORTATION, AND COMMUNITY DEVELOPMENT

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING HECM'S IMPACT ON THE MUTUAL MORTGAGE INSURANCE FUND

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C O N T E N T S

THURSDAY, JUNE 18, 2013

LONG-TERM SUSTAINABILITY FOR REVERSE MORTGAGES: HECM'S IMPACT ON THE MUTUAL MORTGAGE INSURANCE FUND

TUESDAY, JUNE 18, 2013

U.S. SENATE,
SUBCOMMITTEE ON HOUSING, TRANSPORTATION, AND COMMUNITY DEVELOPMENT,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Subcommittee met at 10:05 a.m., in room SD–538, Dirksen Senate Office Building, Hon. Robert Menendez, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF CHAIRMAN ROBERT MENENDEZ

Chairman MENENDEZ. Good morning. This hearing of the Subcommittee on Housing, Transportation, and Community Development will come to order. Thank you all for being here today to help us address the long-term sustainability of reverse mortgages and better understand their impact on the Mutual Mortgage Insurance Fund.

The bottom line from my perspective and where I come from—certainly for the people of my State of New Jersey—is about protecting seniors. We all see television commercials promoting reverse mortgages, and we all know that they are becoming increasingly popular, and rightfully so.

We also know that because of declining home values and longer loan life than expected, there are real concerns about HECM and its portfolio, that it could lead the FHA to draw on Treasury to fund the Mutual Mortgage Insurance Fund.

In the 1980s, the need to provide housing assistance as individuals aged became an important issue, and Congress responded with the creation of the Home Equity Conversion Mortgage, or HECM, as part of the Housing and Community Development Act of 1987. The goal was to allow seniors to age in place, to have the option of remaining in their homes and pay for expenses that they may not otherwise have been able to afford. It is an important financing tool for seniors and clearly, in my view, is a good program. But as always, someone seems too willing to game the system and take advantage of seniors to turn a profit.

As a result, too many seniors have found themselves victims of fraudulent and deceptive lending practices. I anticipate our witnesses will help us answer some of these questions. How do we get a handle on this problem? And what can we do to ensure seniors are able to age in place? What can we do to promote long-term sustainability for reverse mortgages as well as the Mutual Mortgage Insurance Fund?

In November, the FHA released its Mutual Mortgage Insurance Fund report showing a shortfall in FHA loan programs, including the HECM reverse mortgage program. HUD called for enactment of legislative authority to adopt by Mortgage Letter three reforms to improve loan performance in the FHA reverse mortgage program: financial assessments of borrowers, tax and insurance set-asides where necessary, and limiting the draw at origination to mandatory obligations.

One of the challenges HUD has faced in managing the HECM program has been its inability to move swiftly in making programmatic changes that could enhance the security and financial performance of the Mutual Mortgage Insurance Fund. Under current law, changes to HECM program would have to go through the rulemaking process, which could take up to 2 years to be implemented, and it seems to me we simply do not have the time to wait for this process. In my view, we have to give FHA the authority to modify the HECM program through the issuance of Mortgage Letters, which could be implemented in a matter of months, not years.

Because HUD insures these loans for lenders, the increasing cost to taxpayers has also grown, potentially forcing HUD to consider scrapping the popular program, so Congress must act now.

To protect our seniors, I introduced S.469, allowing the FHA to implement much needed reforms, give them the authority via Mortgage Letter to reduce the amount of money borrowed to sustainable levels, perform financial assessments to determine if a HECM loan is affordable, and establish tax and insurance set-asides through escrow accounts with lenders to prevent foreclosures.

I firmly believe that giving FHA the authority to make these much needed changes will expedite FHA's ability to ensure long-term sustainability for reverse mortgages, and I hope our panelists will address this issue.

While we certainly understand that there is much more work to be done to address the issue of reverse mortgages, I believe we must pass this legislation to begin the debate, not end it.

With that, let me welcome—I think this is our first hearing—my distinguished Ranking Member, Senator Moran. I look forward to working with him on this and other issues and his remarks, and then we will proceed with our panel.

STATEMENT OF SENATOR JERRY MORAN

Senator MORAN. Mr. Chairman, thank you very much. I look forward to working with you on this and other issues as well on our Subcommittee and the full Banking Committee and on the Senate floor, and I thank you for calling this Subcommittee hearing to discuss the Home Equity Conversion Mortgage program.

For generations, Americans have had the impression that homeowner is the financial cornerstone of our society. A 30-year fixed-rate mortgage remains one of the country's most solid investments, yet an American's ability to access the wealth they have accumulated in their home may be damaged if steps are not taken to improve the administration of the reverse mortgage program.

Since the first reverse mortgage program was made more than 50 years ago in Fairway, Kansas, American seniors have utilized this program in increasing numbers, and it is clear that it is a very popular program. It is critical that the potential tremendous strain that the HECM program has placed on the FHA Insurance Fund is addressed in a very meaningful way.

When FHA operates in a safe and viable manner, many deserving borrowers get the assistance they need to make their homeowner dream a reality. That assistance is jeopardized by the current financial status of the Mutual Mortgage Insurance Fund and the role that the HECM program has played in that function.

So I think that you are right, this conversation is critical. We need to make certain that not only is home ownership possible for millions of Americans but that the value and equity in that home can be accessed without tremendous exposure on the part of the American taxpayer.

I look forward to hearing the testimony of our witnesses, and I thank you for that opportunity.

Chairman MENENDEZ. Thank you, Senator Moran.

All right. Well, let me welcome and introduce our panelists:

Dr. Lori Trawinski is the senior strategic policy advisor at AARP's Policy Institute. She is an economist and an expert on the bond market.

Odette Williamson is a staff attorney with the National Consumer Law Center, where she heads the Elder Rights Initiative.

Ramsey Alwin is senior director of economic security at the National Council on Aging.

And Peter Bell is the president and CEO of the National Reverse Mortgage Lenders Association.

Thank you all for being here. I am going to ask you to more or less summarize your written testimony in about 5 minutes or so. Your full testimony will be included in the record, without objection, and we will start with Dr. Trawinski.

STATEMENT OF LORI A. TRAWINSKI, SENIOR STRATEGIC POLICY ADVISOR, AARP PUBLIC POLICY INSTITUTE

Ms. TRAWINSKI. Chairman Menendez, Ranking Member Moran, and Members of the Subcommittee, thank you for the opportunity to testify on behalf of AARP on the long-term sustainability of reverse mortgages and HECM's impact on the Mutual Mortgage Insurance Fund.

As the largest nonprofit, nonpartisan membership organization representing people age 50 and older, AARP advocates for policies that enhance and protect the economic security of older Americans. AARP has had a long history of involvement with the Home Equity Conversion Mortgage program.

Throughout the life of the program, we have continued to advocate for consumer protections and to develop policy recommendations to address the changes in this market. We are honored to be here today to present our views.

The fact that the Mutual Mortgage Insurance Fund may require an appropriation from Congress in fiscal year 2013 is a serious matter. The largest driver of MMI Fund losses is the sharp decline in house prices, combined with the large number of loans originated during the height of the market, higher loan proceeds and the lower mortgage insurance premiums that existed previously, the fund experienced a major shock. HUD has already taken steps to address this by lowering principal limits in 2009 and again in 2010 and also by raising up-front mortgage premiums on the standard product and ongoing premiums on both standard and saver products.

It is important to understand that making changes to the current program will shore up the fund going forward, but these changes are unlikely to eliminate losses from loans made in the past.

We suggest the following steps be taken to strengthen the HECM program and the MMI Fund:

Tax and insurance defaults must be addressed. Nearly 10 percent of active HECM loans were in technical default for non-payment of property taxes and/or homeowners' insurance as of 2012. Given that defaults have been a problem since the beginning of the HECM program and that this problem has been well documented for over a decade, a resolution, while not an emergency, is long overdue. AARP supports the use of financial assessments to examine a borrower's ability to pay property charges and ongoing expenses. However, we do not believe that credit scores should be part of the financial assessment; rather, the determination should be whether borrowers have the ability to meet their obligations, and this should be determined after taking the cash-flow from the potential reverse mortgage into consideration.

We believe the public should have the opportunity to comment on the specifics of proposed changes during the normal rulemaking process to ensure that proposals contain adequate consumer protections and are reasonable.

AARP recommends that HUD be required to evaluate the HECM program every 2 years and report to Congress. HUD has failed to act to address problems with the HECM program in a timely manner. We believe that regular evaluation and reporting to Congress will provide HUD with much needed encouragement to address problems that will ultimately protect the program and taxpayers.

Regulations are needed to ensure that consumers receive a loan that is best suited to their needs. To that end, the Consumer Financial Protection Bureau should promulgate suitability rules. In the current environment, lenders are permitted to recommend any loan product without regard to the needs or objectives of the borrower.

Lenders have also been able to control access to products in this marketplace without having to provide complete information regarding product availability and loan types of consumers. By the time consumers reach a housing counselor, they have already made a decision about which loan to pursue. Consumers need more information up front about the full range of products that are available.

HUD should also conduct a study on HECM for purchase fraud to determine its prevalence and should develop stronger consumer protections for borrowers who engage in HECM for purchase transactions.

And, finally, AARP urges the Consumer Financial Protection Bureau to conduct a study on the appropriate marketing of FHA-insured reverse mortgages. Recent changes in the marketing of these mortgages indicate a shift from advocating their use as a tool to help older Americans age in place to a financial planning tool to be used as a type of investment portfolio insurance when investment values fall, or, to put it another way, to hedge their portfolios.

Another suggested use has been as a means to finance a delay in filing for Social Security benefits. Here, consumers are encouraged to leverage their homes to be able to collect higher Social Security benefits later—a risky strategy at best.

AARP supports making changes to the HECM program to ensure its long-term sustainability and to protect both borrowers and taxpayers. We strongly believe that the program changes should occur through the regular public rulemaking process. Consumers, stakeholders, and the general public deserve to have the opportunity to provide comments on proposed rules. AARP supports the continuation of the HECM program, and we look forward to working with Congress and stakeholders to ensure that older Americans can tap their home equity with Government-insured reverse mortgage loans that enhance their ability to age in place.

Thank you for the opportunity to share AARP's views. I would be happy to answer any questions.

Chairman MENENDEZ. Thank you.

Ms Williamson.

STATEMENT OF ODETTE WILLIAMSON, STAFF ATTORNEY, NATIONAL CONSUMER LAW CENTER

Ms. WILLIAMSON. Mr. Chairman, Ranking Member Moran, and Members of the Subcommittee, thank you for the opportunity to testify regarding the long-term sustainability of reverse mortgages and HECM's impact on the Mutual Mortgage Insurance Fund. We offer our testimony on behalf of our low-income clients.

Reverse mortgages can enhance the economic security of older homeowners, especially those who lack sufficient income or assets to meet their everyday needs. The very purpose of the HECM program, as outlined by the statute, is to reduce the effect of economic hardship caused by increasing costs of health care and housing and to provide for subsistence needs at a time of reduced income. When used as designed, reverse mortgages allow older homeowners to age in place and remain in their community indefinitely until they need skilled care or other housing.

Reverse mortgages, however, are expensive when compared to other options. The costs and terms are not easily understood by even the most sophisticated consumer. The challenges consumers face in the reverse mortgage market have only increased in the past few years as the long-term costs of the loans have increased and the range of options offered have become more complex. Thousands of older homeowners have taken out reverse mortgages that are unsuitable to meet their needs. Many such homeowners face premature eviction from their homes because they often do not have sufficient resources to pay for taxes and insurance, to maintain the property, or to meet unexpected expenses.

The long-term sustainability of reverse mortgages and the HECM program will depend on how we address the risks that are posed by the aggressive marketing and sale of these complex financial products to older Americans. Strong protections for consumers are essential to minimize the risk of default and fraud. We support efforts to fully fund and strengthen the quality and content of the counseling that is provided to homeowners. However, counseling alone is not adequate to protect consumers. Without additional protections, the older homeowners the program is designed to help will be seriously harmed, and the HECM program will continue to be destabilized and weakened.

HUD has stated that it will take actions in the near and long term to ensure that consumers are protected and able to sustain their reverse mortgages and to better protect the fund. We support HUD's efforts in this regard and urge even more action to better protect consumers in the marketplace.

Specifically, we recommend that HUD make changes to the HECM program to ensure that future borrowers are able to afford property taxes and insurance on an ongoing basis and that existing homeowners facing default are given a better opportunity to save their homes.

In addition, protections must be added to the HECM program to prevent the eviction of the nonborrowing spouse. These are often the younger spouses of the homeowner who is titled on the mortgage.

Protecting the homeowner for whom the program was designed will strengthen the economic value of the program and stop the depletion of resources from the fund.

In conclusion, we believe that reverse mortgages provide a real benefit to many older homeowners struggling to meet day-to-day expenses. However, these mortgages are complex and subject to abuse, and stronger measures are needed to protect consumers, stabilize the program, and prevent further depletion of the fund.

Thank you. I look forward to your questions.

Chairman MENENDEZ. Thank you.

Ms. Alwin.

STATEMENT OF RAMSEY L. ALWIN, SENIOR DIRECTOR, ECONOMIC SECURITY, NATIONAL COUNCIL ON AGING

Ms. ALWIN. Chairman Menendez, Ranking Member Moran, esteemed Members of the Subcommittee, my fellow witnesses, and guests: On behalf of the National Council on Aging, I appreciate the opportunity to testify today.

NCOA is a nonprofit service and advocacy organization whose mission is to improve the health and economic security of millions of older adults, especially those who are vulnerable and disadvantaged.

The HECM product is an important tool for retirement planning. With the right consumer protections and comprehensive counseling, it can be a lifeline for some older adults, allowing them to age in place with dignity.

Today I am here to talk about important ways to sustain and improve the HECM program and the required counseling. If I may, I would like to start by sharing a brief note from one of NCOA's HECM counseling clients.

"After completing our session today, I breathed a sigh of relief. I told my son that it feels so good to have someone who is advocating for me instead of for the company. I understand so much more after speaking with you. I absolutely agree that reverse mortgages are not for everyone, but after listening today to you and after all my research, I think I am a very good candidate. Sincerely, Mrs. Violet P."

My remarks today are grounded in our research and our experience as a HECM counseling intermediary assisting older homeowners like Mrs. P., a mother and a widow.

There are three issues that I will discuss:

First, as you examine the HECM, remember that it was designed for seniors with modest incomes, many of whom are underserved by the financial industry. We estimate that about 44 percent of our reverse mortgage borrowers have income below 200 percent of the Federal poverty level, or roughly $23,000 annually for a single individual.

Changes to the HECM should not come at the expense of seniors of modest means for whom the program was originally designed. As people live longer, there is an increased responsibility to adequately plan for future financial security, and home equity is a part of the solution.

The issue for many low- to modest-income seniors today is not whether to tap this asset but when and how. Older homeowners considering a HECM loan, many of whom are widowed or divorced, do so for many reasons, including additional income to plan ahead for emergencies and to pay for home repairs or improvements. When used wisely, these loans can help people stay independent longer.

Second, HECM counseling is critical to the product's long-term viability. Access to unbiased counseling ensures that consumers are protected. NCOA has been a HUD-approved HECM counseling intermediary for 6 years. We view our role in consumer education to be of utmost importance. Growing numbers of older homeowners will need guidance on reverse mortgages, so we urge you to adequately fund HECM counseling.

Additional support for research using the data collected through the counseling process will help strengthen consumer protections and reduce the risk of loan default. As the baby-boomer generation ages and the age for reverse mortgages declines, we know that these loans are becoming a part of retirement planning.

Of course, borrowers must meet their ongoing obligations, including paying property taxes and insurance. However, it will be important to ensure that changes to the program, such as financial assessments, tax and insurance set-asides, or limitations on the upfront draw, do not become overly restrictive so a HECM remains a viable option for seniors with modest incomes for whom the program was originally designed.

Third, increasing the strength and sustainability of HECM requires greater consideration for counselor training. As policy changes impact the industry, adequate time and resources for HECM counselor training must be considered.

HUD has made important improvements to the counseling, strengthening the consumer protections. For instance, recently HUD made it easier for homeowners to learn about public and private community benefits by requiring HECM counselors offer an NCOA BenefitsCheckUp screening. This has helped identify over $378 million worth of annual benefits for seniors, helping some defer or avoid a HECM altogether. For those who have difficulties paying property taxes or insurance, the BenefitsCheckUp tool screens borrowers for 160 tax relief programs across the country and in every State, and 31 insurance programs. It also screens for prescription drug, utility, food, and transportation assistance. The average potential borrower identifies over $5,000 in annual reoccurring benefits.

In conclusion, NCOA believes that the long-term viability of the HECM program will be enhanced through a balanced approach that ensures strong oversight but also supports continued collaborative research and development. We need strong consumer protections, but also want to give the older homeowner the flexibility to meet their evolving financial needs.

We thank Senator Menendez for his leadership and the introduction of bill S.469, which would give HUD the tools it needs to act quickly to ensure we continue on the right path.

Thank you again for this opportunity to share NCOA's research and insights into HECM and the older homeowners who consider these loans. I welcome the opportunity to answer any questions you may have.

Chairman MENENDEZ. Thank you very much.

Mr. Bell.

STATEMENT OF PETER H. BELL, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL REVERSE MORTGAGE LENDERS ASSOCIATION

Mr. BELL. Mr. Chairman, Ranking Member Moran, thank you for convening this hearing.

The issues surrounding reverse mortgages bring a key question into consideration: How do we finance longevity?

Most Americans have inadequate savings. The Bi-Partisan Policy Commission noted recently that older homeowners had at least 55 percent of their net worth tied up in home equity. HECM is a critical tool for utilizing that equity.

I was asked to address five topics in 5 minutes, so I am going to roll through them very quickly.

One, programmatic challenges of HECM. The complex economic environment the past few years has had a significant impact on how homeowners utilize reverse mortgages. Individuals approaching retirement found themselves unexpectedly out of jobs prematurely and facing mortgage payments they could no longer afford. As a result, HECMs were used to pay off their mortgage and eliminate monthly payments, preserving their ability to sustain themselves in their homes.

While this strategy has helped numerous some, it has also caused stress to the program. The combination of up-front lump sum draws and diminished income from job loss left some borrowers challenged in meeting their obligations to pay taxes and insurance. When coupled with diminished home values, the HECM program has experienced new stresses, previously unforeseen, as a result of this confluence of factors.

Number two, need to address and improve consumer protections. The HECM program has several important consumer protections inherent in its design. Every prospective borrower must go through a counseling session prior to submitting a formal application to a lender. The program also has other consumer protections, including required disclosures and limits on fees. That being said, three changes that HUD would like to implement—financial assessment, principal limit restrictions, and tax and insurance set-asides—would not only protect the fund but also provide another level of safeguards for consumers. These provisions might preclude some applicants from obtaining HECMs, forcing them to make the difficult decision to move out of their homes. However, these changes are designed to eliminate prospective borrowers who are less likely to have a successful experience with their HECM loans.

Number three, benefits of HECM loans to seniors who are able to age in place. America faces a growing crisis. By 2030, there will be 72 million adults 65 and older, accounting for 19 percent of the population. Social Security replaces only 40 percent of preretirement earnings, and most Americans have inadequate savings to sustain themselves through retirement, a phase that is growing in duration as longevity increases.

In some cases, homeowners utilize a HECM to pay off an existing mortgage, freeing up cash that has been used for monthly payments so it could be used for other expenses. Other homeowners are establishing lines of credit as a standby reserve for expenses they might have trouble paying otherwise. Some utilize HECMs to make home improvements designed to create an environment in which they can age in place. Some borrowers choose to receive fixed monthly payments to supplement their other income on an ongoing basis.

Number four, the impact of HECM on the Mutual Mortgage Insurance Fund and potential changes to protect taxpayers. The HECM program was the product of much forethought, and the program's designers at HUD did a tremendous job in developing a helpful and flexible loan product. The Department should be commended for this.

What could not be foreseen when the program was conceived was the deep drop in home values that recently occurred, coupled with widespread loss of jobs. This tandem occurrence led to an increase in the number of HECM borrowers utilizing the program in emergency situations. To deal with the stress this has created, HUD would like to implement three changes:

First, financial assessment of loan applicants. This would be a form of underwriting, assessing each applicant's sources of funds and expenses to ascertain that the prospective borrower has sufficient resources to meet their obligation to pay property charges, including taxes and insurance, while having enough money left to cover normal living expenses.

Second, principal limit utilization restriction. HECM loans perform best when funds are drawn down slowly over a longer period of time. Unfortunately, a confluence of factors over the past few years has resulted in a disproportionate number of borrowers drawing down all available funds at closing. This results in loan balances growing larger than if funds are drawn over time.

A principal limit utilization restriction would allow borrowers to only draw enough at closing to pay off existing liens, plus the costs associated with obtaining the loan and some modest stipend for current expenses. NRMLA believes this is a sensible change that will lead to a higher degree of success among borrowers and reduce the risk to the fund.

Third, set-asides for taxes and insurance. To help avoid a situation where a borrower is unable to pay taxes and insurance in the future, FHA is planning to important the requirement for a set-aside of some of the proceeds. A set-aside is essentially the reverse mortgage equivalent of an escrow in a forward mortgage.

Five, other opportunities to improve the Home Equity Conversion Mortgage to ensure long-term sustainability for the program, consumers, and the fund. The changes to the program under consideration by HUD should address the shortcomings that have been identified. The challenge is that these changes must be made by the full regulatory development process. This typically takes a year and a half or more to complete.

The most productive action Congress can take right now is to provide HUD with the authority to make changes on a more expeditious basis so it has the ability to respond in real time as it observes trends in the economy and patterns of behavior among HECM borrowers and lenders.

The House recently passed a bipartisan bill to do this, and, Senator Menendez, your bill, S.469, would do the same.

Some are concerned with vesting too much authority with FHA by granting them the ability to make program changes via Mortgagee Letter in lieu of regulations. I do not share this concern.

I have worked with HUD on HECM issues for nearly 15 years now and have always found the Department to be a responsible steward of the program. HUD has collected feedback and consulted with stakeholders before modifying any procedures. I have no reason to doubt that such responsible leadership would continue if HUD is given the authority to fine-tune the program as economic conditions and program performance require it to do so.

Thank you for the opportunity to appear here today. More importantly, thank you for your support of the HECM program over the years. I appreciate the opportunity to be here.

Chairman MENENDEZ. Well, thank you all very much, and let us start with exploring some of the issues.

I note items of conversion and items of diversion here in terms of views, so let me try to see where maybe those differences might be broached and if they are possible. And, clearly, this is an important program because with the aging of America, the explosion in the number of individuals who clearly would look to use the equity in their home as a continuing security for themselves and to be able to age in place is a value, I believe, in our society. So we need to get it right.

So in that respect, it has been brought to the Congress' attention—and some of you have mentioned it in support and some of you I think have mentioned it in opposition, and so I would like to flush it out a little bit—that assessing a HECM applicant's financing may help lenders provide better product options, though it may keep some households from receiving access to what is a very popular program.

How can HUD and lenders develop an assessment framework that balances HUD's fiscal solvency issues with fair access to borrowers? What do you believe should be some of the factors that should be addressed when assessing a borrower's ability to pay back—or to afford, I should say, a HECM loan? And I open that to anyone on the panel who wants to refer to it. Mr. Bell.

Mr. BELL. Basically what we are talking about here is creating a new type of underwriting that is different than forward mortgage underwriting. In forward mortgage underwriting, what you look at is the income coming in and the payment, and you basically see whether it is in a ratio that is acceptable, that it is not consuming—that the payment does not consume too much of the borrower's monthly income.

But when we are dealing with retirees, it is a very different picture. First of all, there might not be income. There might just be assets. So what we are looking at is not an income underwriting but, rather, a cash-flow underwriting, and the concept that is emerging is what we refer to as a residual cash-flow analysis, where we start with the sources of income, so there might be Social Security, there might be pension, there might be income from employment still. Then we look at the assets, which are presumed to be spent down in a straight-line basis over the expected life expectancy—the expected life of the borrower using the same life span that is used in the TALC disclosure, which is a requirement of the HECM program. And then we add in the funds that would be available from the reverse mortgage. So that is their cash-flow coming in.

From that we would look at the costs for taxes and insurance, deduct those out, and what we are left with is a residual cash-flow. So the question becomes: Is that amount a believable amount, can somebody live on that amount of money that is left and cover all their other expenses?

Now, that would be a very subjective decision if we just left it open for each lender to make that decision. So our recommendation is that there is a standard for this in VA underwriting, and that has been used for many years and that works, where VA puts out an amount of income that is required or what expenses are for various quadrants of the country. So we would use that as the remainder, so that if the balance after doing—if you take the income and assets and you deduct out the property charges, is that amount left consistent with what VA says somebody needs to live in that part of the country? And if it is, we can make the loan. If not, then we need to dig further.

Now, it may be that it turns out that that is negative, but we have an allocation for groceries, but the individual may be eligible for food assistance, which would eliminate their need to pay that. Or there may be—even though we subtracted taxes, they may be eligible for a tax deferral program, so then we would be able to add that back in.

But the concept is to create this residual cash-flow analysis so that we could ascertain the likelihood of success for a prospective borrower.

Chairman MENENDEZ. So let me ask you, Ms. Alwin, because I listened to your testimony and you said that changes should not come at the expense of modest-income seniors. Do you think that that type of approach Mr. Bell just described would meet the concerns of your association?

Ms. ALWIN. NCOA feels that if the financial assessment does account for the access to benefits program that were mentioned—food assistance, utility assistance, property tax relief—if that were considered along with the income, the assets, that it would ensure modest-means individuals would still have access to the tool. As I mentioned in my testimony, the average potential borrower going through counseling identifies about $5,000 worth of annual reoccurring public and private community benefits. If you factor those benefits into the equation of what they have available to ensure the sustainability of the HECM, I think we would adequately address and remain viable for modest-income individuals.

Chairman MENENDEZ. I do not know if anyone else wants to opine on this or not. I have another question or two, and since it is only Senator Moran and I at this point, I am going to extend the time a little bit, and then I will turn to Senator Moran. Go ahead.

Ms. WILLIAMSON. Sure. I just wanted to comment. We, too, would support using the VA's residual income test as a model, with one key distinction to what has been said prior, and that is, we would look at actual benefits that the homeowner receives, not theoretical. So even though they may qualify for a particular program, that does not mean that after the application that they will actually receive that benefit. So if they do get that benefit, then, of course, it should be considered.

Chairman MENENDEZ. Let me ask, most of reverse mortgage loans are HECM loans, and the insurance provided by FHA on these loans protects lenders from losses. The FHA Actuarial Review says that without the loss protection provided by FHA insurance, lenders would need to increase interest rates or reduce the amount of equity borrowers can access in order to cover the financial risks proposed by reverse mortgages.

What would be the impact on senior borrowers if the FHA loss protection was, in fact, lost? Mr. Bell.

Mr. BELL. Yes. We did have a fledgling but growing proprietary reverse mortgage market before the crash in property values a few years ago, and there were some very good attractive products that were brought to market. However, they self-insure, so to speak, by doing a much more conservative loan-to-value. And a lower loan-to-value works well without a higher-value home, but if you apply a lower loan-to-value to the lower-value homes that we do under the HECM program, you are really not coming up with enough benefit to pay off the existing indebtedness that people typically have on their properties. So, therefore, you are unable to service them.

So the proprietary market really served homeowners with homes that had values approaching $1 million and upwards, in some cases perhaps $800,000, but for the most part it served the higher end of the market. And you just do not get enough benefit with enough security to entice investors if you do not go conservatively on your loan-to-value.

Chairman MENENDEZ. Very good. Senator Moran.

Senator MORAN. Chairman, thank you.

How many lenders are in the reverse mortgage business? Is this a wide group of businesses of lenders?

Mr. BELL. There are roughly, I believe, about 1,200 companies who have originated a HECM loan in the past year or so. However, the large majority of them have done a handful of the loans, and probably the top 40 lenders in the market probably account for upwards of 50 percent.

Senator MORAN. And is this the primary business of those lenders.

Mr. BELL. It is a mix. Some of them are specialized companies that focus on serving seniors in their communities. Others are banks, credit unions, mortgage companies that offer an array of products, but because they do have some clients to whom the HECM would be beneficial, they choose to make those available.

Senator MORAN. How does a typical senior access this program? What is their entree into originating a loan?

Mr. BELL. Very good question. They have two entry points. They could start by talking to a lender. They may read an article in the newspaper. They may see an ad on television. They may talk to people. They may be referred by somebody at a senior center. And they will go in and talk to a lender first. Other times, some people do go directly to a counselor first.

A lender can explain to somebody how a HECM works and can take some preliminary information from them to show them how it might work in their case. But we are not allowed to actually take and process a formal application nor are we allowed to have the prospective borrower incur any expense until they go out to counseling and meet with an independent counselor at a HUD-approved counseling organization, complete the counseling, and return to the lender with a counseling certificate signed by both the counselor, and then when the prospective borrower basically signs that certificate themselves, then they turn it to the lender, and that can begin the process.

Chairman MENENDEZ. Let me interrupt you, if I may. So that means that every borrower——

Mr. BELL. Every single borrower, 100 percent——

Chairman MENENDEZ. ——has to first have counseling before they could ever——

Mr. BELL. Before they could formally apply and before they could actually be subject to any expenses whatsoever. And then once they have been through counseling, if they choose to go ahead, then they return to the lender. They turn over the counseling certificate, and at that point an appraisal is done because everything is based on the value of the property. So prior to that, there is no exact—you know, there is no knowledge of exactly how much money will be available. It is pretty much hypothetical at that point, perhaps based on some statistical analysis of what the property's value is. But until they come back from the counseling, we do not—we are not able to incur the expense of the formal appraisal to really give them a formal proposal and then have them make the full application.

Senator MORAN. Maybe to our other witnesses, the indication by Mr. Bell was that some people see a counselor first. How does that relationship develop?

Ms. ALWIN. So as the only national aging organization that is a HUD-certified intermediary providing HECM counseling, NCOA works very closely with Area Agencies on Aging, AAAs, and Aging and Disability Resource Centers, ADRCs. And our goal is to get the word out about a HECM early and often to ensure that the product is not an emergency crisis management tool. So our Area Agencies on Aging and our ADRCs are out in the community. They are the designated planning and coordinating entity in their community as it relates to aging services and supports. They are providing older Americans across the country supports on a regular basis, and through their outreach efforts, they talk with their vulnerable older adults about a range of public and private economic assistance options. And so we try to get them to engage older adults early to have a conversation about what HECM is, what it means for their economic security, and when and how they might infuse a HECM into their financial planning.

More often than not, those that come to our Area Agencies on Aging to receive HECM counseling have already been touched by a borrower, but our goal is——

Senator MORAN. Touched by a lender?

Ms. ALWIN. Excuse me, by a lender. Thank you. But our goal is to provide some basic outreach so that individuals can learned about the tool before they are touched by a lender.

Senator MORAN. And a senior citizen in Kansas, they would have an option of discussing this with somebody at the Area Agency on Aging, somebody at a meal site, somebody at a seminar. If you went to your local community bank across our State, would somebody be there to describe this mortgage? Or is it more likely that—I mean, my assumption is that you see the ad on television, you get something in the mail. What do you do with that? Does the typical senior pick up the phone and—I have never paid attention. I assume there is an 800 number you call.

Ms. ALWIN. Lenders are required to share information on all nine national intermediaries providing the HECM counseling. NCOA, for instance, has a 1–800 number. We also have information on our Web site. When a lender touches a potential borrower, they are encouraged to inform them of all of their counseling options.

Senator MORAN. Again, this may be for Mr. Bell. I do not mean to have you dominate the answers to my questions, but what are the underwriting standards? Why is a loan made to someone who is unable or unwilling to pay for their insurance on their home or taxes? Is it that it starts out that they are capable? I mean, the analysis done by the lender indicates that the payments will be made for taxes and insurance, but financial conditions change?

Mr. BELL. Yes, that is often the case of what we find on the tax and insurance defaults. Of the universe of loans in default now, one-third of them are tax defaults, one-third are insurance defaults, and one-third are a combination of the two, roughly. The insurance defaults tend to be in places like Florida after hurricane seasons when insurers have either dropped clients, dropped out of the market, or significantly raised insurance rates; the flood areas in the Midwest. So oftentimes we find the insurance defaults are a function of them having an inability to obtain the insurance, not necessarily through any willfulness to do it.

The taxes, we tend to, in underwriting—most lenders do—take a look at their history of paying their taxes, and if there have been problems in the past, then they may choose to pass on that particular borrower. But if they have been paying them all along, then there is no reason to determine that they might not be able to pay them, particularly since their financial situation should presumably be enhanced as a result of getting the HECM and getting rid of the current mortgage payment that they have.

Senator MORAN. What is the average amount of the amount advanced—what is the average amount advanced under a reverse mortgage? What kind of dollars are we talking about?

Mr. BELL. It really varies. What we start with, a little bit technical here but a quick lesson, we start with a concept that we call the "maximum claim amount," which is essentially the value of the property at the time the loan is made, and everything is calculated off of that. That is also the largest amount that FHA will end up paying in a claim should—there is where FHA's liability is—you know, that is the maximum they are allowed to pay.

Then from that we have what is called a "principal limit factor," which is a percentage of that value that is available to the individual borrower, and that comes from a table that HUD provides. It is the same at every lender. And what that table has is, down one side it has every possible interest rate, 5, 5⅛, 5¼, 5⅜, and across the top every age, 62, 63, 64. So what that table gives us is the percentage of value that would be available to a borrower of a certain age at the particular interest rate that is being used to underwrite the loan. And that is the amount that is available to them in the gross amount. From that they may have their fees for the loan deducted, and that leaves a net amount that is available. And then that net amount, they could either say I want to take it all, I want to set it up as a line of credit, I want to take fixed monthly payments, or any combination thereof.

Senator MORAN. I may have missed this. Is there a maximum amount that HUD guarantees?

Mr. BELL. HUD will allow a HECM to be underwritten against the lesser of the actual value of the property or the FHA national loan limit of $625,500. So if a home is worth $400,000, the loan is based on $400,000. That is the maximum claim amount, and there is a percentage of that value. If a home is worth $700,000, then it is based on that $625,500.

Senator MORAN. So the $625,500 is the maximum——

Mr. BELL. That is the top, and that is a temporary limit that was set in place by the stimulus. That is 150 percent of what the limit had been otherwise at $417,00.

Senator MORAN. Thank you, Mr. Chairman.

Chairman MENENDEZ. Thank you.

Just a couple of final questions. To follow up on Senator Moran's questions about taxes and insurance, why would it not make sense, since this seems to be collectively the most significant element of default, why would it not make sense to include just as in a typical mortgage payment taxes and insurance so that seniors do not find themselves at the end of the day hit with this challenge?

Mr. BELL. Well, the major difference is that we are not collecting mortgage payments on a monthly basis. On a forward mortgage, you are paying the taxes and insurance as part of the monthly payment you pay in; whereas, the reverse mortgage does not have a monthly payment feature. So there would be a significant cost to putting that in place, and it raises a number of other issues. For instance——

Chairman MENENDEZ. You mean the collection of it would have a cost?

Mr. BELL. Yes. If a borrower fails to pay their taxes and insurance, that is a default situation. And the lender is required to do a few things at that point. The lender is required to advance the taxes on behalf of the borrower to cover the property with insurance on behalf of the borrower and to notify the borrower that it has done so and ask them to get in touch with the supervisor about creating a repayment plan. And also the lender is required to go to HUD at that point and request permission to accelerate—in other words, to call the loan due and payable, because that is a default.

So if we would move to an escrow where we would collect the one-twelfth each month, if a borrower pays January and February and misses the March payment, where are we? What does that mean? April, they may pay a payment. They may pay two. June, they miss again. So there are a lot of questions about how do you handle defaults, how do you work those situations.

The reverse mortgage counterpart to an escrow, rather than paying in, is what we call a set-aside. We do set-asides for other things. For instance, if the appraisal says that the home is not up to the minimum standards, and it says there is $15,000 of repairs required, for instance, we set aside some of the funds that would be available, and the owner can only use those funds to make those repairs.

So what is being discussed is a set-aside for taxes and insurance. It still remains to be seen whether you would do that for what is the expected life of the loan entirely. Of course, if you do that, then you are reducing the benefit to the borrower, and they may not get enough money. Or do you do that for a 2-year period or 3-year period so that if they fail to pay, at least you have some other resource to work with while you try to mitigate the situation?

So rather than collecting it in an escrow, the reverse mortgage equivalent is basically to work with the funds available through a set-aside.

Chairman MENENDEZ. So how do others feel about the idea of a set-aside? Ms. Alwin.

Ms. ALWIN. So, again, it is a reasonable proposition to ensure and protect all stakeholders involved. But, of course, we would want consideration for those who are eligible and enrolled in property tax relief programs. It is more economical to stay in the home, to utilize the HECM as a part of your broader economic security portfolio. But for those that are eligible and enrolled in property tax relief, we would want to make sure that is a part of the set-aside formula.

Ms. WILLIAMSON. We would also support having a set-aside, especially for the homeowners who do not have residual income on a going-forward basis to pay the property charges. So we would support that as well.

Chairman MENENDEZ. Does AARP have a position?

Ms. TRAWINSKI. We support the concept of a set-aside for taxes and homeowners' insurance. But you also have to understand that some of the highest defaults of HECM loans are in, for instance, Queens, New York, where the property taxes are extremely high. So there is a balance; if you are going to set aside taxes, you may eliminate the loan proceeds entirely, depending on how you structure that. And that is why we believe that proposals to change things like that should involve public input.

Chairman MENENDEZ. Now, Ms. Williamson, obviously, the reason I interrupted Senator Moran, I just wanted to make crystal clear that every borrower ultimately has to first go through counseling before they ever get to actually borrow, assuming they qualify. Yet in your testimony, while you support counseling, you also said counseling is not enough to protect seniors. Could you enumerate what you mean by that?

Ms. WILLIAMSON. Sure, absolutely. In our work on reverse mortgages, we actually conducted a survey last August. This survey was sent to thousands of elder advocates nationwide, and we received responses from well over 100 reverse mortgage counselors, elder advocates, some consumers as well. And one of the trends that we noted from those responses is that there is tremendous pressure from lenders when consumers walk into their office on a variety issues, some of which we have highlighted in our testimony today.

One of them is the pressure to remove the often younger spouse from the title to the house so that the older spouse can get a larger amount of proceeds. Those homeowners are inundated with pressure from the lenders and other originators to say that this is a good idea. They hardly ever understand that the risk of doing that is that when the spouse who is on the mortgage dies, the younger spouse would be evicted.

In our responses to that survey, a number of counselors noted that homeowners are counseled, and if they follow up with the homeowner 2 or 3 months later, they are oftentimes surprised that the homeowners express, for example, an intent to take out an adjustable-rate—or to exercise their adjustable-rate option, but instead they went with the fixed-rate, full-draw option. They are surprised that the homeowners later on are not able to keep up with their property taxes and insurance. So while we think that strong and effective counseling is definitely necessary, we think that that is not enough, and that there should be more substantive protections added to the program to protect consumers in every aspect of the lending process.

Chairman MENENDEZ. Any other views on that issue? Ms. Alwin.

Ms. ALWIN. There is a rich data set behind the counseling through the financial interview tool, which is a required aspect of the counseling. The counseling has a 200-plus-page protocol that is required. The financial interview tool was implemented recently. It is a very robust questionnaire. Its intent is to inform, and it asks questions in regard to the potential borrower's intent. And then there is a 60-day follow-up that counselors are required to conduct to see what the outcome was.

At NCOA, we believe that if we take a closer look, spend some time combing through that data, that could inform some of the risk indicators in regard to the default. So I would really encourage, as we move forward, a closer look at some of the data collected through counseling, cross-walking it with some of the default data so that we can begin to develop a data-driven understanding of the risk factors.

Chairman MENENDEZ. Mr. Bell, do you want to opine on that?

Mr. BELL. On the issue of the nonborrowing spouse, I would like to follow up on something that Ms. Williamson said. Her indication is that this is something that lenders are leading borrowers into inappropriately. The issue of the nonborrowing spouse is the subject of a lawsuit right now that is being handled by the AARP Foundation on behalf of a couple of plaintiffs. Our organization has filed an amicus brief on this, and we have done quite a bit of research on it, and we have filed, along with our brief, a number of affidavits from borrowers who have basically come out and said that they have done this for any number of reasons, that they have decided to remove a spouse from title. Oftentimes it is because one member of the couple is under the eligible age, is under 62 years old, but they still are facing foreclosure on their current mortgage, and the only way they could get the reverse mortgage is to remove title to be able to stay in.

Other times they need a larger amount of money for one reason or another. There might be a disparity of ages. You might have one member of the couple that is, say, 66 and one that is 72, and there is a considerably larger amount of money available at age 72 than if you include the 66-year-old.

So this is a conscious decision that gets made in a number of cases for purposes of generating a large amount of money. We do not take it lightly. Lenders for the most part do not like doing this. We urge prospective borrowers that are doing this to discuss it thoroughly with their counselors. We generally have disclosures that they sign acknowledging it, and in some cases, we even—besides the disclosure, since we all know when you close a mortgage, you sign tons of papers and who really knows what they say? We actually have them write a handwritten note explaining that they are doing this and why. We filed examples of all of those along with our legal brief.

So it is a tough issue because there are a lot of reasons people do it, and it is not necessarily a sinister thing that goes on within the industry.

Chairman MENENDEZ. Which brings me to one of three last questions. Counseling seems to be obviously not only a necessity here in order to qualify but so critically important. Do we have enough resources for counseling for people in the country?

Ms. ALWIN. Unbiased counseling is essential, and HECM is unique in that the counseling is required. We need adequate funding to be appropriated to ensure that we have no-cost, low-cost available counseling for all consumers.

In the current marketplace, it really is a mixed result in that some of the counseling intermediaries do charge, and you get what you pay for. And they charge at various rates, anywhere from $125 down to, we have heard, $75 for a counseling session that is intended to be quite comprehensive and robust. And our counselors are very proud of the fact that their counseling sessions often take 90 minutes or more to go over the full range of issues and implications.

The reality is, with limited amounts of housing counseling dollars over the past several years, our capacity has shrunk, and, therefore, some of the counseling intermediaries must charge. And that does have implications.

Chairman MENENDEZ. Yes, Dr. Trawinski.

Ms. TRAWINSKI. I just wanted to weigh in on the housing counseling issue from a different perspective. Housing counselors are not allowed to give advice or make recommendations to borrowers. Their role is solely to educate. And so this creates a somewhat unlevel playing field in that lenders have the ability to recommend and suggest and say whatever they would like to the borrower. But the counselors are restricted in that regard, so it is important to understand counseling is a vital tool, but the counselor's hands are tied as to what they are able to say to a borrower.

Chairman MENENDEZ. But if they give them a 90-minute session in which you talk about the range of considerations you should have, I would think it would be pretty significant, because if we were to, to use your terms, you know, untie the hands of counselors, we also would have to worry about a counselor or counselors who would want to lead a potential borrower to a certain product.

Ms. TRAWINSKI. Right. I mean, it is——

Chairman MENENDEZ. It is a mix.

Ms. TRAWINSKI. It is a mix.

Chairman MENENDEZ. My final two questions are—and maybe Mr. Bell is the right person, but anyone is welcome to answer it. As the housing market rebounds, is that going to take off some of the pressure or create greater opportunity? Because, obviously, you have referenced several times that part of the challenge has been a housing market that has lost value. As the housing market rebounds, what does that mean for this program?

Mr. BELL. Well, certainly, recovery in housing values helps shore up the value of the fund. You know, a HECM relies solely on the future value of the property for repayment. Unlike a forward mortgage where there are payments coming in every month and the balance is going down, in a reverse mortgage there is no payment and the balance is going up.

So to the extent that the home appreciates over time, you have a greater cushion. You have higher collateral. So, of course, rising home values will put the fund in a much stronger position.

Chairman MENENDEZ. And then, finally, for any other panelists—and I say this only—I have my own idea of what this is, and I think it is pretty universal. But since we are developing a record here, why is a program like HECM a good public policy? What does it mean, for example, to all of us collectively as a Government to allow people to age in place versus maybe end up having to seek either public housing or a nursing home or an assisted living facility in which the Government obviously many times would contribute to that? Anybody want to pursue that? Ms. Alwin.

Ms. ALWIN. HECM really is an example of a public–private success. The FHA insurance provides a protection for all stakeholders, the ability to orderly—to allow a modest-income individual the orderly drawdown on their home equity to supplement their fixed income, allows them to age in their home, as most seniors desire, and often staves off or avoids institutional care, which often has implications for spend-down in Medicaid. So it is a very cost-efficient solution that allows our seniors to stay in their homes, stay in their community, mixing public and private supports.

Chairman MENENDEZ. Senator Moran.

Senator MORAN. Is the only recourse on a reverse mortgage loan the equity in the home? There is no personal liability upon the death or departure of a person from their home?

Mr. BELL. That is correct. It is a nonrecourse loan.

Senator MORAN. And I did not get an answer to the average rate—or, I am sorry, the average amount of a reverse mortgage. But what is the cost of a reverse mortgage as compared to the cost of a traditional mortgage? If I borrow $100,000 on my home or I am a senior and get an advance of $100,000 in a reverse mortgage transaction, are the interest rates comparable? Are the origination costs similar?

Mr. BELL. Yes, they are very comparable. An FHA forward mortgage and an FHA reverse mortgage will have similar costs associated with them. There is an origination fee, which is formulaic by a formula set by the Congress, with a maximum of $6,000. It is 2 percent of the first $200,000 of value and 1 percent of the balance of the value, with a cap of $6,000. So a $400,000 home would be the max. Then there are your normal costs for appraisal, title recording, and then there is interest on the loan, and the interest rates, depending on what type of loan people choose, will be more or less comparable to what they are on forward mortgages.

Senator MORAN. Are those interest rates fixed or variable?

Mr. BELL. The consumer has a choice of fixed or variable. Historically, all HECMs had been variable, and Fannie Mae was the investor, and they acquired all those loans and held them in portfolio. As they received the mandate from Congress to begin reducing their assets, they backed away from the reverse mortgage business, and Ginnie Mae stepped up to the plate and put a program in place, HMBS, a HECM mortgage-backed security.

The Ginnie Mae program paved the way for offering fixed-rate HECMs, which seniors by and large seemed to want to get. You know, people who remember the 1980s—I know I closed on my home in September 1981, and my first mortgage was 16⅝ percent. People that remember that are often afraid of variable rates, even though in a HECM situation it may be more advantageous for the borrower to get that.

However, here is the catch: To get a fixed rate, the borrower has to agree to take down all the funds up front. It is a closed-end loan. They take the money at once. They could pay it back at any time, but they cannot borrow it out again. It is not open-end credit. It is closed-end credit. And the reason for that is if I am a lender, if you come to me and say, "I want my whole $250,000 that I am entitled to today," I know my cost of funds, so I could give that to you. But if you say, "I am entitled to $250,000 and I want to take $50,000 today and I will come back at some unknown point in the future for some amount of it," I cannot make a loan like that on a fixed rate on today's interest rate. So if you want the line of credit option, it needs to be variable rate; whereas, if you want the fixed rate, then you have to take it all out up front. And that is part of the issue we are dealing with right now. The consumers are drawn to that. The execution on the Ginnies is better, providing revenue to the investor, to the originator. And as a result of the investor demand for those products, there is an ability to waive all the fees to the borrower. So the $6,000 origination fee that we discussed, perhaps even the up-front mortgage insurance premium that needs to be paid, in the current market, if someone was to take a fixed-rate, full-draw loan, they may find that they do not have to pay any of those fees.

Senator MORAN. Are almost all the reverse mortgages paid at the time of death as compared to—or departure from your home as compared to somebody prepaying that loan?

Mr. BELL. No. I do not know the current statistics. At the moment people tend to be staying in their homes longer than they have historically just because it is harder—or had been harder until the last couple months to sell homes. But historically, as many ended in a mobility event, a move-out, as did in a mortality event, a death.

Senator MORAN. OK. And, finally, are these loans—well, two questions. One, can you make a reverse mortgage without the FHA backing? Do banks do that? Is that legally permissible?

Mr. BELL. Yes, it is legally permissible, and as I said, there had been a proprietary market emerging back in 2007, 2008, and then it has gone away. My guess is we will begin to see that return later this year or as we get into 2014, assuming that home price stabilization continues.

Senator MORAN. And, finally, do States regulate these mortgages?

Mr. BELL. Yes, many States do have State laws that are layered on top of Federal laws.

Senator MORAN. Mr. Chairman, thank you.

Chairman MENENDEZ. Well, let me thank all of our witnesses for a pretty complete review of the issues related to HECM. I think this is an important public policy option, one that we need to preserve and enhance. We look forward to looking at the House's legislation. Ours has a little bit more specificity about some of it, but the opportunity to move forward may be one that we will have to consider.

The record will remain open for 2 additional days for any Member who wishes to submit any questions for the record. And with the thanks of the Committee, this hearing is adjourned.

[Whereupon, at 11:11 a.m., the hearing was adjourned.]

[Prepared statements supplied for the record follow:]

PREPARED STATEMENT OF LORI A. TRAWINSKI

SENIOR STRATEGIC POLICY ADVISOR, AARP PUBLIC POLICY INSTITUTE

JUNE 18, 2013

Chairman Menendez, Ranking Member Moran, and Members of the Subcommittee, thank you for the opportunity to testify on behalf of AARP on the long-term sustainability of reverse mortgages and HECM's impact on the Mutual Mortgage Insurance Fund. I am Lori Trawinski, Senior Strategic Policy Advisor in AARP's Public Policy Institute.

As the largest nonprofit, nonpartisan membership organization representing people age 50 and older, AARP advocates for policies that enhance and protect the economic security of older individuals. AARP has a long history of involvement with the Home Equity Conversion Mortgage (HECM) program. In the mid-1980s, AARP supported the creation of the HECM pilot program. Recognizing the need to protect older, potentially vulnerable consumers from loss of home equity, AARP advocated for the requirement that HECM borrowers obtain housing counseling from HUD-certified providers prior to applying for a reverse mortgage loan.

Throughout the life of the HECM program, AARP has continued to advocate for consumer protections, conduct research on reverse mortgage issues, and develop policy recommendations to address the changes in this market. We are honored to be here today to present our views.

1. Programmatic Challenges of the HECM Program

Choice of Loan Proceeds Payout

The HECM program was designed to provide access to cash by allowing homeowners age 62 and older to tap a portion of their home equity without having to repay the loan as long as they lived in the house. It was viewed as a tool to assist homeowners who wanted to age in place. Borrowers could choose to receive their loan proceeds as a monthly payment over time, a payment for a set period of years, or as a line of credit to be used as needed. Within the line of credit option is the option to take all proceeds in a single lump sum payment. At the onset of the program, it was expected that most borrowers would choose to receive a monthly payout over time to supplement their income. However, by 2006 it was noted that borrowers more frequently chose the line of credit option, and many borrowers drew a large amount of loan proceeds early in the loan term.[1] The HECM market changed further in 2009 as securitization of HECM loans contributed to a major shift in borrowers choosing loans with a fixed interest rate, which required them to take all proceeds in a single lump sum payment at the onset of the loan. By 2010 nearly 68 percent of borrowers took proceeds in a lump sum and the fixed-rate product has continued to dominate the HECM market.

Research indicates that many borrowers take lump sums because they have existing mortgages that must be paid off as a condition of getting the HECM loan. In addition, many borrowers are interested in using the proceeds to pay off other forms of debt.[2] Some of this need derives from higher amounts of forward mortgage debt being carried later in life than in the past, and an increase in the overall indebtedness of Americans in general.[3] Increasing use of full-draw lump-sum payouts could also reflect a change in how reverse mortgages are marketed. Whatever the underlying reason, borrowers who take the full draw on day one of the reverse mortgage loan exhaust their borrowing capacity immediately and have no access to future funds. In addition, interest accrues on a large balance and accumulates rapidly.

Average Age of HECM Borrowers Is Decreasing

Also notable has been a decrease in the average age of borrowers from 76 years old in fiscal year 2000 to 72 years old as of September 2012. Recent research found that of potential borrowers who received reverse mortgage counseling in 2010, 46 percent were under age 70.[4] These changes may indicate that people have a need for higher amounts of money earlier in retirement, or even prior to retirement. Younger borrowers who take out reverse mortgages have access to a smaller percentage of their home's value, since the amount that can be borrowed is based on the life expectancy of the youngest borrower. The concern is that by drawing down

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[1] Donald L. Redfoot, Ken Scholen, and S. Kathi Brown, "Reverse Mortgages: Niche Product or Mainstream Solution?" AARP Public Policy Institute, December 2007, p. 56.

[2] Barbara Stucki, "Changing Attitudes, Changing Motives, National Council on Aging and MetLife Mature Market Institute", August 2011, p. 14.

[3] Lori A. Trawinski, "Assets and Debt Across Generations: The Middle Class Balance Sheet 1989–2010", AARP Public Policy Institute, January 2013.

[4] Ibid, p. 8.

home equity earlier, people will have no access to additional cash later in life when they may encounter major health problems or other emergencies that require financial resources. Also, by waiting until later to take out the reverse mortgage loan, borrowers would have access to a larger amount of funds.

Tax and Insurance Defaults

Reverse mortgage borrowers are responsible for paying property taxes, homeowner's insurance, and homeowners' association dues and assessments as a condition of the loan and as specified in the mortgage note. Failure to do so places the loan into default (delinquency) status and unless these charges are paid, the loan will become due and payable and the loan will go into foreclosure. According to HUD, 57,600 loans or 9.8 percent of active HECM loans were in technical default for nonpayment of property taxes and/or homeowners insurance as of June 2012. Borrowers' nonpayment of property taxes and insurance is a problem that has been well known for many years. In its evaluation report of the HECM program to Congress in March 2000, defaults were noted and it was suggested that HUD develop a loss mitigation strategy for handling these situations.[5] In 2010, the Inspector General of HUD conducted an internal audit of the HECM program and found HUD was not tracking almost 13,000 defaulted loans and that HUD had granted deferrals on these loans and had no formal procedures in place regarding how servicers should manage defaulted loans.[6] In January 2011, HUD issued Mortgagee Letter 2011-1 that provided loss mitigation guidance and procedures for dealing with delinquent loans.

Modeling Assumptions for Reverse Mortgages

Reverse mortgage models include assumptions about future home prices, loan termination speeds, and mortality. The collapse of the housing market and its aftermath was unanticipated and thus was not accurately captured in the models used to calculate program risk. Since many loans were originated during the height of the run-up in house prices, many HECM loans are likely underwater, meaning the value of the loan exceeds the value of the home. Sharp price declines translate into higher loan losses if loans terminate prior to house prices recovering to their level at the time of loan origination. This is the major source of projected losses going forward. In addition, HUD's earlier assumptions regarding mortality rates were too high, as it appears borrowers have been living longer than originally projected and the interaction between two borrowers was not estimated accurately.[7] HUD found that surviving borrowers are living longer and staying in the home longer than predicted. As loans terminate more slowly than predicted, the likelihood that loans will reach their maximum claim amount and be assigned to HUD increases, and thus will require support from the insurance fund. Future interest rates will also impact the growth rate of loan balances for adjustable rate loans, and if interest rates rise sharply, loans will reach their maximum claim amount sooner and will be more likely to be assigned to HUD.

2. Need To Address and Improve Consumer Protections To Ensure Long-Term Sustainability

Tax and Insurance Defaults

AARP believes the tax and insurance default situation must be addressed. Given that this has been a problem since the beginning of the HECM program, and this problem has been well documented for over a decade, a resolution—while not an emergency—is long overdue. While we support the idea of tax and insurance escrows or set-asides, the public should have the opportunity to comment on the specifics of such program changes during the normal rulemaking process to ensure that changes contain adequate consumer protections and are reasonable regarding the amounts to be escrowed or set aside.

Financial Assessments

One of the main features in the design of the HECM loan was that income and credit history were not part of the underwriting process. The thought was that older Americans—who have accumulated equity in their homes over a period of many years—should have access to that equity without having to sell their home or take

[5] David Rodda, Christopher Herbert, and Hin-Kin Lam, "Evaluation Report of FHA's Home Equity Conversion Mortgage Insurance Demonstration", Final Report, Abt Associates, March 31, 2000, pp. 53 and 62.

[6] HUD Office of the Inspector General, Audit Report 2010-FW-0003, August 25, 2010.

[7] National Reverse Mortgage Lenders Association Webinar on the President's FY2014 Budget, April 12, 2013. Charles Vetrano, Deputy Assistant Secretary, Risk Management and Regulatory Affairs, HUD discussed this issue during the Webinar.

out a home equity loan. Many older homeowners with limited incomes would not qualify for a traditional home equity loan, since it would require monthly payments. Since the HECM loan did not require repayment as long as the borrower lived in their home, the underwriting process was largely based on the life expectancy of the youngest borrower, existence of current liens on the property, and a verification that the borrower was not in default on any Federal debt.

AARP supports the use of financial assessments to examine a borrowers' ability to pay property taxes, homeowners insurance, homeowners' association dues and assessments, and to be able to maintain the property. However, we do not believe that credit scores should be part of the financial assessment. Rather, the determination should be whether borrowers have the ability to meet their basic living expenses, financial obligations and property charges, and this should be determined after taking the cash flow from the potential reverse mortgage into consideration.

AARP believes it is important to ensure that following a reverse mortgage, a borrower will have the ability to maintain payments for their obligations; if not, the reverse mortgage should not be made. Denying a loan may enable some homeowners to retain any equity they may have, instead of merely staving off the inevitable loss of a home with a loan that is destined to fail.

Suitability

AARP believes that the Consumer Financial Protection Bureau should develop suitability standards and regulations regarding lender responsibilities to provide assurance that borrowers take out loans or find other alternatives that are best suited to their needs. Housing counselors are prohibited from recommending any loan or other course of action. Their role is to educate, answer questions and verify that the borrower understands the basics of the loan. Lenders, on the other hand, are able to recommend reverse mortgage loan products without regard to the needs of the consumer.

Product Availability

In the past, many lenders only offered certain reverse mortgage products to borrowers. The available loan products were: fixed-rate standard loan, adjustable-rate standard loan, fixed-rate saver loan, and adjustable-rate saver. However, many lenders only offered borrowers the fixed-rate standard product. The National Reverse Mortgage Lenders Association (NRMLA) recently issued Ethics Advisory Opinion 2013-1, which directs its members to "offer and describe the full range of products and programs generally available in the marketplace that may provide a bona fide advantage to such consumers." For the HECM program, this means lenders would describe the standard adjustable, fixed-rate saver, and adjustable-rate saver with potential borrowers. Previously, the NRMLA Code of Ethics required its members "to describe to consumers the range of programs and products offered by the Member that may provide a bona fide advantage to such consumers." While we commend NRMLA for making this improvement, there is no enforcement mechanism to ensure that this advisory is followed. In addition, all reverse mortgage lenders are not NRMLA members. AARP recommends that the Consumer Financial Protection Bureau consider promulgating rules in this area to ensure that consumers are aware of all available products.

Housing Counseling

Housing counseling is a major component of the consumer protections for reverse mortgages. We believe that opportunities to improve HECM counseling remain. HECM counselors tell us that they often require two or more hours to cover all topics required by the HECM counseling protocol. In contrast, other counselors, and specifically many who conduct counseling via telephone, manage to conduct a session in less than one hour. We believe that this discrepancy may highlight a potential problem with the consistency and quality of counseling, and we urge HUD to monitor this situation.

HECM for Purchase Program Fraud

Older Americans are often targets of fraud and financial exploitation. The reverse mortgage housing counseling program is designed to help protect older homeowners from fraud. Unfortunately, fraud sometimes occurs despite this safeguard. It seems that the HECM for Purchase program provides an opportunity for fraudsters to convince people to take out reverse mortgages on low-value, uninhabitable homes based on inflated appraisals. People are told they can get a home for free, fraudsters provide the downpayment funds and create a gift letter as the source of the downpayment, and then obtain reverse mortgage proceeds—in an amount that exceeds the amount of the downpayment they had provided.[8] Victims are then left with uninhabitable homes and bills for property taxes, unaffordable repair and maintenance needs, and homes that cannot be insured. AARP encourages HUD to conduct an evaluation of the HECM for Purchase program to determine how to strengthen safeguards in this area. Working with HUD fraud investigators, the FBI, and the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of the Treasury, HUD should be able to measure the amount of fraud that has occurred within this program and to modify the program to better protect consumers.

Loss Mitigation

Additional funds should be allocated to foreclosure mitigation counseling. Every effort must be made to assist borrowers who have the capacity to become current on their property taxes, homeowners insurance and homeowners association dues and assessments so that they will not lose their home to foreclosure. HUD should expand the repayment timeline for borrowers who are in default beyond the current 24 month repayment period. The current program has not reached the vast majority of borrowers who are in technical default for failure to pay property taxes, homeowners' insurance premiums, or both. Attention must also be paid to borrowers who have failed to pay their homeowners association dues and assessments, as these payments are vital to the ongoing operation and maintenance of condominium associations.

Advertising and Marketing

Mass advertising of reverse mortgage loans should not be misleading or deceptive. Advertisements for reverse mortgages should contain explicit language that these products are loans, that borrowers must meet certain obligations under the terms of the loan or they can be foreclosed upon, and that celebrities are paid spokespersons.

Marketing of reverse mortgages through "free lunch" seminars should be closely monitored, since reverse mortgages are often presented as a means to pay for investment products at these seminars.[9] AARP urges the Consumer Financial Protection Bureau and State financial regulators to monitor the use of free lunch seminars to ensure that no inappropriate marketing or cross-selling of other financial products is occurring.

Recent changes in the marketing of reverse mortgages have occurred and may warrant further monitoring. Some lenders have suggested that borrowers take out a reverse mortgage to delay claiming Social Security at age 62. By allowing the Social Security benefit to grow, they suggest that borrowers are better off. But these marketing tactics often do not adequately present the long-term cost of the reverse mortgage, and downplay the fact that the person is leveraging their house. AARP is concerned about the negative impact on consumers that may result from marketing reverse mortgages for this purpose.

3. Benefits to Seniors Who Are Able To Age in Place

AARP research has found that nearly 90 percent of people over age 65 want to stay in their home as long as possible.[10] Aging in place is the ability of people to live in their home as they age and retain their independence in an environment that is safe and comfortable. The benefits of aging in place to an individual include: the ability to maintain a familiar environment; be part of a community; have opportunities for social interaction to prevent isolation; higher life satisfaction, happiness and self-esteem; and better physical and mental health outcomes. To put it simply: people prefer to stay where they are for as long as possible.

But the benefits of aging in place do not accrue solely to individuals, as Government budgets also benefit. The longer people can remain at home, the less need there is for institutional care, such as nursing homes. This translates into lower governmental costs. By providing home and community-based services to assist peo-

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[8] Andrew Carswell, Martin Seay, and Michal Polanowski, "Reverse Mortgage Fraud Against Seniors: Recognition and Education of a Burgeoning Problem", *Journal of Housing for the Elderly*, Vol. 27: pp. 146–160, January–June 2013.

[9] AARP research found that reverse mortgages were mentioned in the marketing materials or in the presentation 24 percent of the time. *See* Lona Choi-Allum, "Protecting Older Investors: 2009 Free Lunch Seminar Report", AARP Knowledge Management, November 2009.

[10] Teresa A. Keenan, "Home and Community Preferences of the 45+ Population", AARP Research and Strategic Analysis, Washington, DC, 2010, p. 4.

ple who wish to remain in their homes, studies have shown that the costs are lower compared with institutional care.[11]

Reverse mortgages, when used properly, can provide some homeowners with a source of funds to help them to age in place. Reverse mortgages are often used to fund home modifications like ramps or other health-related renovations and maintenance and repairs, or to pay for home healthcare assistance.

4. Impact of the HECM on the Mutual Mortgage Insurance Fund and Potential Changes To Protect Taxpayers

The FHA Mutual Mortgage Insurance (MMI) Fund only includes HECMs issued since FY2009. HECMs issued in prior years are included in the General Insurance Fund, and are not analyzed in the actuarial review of the MMI Fund. Approximately 300,000 loans were included in the FY2012 actuarial review. While actuarial reviews provide a much needed assessment of the health of the insurance fund at a moment in time, it is important to keep in mind that the report is based on many assumptions that may not prove to be true over time. If house prices recover, the outlook for the MMI fund will greatly improve. As market dynamics change, the outlook for the future also changes.

For example, the FY2012 actuarial review assumes that HECM saver loans will make up 7.5 percent of HECM loans through 2019. However, HUD recently eliminated the HECM fixed-rate standard product, which accounted for 65–70 percent of HECM loans. If borrowers shift to the HECM fixed-rate saver product, this will greatly impact the MMI Fund projections. One impact will be lower inflows into the MMI fund as a result of the much lower up-front mortgage insurance premium on the saver product. However, the lower principal limits of saver loans will decrease the long-term risk to the fund since saver loan proceeds are lower.

Alternatively, if borrowers shift to the adjustable-rate standard product, up-front premiums collected will be higher, but so will loan payouts, and increased interest rate risk will affect the fund. In short, there are a number of ever changing variables in a continually evolving marketplace that impact the measure of the health of the MMI Fund at any moment in time.

Problems with the current HECM program were discussed in Part 1 above and solutions are presented in Part 2 and Part 5 below. The fact that the MMI Fund may require an appropriation from Congress in FY2013 is a serious matter. But it is important to understand that the largest driver of MMI Fund losses is the sharp decline in house prices, the large number of loans originated during the height of the market, and the higher loan proceeds and lower mortgage insurance premiums that existed previously. HUD has already taken steps to address these issues by lowering principal limits in 2009 and again in 2010, and by raising both up-front (on the standard product) and ongoing mortgage insurance premiums (on both standard and saver products).

During a recent Webinar, HUD's Risk Manager indicated that the need for funds from Treasury is a result of loans issued prior to 2009 and it is unlikely the gap can ever be closed.[12] Given this assessment, the situation is not likely to be improved with a quick fix. It is important to make changes to the current program that are responsible and reasonable, with the understanding that shoring up the fund going forward is unlikely to eliminate losses from loans made in the past.

5. Opportunities To Improve the HECM Program

Implement Changes To Strengthen the HECM Program Including: Financial Assessments, Tax and Insurance Set-Asides or Escrows and Limitation of Up-front Draws for Certain Purposes Through Public Rulemaking

AARP supports making changes to the HECM program that will enhance its long-term sustainability by promulgating rules through the public rulemaking process. We look forward to evaluating and commenting on the specific program changes proposed to ensure that consumer protections are adequate and access to credit remains for all qualified borrowers.

Require HUD To Evaluate the HECM Program Every Two Years and Report to Congress

This testimony demonstrates that HUD has failed to act to improve the HECM program when problems were identified. The tax and insurance default issue should

[11] Wendy Fox-Grage and Jenna Walls, "State Studies Find Home and Community-Based Services To Be Cost-Effective", AARP Public Policy Institute, Washington, DC, Spotlight 2, March 2013.

[12] National Reverse Mortgage Lenders Association Webinar on the President's FY2014 Budget, April 12, 2013.

have been addressed years ago. Major shifts in loan product usage should have led HUD to investigate and question why this shift was happening so quickly. The management of this program needs to be active and responsive when changes are observed. We believe that regular evaluation and reporting to Congress will provide HUD with much needed encouragement to address problems that will ultimately protect the program and taxpayers.

Implement a Suitability Standard

Regulations are needed to ensure that consumers receive a loan that is best suited to their needs. The CFPB should promulgate suitability rules. In the current environment, lenders are permitted to recommend any loan product, while housing counselors are prohibited from providing advice. Consumer protections need to be strengthened in this area.

Require Lenders To Present All Loan Products

Lenders have been able to control access to products in this marketplace, without having to provide complete information regarding product availability to consumers. Consumers need more assurance that they are being treated fairly and have access to the full range of products that are available.

Conduct a Study of HECM for Purchase Fraud

HUD should conduct a study on HECM for Purchase fraud to determine the prevalence of this type of fraud. Working with HUD fraud investigators, the FBI, and FinCEN, HUD should be able to measure the frequency of fraud that has occurred within this program and to develop stronger consumer protections for borrowers who engage in HECM for Purchase transactions.

Urge the CFPB To Conduct a Study on the Appropriate Use of Reverse Mortgages

Recent changes in the marketing of reverse mortgages indicate a shift from advocating their use as a tool to help older Americans age in place to a financial planning tool to be used as a type of investment portfolio insurance when investment values fall, or as a means to delay filing for Social Security benefits. The idea is that if investment values fall, a borrower can use their reverse mortgage line of credit to obtain funds, while not depleting their investment account when asset prices are low. When asset prices recover they can repay the loan. The inherent risk in this strategy is that the asset price recovery must exceed the costs of the loan, which cannot be known in advance. Likewise, the suggestion that someone should leverage their house to obtain a higher Social Security benefit requires an analysis that is dependent on many factors and might not result in a net benefit to the borrower when loan costs are factored in. While use of reverse mortgages for these purposes is not illegal, care must be taken to ensure that the HECM program remains true to its original mission to provide older homeowners with access to home equity through FHA-insured reverse mortgages so they can age in place.

Conclusion

AARP supports making changes to the HECM program to ensure its long-term sustainability and to protect both borrowers and taxpayers. We strongly believe that program changes should occur through the regular public rulemaking process. Consumers, stakeholders and the general public deserve to have the opportunity to provide comments on proposed rules. We urge Congress to require HUD to evaluate the HECM program every 2 years and to act expeditiously to implement changes to the program through the rulemaking process. AARP supports the continuation of the HECM program and we look forward to working with Congress and other stakeholders to ensure that older Americans can tap their home equity with safe, affordable, Government-insured reverse mortgage loans that enhance their ability to age in place.

Thank you for the opportunity to share AARP's views. I would be happy to answer any questions.

PREPARED STATEMENT OF ODETTE WILLIAMSON

STAFF ATTORNEY, NATIONAL CONSUMER LAW CENTER

JUNE 18, 2013

Introduction

Mr. Chairman, Ranking Member Moran, and Members of the Subcommittee, the National Consumer Law Center thanks you for inviting us to testify today regarding the long-term sustainability of reverse mortgages and HECM's impact on the Mutual Mortgage Insurance Fund. We offer our testimony here on behalf of our low income clients.[1]

The long-term sustainability of reverse mortgages and the Home Equity Conversion Mortgage (HECM) program will depend on how we address the risks posed by the aggressive marketing and sale of these complex financial products to cash-strapped, often debt-laden older Americans. The market for reverse mortgages has changed dramatically in the last few years and strong protections for consumers are essential to minimize the risk of default and fraud. Without these protections the seniors the program is designed to help will be seriously harmed, and the HECM program will continue to be destabilized and weakened.

HUD has stated that it will take action in the near and long term to ensure that consumers are protected and able to sustain their reverse mortgages, and to better to protect the Fund.[2] We support HUD's efforts in this regard and urge even more aggressive action to better protect consumers in the marketplace. We suggest changes that will protect the FHA Mutual Mortgage Insurance (MMI) Fund from losses and better align it with the goal of the program, which is to ensure that elders age in place. Specifically, we suggest additional protections on two key subject areas:

1. *Taxes and Insurance.* For both existing reverse mortgage borrowers and future borrowers, HUD's requirements should ensure that sufficient funds are available—either reserved from the proceeds of the reverse mortgage, or from other assets of the homeowner—to meet ongoing obligations for taxes and insurance.
2. *Protecting Widowed Spouses.* Reverse mortgages made to married homeowners should comply with the law's requirement to treat both spouses as borrowers, and ensure that the survivor is not evicted upon the death of the spouse, even when the surviving spouse was not an owner of the property.

Background: The Need for Enhanced Protections for Reverse Mortgage Borrowers

Reverse mortgages provide a significant benefit to many older homeowners, especially those who lack sufficient income or assets to meet their everyday needs and do not qualify for lower cost options. However, changes in the marketplace, including the aggressive marketing of unsuitable loan options to cash-strapped, debt-laden older adults, has put economically vulnerable homeowners at risk of default and foreclosure. HUD has proposed a slate of interim and long-term measures to stabilize the HECM program and shore up the Fund.[3] While some of the proposed changes are a good start, considerably more must be done and stronger measures are needed to protect older homeowners, to stabilize the program, and to prevent further depletion of the Fund.

The HECM program was designed to meet the needs of older homeowners by reducing the economic hardship that results from the increasing cost of health care and housing, and by providing for subsistence needs at a time of reduced income.[4] Congress put in place safeguards to protect economically vulnerable reverse mortgage borrowers from being forced from their homes, paying more than the home is worth, and being denied funds if the lender goes out of business. These and other protections were designed to keep older adults housed in their community until they die or need skilled care outside the home.

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[1] The National Consumer Law Center, Inc. (NCLC) is a nonprofit organization, founded in 1969, specializing in consumer issues on behalf of low-income people. On a daily basis, NCLC provides legal and technical consulting and assistance on consumer law issues to legal services, Government, and private attorneys representing low-income and elderly consumers across the country. NCLC attorneys have written and advocated extensively on all aspects of consumer law affecting elders and low-income people, conducted trainings for tens of thousands of legal services, private, and Government attorneys on the law as applied to consumer problems facing elders, including housing, debt collection, the electronic delivery of Government benefits, predatory lending, and reverse mortgages, and provided extensive oral and written testimony to numerous Congressional committees on these topics. NCLC attorneys regularly testify in Congress and provide comprehensive comments to the Federal agencies on regulations under consumer laws that affect elders.

[2] *See* Dep't of Hous. and Urban Dev., "Annual Report to Congress Fiscal Year 2012 Financial Status of the FHA Mutual Mortgage Insurance Fund", November 16, 2012.

[3] *See* Written Testimony of Secretary Shaun Donovan, Hearing before the Senate Banking Committee, Status of FHA Programs and the FY2012 Annual Review of the Mutual Mortgage Insurance Fund, December 6, 2012; Dep't of Hous. and Urban Dev., Annual Report to Congress Fiscal Year 2012 Financial Status of the FHA Mutual Mortgage Insurance Fund, November 16, 2012.

[4] 12 U.S.C. §1715z-20(a).

The needs identified by Congress when it created the HECM program still exist today and are exacerbated by the economic downturn in recent years. Older adults, like the general population, are struggling to deal with job loss, reduced wages, erosion of retirement savings, and increased expenses, including those related to health care.[5] The unemployment rate for older adults (age 55 and over) has reached the highest level in 60 years.[6] At least one-third of older adults are considered economically insecure, meaning that they are in danger of outliving their resources.[7] The situation is particularly dire for African American and Latino elders, with 52 percent and 56 percent respectively, considered economically insecure.[8]

To bridge the gap between fixed incomes and escalating expenses, older adults are turning to credit cards. The average credit card debt for older adults is the highest of any age group.[9] While older adults are less likely to be seriously behind in debt payment than younger peers, a 2010 Federal Reserve Bank survey of consumers showed that the rate of serious nonpayment was rising most rapidly among older adults.[10]

The economic distress among this population is evidenced in the continued uptick in bankruptcy filings. Older adults make up the fastest growing group of bankruptcy filers.[11] This trend is not due simply to the increased percentage of seniors in the general population. The rapid rise in bankruptcy filings by older adults is due in part to credit card and medical debt. The bankruptcy filings show that older adults are generally more indebted to credit card companies than younger filers.[12]

When used as designed, reverse mortgages provide a needed supplement to the income of struggling homeowners. Reverse mortgages, however, are expensive when compared to other options. The costs and the terms are not commonly understood by homeowners, who do not pay cash out of pocket for the origination of the loan and do not make regular payments on the mortgage. The mortgages do not require payments from homeowners during the term; rather they provide payments to homeowners. Interest accrues on the rising amounts of principal owed on the loan. As a result, reverse mortgages work counter-intuitively and few homeowners truly understand the way the loans are priced, or how the loan principal grows over time. This lack of transparency makes it virtually impossible for homeowners to protect themselves from some of the abuses associated with this product.

The challenges consumers face in the reverse mortgage market have increased in the past few years as the long-term costs of the mortgages increased and the range of options offered became more complex. This added complexity has been coupled with aggressive marketing of unsuitable loan options—primarily the Standard HECM which was available until early 2013 and which required that the full amount of funds available be withdrawn at the at the initiation of the mortgage. This maximizes the profit to the mortgage originators, but it often leaves homeowners in serious jeopardy of depleting their resources and losing their homes.

Thousands of older homeowners have taken out reverse mortgages that are unsuitable to meet their needs. Many of those borrowers are facing foreclosure because of nonpayment of property taxes and homeowner insurance. Borrowers, including those in the early years of retirement, were encouraged to cash out all the available equity in their homes. Home equity is the largest asset for most older home-

[5] *See,* e.g., Fidelity Brokerage Services, Retirees face estimated $240,000 in medical costs, May 16, 2012, (a couple retiring in 2012 at age 65 would on average face $240,000 for medical care and health insurance expenses over their lifetimes, up from an estimated $160,000 in 2002), available at *www.fidelity.com/viewpoints/retirees-medical-expenses.*

[6] AARP Public Policy Institute, "Recovering from the Great Recession: Long Struggle Ahead for Older Americans", May 2011.

[7] Tatjana Meschede, Laura Sullivan, Thomas Shapiro, "From Bad to Worse: Senior Economic Insecurity on the Rise, Research and Policy Brief", Brandies Institute on Assets and Social Policy, July 2011 available at *http://iasp.brandeis.edu/pdfs/FromBadtoWorse.pdf.*

[8] Tatjana Meschede, Laura Sullivan, Thomas Shapiro, "The Crisis of Economic Insecurity for African-American and Latino Seniors", Research and Policy Brief, Brandies Institute on Assets and Social Policy, September 2011 available at *http://iasp.brandeis.edu/pdfs/InsecuritySeniorsOfColor.pdf.*

[9] Amy Traub and Catherine Ruetschlin, "The Plastic Safety Net: Findings From the 2012 National Survey on Credit Card Debt of Low- and Middle-Income Households", Demos, May 2012, available at *http://www.demos.org/publication/plastic-safety-net.*

[10] "Changes in U.S. Family Finances from 2007 to 2010: Evidence From the Survey of Consumer Finances", 98 FRB Bull. Table 17, June 2012 (showed that only 1.5 percent of 65 to 74 year olds 60 days late paying a debt in 2001 and 6.1 percent were late in 2010. The 75+ group rose from just to .8 percent to 3.2 percent in the same time span.).

[11] John Golmant, "Aging and Bankruptcy Revisited", *ABI Journal*, September 2010.

[12] John Pottow, "The Rise in Elder Bankruptcy Filings and Failure of U.S. Bankruptcy Law", *The Elder Law Journal,* Vol. 19, 2012, June 1, 2011; University of Michigan Public Law Working Paper No. 210; University of Michigan Law and Economics, Empirical Legal Studies Center Paper No. 10-015, available at SSRN: *http://ssrn.com/abstract=1669298.*

owners.[13] Depleting all the equity in a home early in retirement—or even before retirement—has put these consumers on an unsustainable financial course that may result in the premature eviction from their homes if they do not have sufficient resources to pay for taxes and insurance, maintain the property, or meet unexpected expenses.

The counseling required by the HECM program has clearly been insufficient to stem the tide of abuses associated with the program. As evidenced by the massive defaults in taxes and insurance, and dominance of fixed-rate standard reverse mortgages, good counseling cannot overcome lender pressure. This was borne out by a survey NCLC did this past August of elder and housing advocates nationwide regarding consumers' use of reverse mortgages.[14] This survey highlighted the pressure originators put on borrowers to sign up for standard reverse mortgages that require a full draw. According to one counselor, even after she has educated potential borrowers regarding the drawback of such mortgages, borrowers are "convinced this is the best option because it is what the lender is pushing."[15] Another counselor noted, "Most of my clients usually tell me they are NOT doing a fixed-rate lump sum once we go through the adjustable rate choices, credit line features. I ask some of them 2 months later what they did and some say that they decided after talking with a lender to get the fixed-rate lump-sum after all."[16]

HUD has taken some steps to address the abuses associated with the program. In early 2013, HUD issued a mortgagee letter suspending the use of the Standard HECM Fixed Rate loan.[17] The Standard HECM will be combined with the HECM Saver which offers a lower initial mortgage insurance premium, and reduced upfront fees.[18] This is a good initial step and will address some of the problems associated with the Standard HECM. However, the other abuses still must be addressed. Given the ongoing changes in the reverse mortgage industry, and the growth of the elder population, it is essential that changes be put into place now to address the range of abuses associated with HECMs.

Previous Reliance on Counseling To Protect Older Homeowners From Displacement and Fraud Has Been Misplaced. Substantive and Aggressive Measures Are Needed To Protect Older Homeowners and Prevent Further Depletion of the Fund

The sustainability of the HECM program depends in large part on the program's ability to fulfill its primary purpose: to allow older adults to shelter in place as they age. As evidenced by the tens of thousands of older homeowners who are now in default and facing foreclosure on HECM reverse mortgages because of unpaid taxes and insurance, the program is failing to fulfill its central mission. Additionally, thousands of homeowners have been victims of fraud in the origination process that leaves their loved ones homeless when they pass away or move from the home.

Specifically, we recommend that HUD make substantive changes to the HECM program to ensure that:

- Prospective borrowers are able to afford property taxes and insurance on an ongoing basis and that existing borrowers facing default are given a better opportunity to save their homes.

[13] *See* Lori Trawinski, "Nightmare on Main Street: Older Americans and the Mortgage Market Crisis", AARP Public Policy Institute, July 2012.

[14] The online survey was created in response to the Consumer Financial Protection Bureau's Notice and Request for Information Regarding Consumer Use of Reverse Mortgages, Docket No. CFPB-2012-0026, 77 *Fed. Reg.* 39222 (July 2, 2012) (Notice). The 15 questions in the survey—titled "Survey of Consumers' Use of Reverse Mortgages" were taken verbatim from the Notice. Not all the questions included in the Notice were used in the survey. Most notably, questions regarding the market dynamics and business practices among brokers, correspondent and retail channels for reverse mortgages were excluded. Three questions were added to solicit demographic information. Of the 65 respondents who completed the survey, the majority worked closely with older adults in a variety of capacities; the respondents included reverse mortgage counselors, elder advocates, legal services attorneys, and housing advocates. The survey was emailed on July 27, 2012, to 1,877 people with a deadline of August 3, 2012, to respond, and 119 people started the survey and 65 people completed the survey. The survey was anonymous; however respondents had the option of providing their contact information for follow-up.

[15] Excerpt from "Survey of Consumers' Use of Reverse Mortgages", conducted August 2012, on file with the National Consumer Law Center.

[16] Id.

[17] Dep't of Hous. and Urban Dev., Mortgagee Letter 2013-01, Jan. 30, 2013, available at *http://portal.hud.gov/hudportal/documents/huddoc?id=13-01ml.pdf.*

[18] Dep't of Hous. and Urban Dev., "Home Equity Conversion Program—Introducing HECM Saver; Mortgage Insurance Premiums and Principal Limit Factor Changes for HECM Standard", Mortgagee Letter 2010-34 (Sept. 21, 2010).

- Reverse mortgages made to a homeowner who has a spouse who is a nonowner of the home be considered to be made to both spouses (as is required by the statute). This would protect the younger spouse from eviction when the older spouse dies.

These changes will go a long way toward protecting elder homeowners, which will strengthen the program, and ensure its longevity and effectiveness in assisting older adults. Protecting the borrowers for whom the program was designed will also strengthen the economic value of the program and stop the depletion of resources from the Fund.

Homeowners' Ability To Pay Taxes and Insurance Should Be Evaluated Before Origination, and Current Defaults Should Be Dealt With in a Manner Designed To Prevent the Loss of the Home

Nearly 10 percent of homeowners with outstanding HECM loans are at serious risk of losing their homes due to defaults on their property taxes and insurance. [19] Older adults who expected to age in place or at least remain at home until they need skilled care are now facing the prospect of premature displacement. Not only are older homeowners at risk, but according to HUD the incidence of property tax and insurance defaults has increased in recent years and this has put a major strain on the program and Fund. [20]

Reverse mortgage borrowers are required to pay the taxes due and the property insurance premiums throughout the life of the loan, even though principal and interest need not be repaid until the borrower dies or moves out of the home. [21] Failure to make these payments makes the loan "deemed to be out of compliance with the FHA requirements and . . . delinquent." [22] When homeowners fail to pay these charges, servicers are initially required to pay them from the loan's available proceeds. [23] If there are no available proceeds, the servicer is required to advance these amounts and then try to collect them from the homeowner. [24]

Homeowners fail to make these payments for a variety of reasons, ranging from not understanding that they are required to not having sufficient discretionary income. [25] The CFPB's report to Congress regarding reverse mortgages noted confusion on the part of some consumers regarding the obligation to pay taxes and insurance. [26] Testing by the Federal Reserve Board revealed that some consumers do not understand that the reverse mortgage loan would come due if they failed to pay insurance and taxes. [27] Moreover, as HUD has acknowledged, the dominance of the fixed-rate standard reverse mortgage, which required borrowers to take all eligible cash up front, resulted in insufficient cash in later years for property upkeep, taxes, and insurance. [28]

In 2012, HUD announced that it will introduce guidelines for assessing whether reverse mortgage borrowers have the financial ability to make ongoing payments for property taxes and insurance if they obtain the loan. [29] This is an excellent proposal which we wholeheartedly support. We applaud HUD's efforts to tackle this growing problem on a going-forward basis. However, the rules applicable to existing bor-

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[19] *See* Consumer Financial Protection Bureau, Reverse Mortgages, Report to Congress, June 28, 2012, §6.6; 75 *Fed. Reg.* 58539, 58678 (Sept. 24, 2010).

[20] *See* Dep't of Hous. and Urban Dev., "Annual Report to Congress Fiscal Year 2012 Financial Status of the FHA Mutual Mortgage Insurance Fund", November 16 2012.

[21] 24 CFR §206.205(a) ("The mortgagor shall pay all property charges consisting of taxes, ground rents, flood and hazard insurance premiums, and special assessments in a timely manner and shall provide evidence of payment to the mortgagee as required by the mortgage.").

[22] FHA Mortgagee Letter 2011-01: Home Equity Conversion Mortgage Property Charges Loss Mitigation, January 3, 2011.

[23] 24 CFR §206.205(c) ("If the mortgagor fails to pay the property charges in a timely manner, and has not elected to have the mortgagee make the payments, the mortgagee may make the payment for the mortgagor and charge the mortgagor's account.").

[24] 24 CFR §206.205(c) ("If the mortgagor fails to pay the property charges in a timely manner, and has not elected to have the mortgagee make the payments, the mortgagee may make the payment for the mortgagor and charge the mortgagor's account.").

[25] *See* Consumer Financial Protection Bureau, "Reverse Mortgages—Report to Congress", June 28, 2012, §6.6.

[26] *See* Consumer Financial Protection Bureau, "Reverse Mortgages—Report to Congress", June 28, 2012, §6.6.1.

[27] *See* ICF Macro, "Summary of Findings: Design and Testing of Truth in Lending Disclosures for Reverse Mortgages", at 14 (July 2010).

[28] *See* Dep't of Hous. and Urban Dev., "Annual Report to Congress Fiscal Year 2012 Financial Status of the FHA Mutual Mortgage Insurance Fund", November 16, 2012.

[29] Letter from Acting Assistant Secretary Carol Galante, Dep't of Hous. and Urban Dev., HECM Program Update (Oct. 5, 2011), available at *http://portal.hud.gov/hudportal/documents/huddoc?id=FHACG__05OCT11__FINAL.PDF*.

rowers who face foreclosure because of unpaid taxes and insurance still need a complete overhaul to prevent unnecessary foreclosures which not only displace elders but drain the Fund.

Assessment for Prospective Borrowers

An evaluation of borrowers' ability to pay taxes and insurance on an ongoing basis is necessary before reverse mortgages are originated. Currently there are no income or credit qualifications for reverse mortgages, other than a general requirement that each mortgagor have a "general credit standing" satisfactory to HUD.[30] Voluntary efforts by reverse mortgage originators to underwrite or include loan reserves have failed as these efforts put some originators at a competitive disadvantage.[31] The industry has already requested that FHA mandate a "baseline underwriting requirement."[32] We support both HUD and the industry in this regard.

We suggest that every prospective reverse mortgage borrower be evaluated to determine whether the borrower has sufficient income to afford taxes and insurance, or the reverse mortgage must include sufficient reserves to cover these costs for the entire expected term of the reverse mortgage.

Stronger Protections for Existing Borrowers Facing Foreclosure

The 54,000 homeowners at risk of losing their homes due to default on property taxes and insurance need stronger protections. These are homeowners who have failed to make payments for taxes or insurance and do not have sufficient credit available on their loan account to repay the servicer's advances and face default and loss of the home.

The prospect of foreclosure on these elderly homeowners with outstanding reverse mortgages flows directly from a decision made by HUD in January 2011. HUD issued a Mortgagee Letter that requires servicers to collect advances they make for delinquent taxes and insurance from homeowners within a very short time period.[33] For example, delinquencies of as much as $5,000 must be collected from the homeowner on a repayment schedule of only 12 months, while amounts over $5,000 must be repaid in only 24 months.[34]

These repayment periods are burdensome to elderly homeowners who are, in most instances, unable to afford the payments. Repaying a $5,000 debt in 12 months requires a payment of more than $416 a month. Similarly, a $15,000 debt in 24 months would require a payment of $625 a month. It is virtually impossible for struggling elderly homeowners to afford these amounts.

HUD's position on this treats senior homeowners with reverse mortgages much worse than it does homeowners with forward-mortgages. Homeowners with forward-mortgages are permitted to repay advances for tax and insurance over the entire remaining term of the loan.[35] It is difficult to understand why HUD would treat senior homeowners worse than it does all other homeowners with FHA insured mortgages. The National Housing Act requires lenders to engage in loss mitigation upon the default or imminent default of an FHA-insured mortgage.[36] Regulations and guidelines issued by HUD require that lenders evaluate the borrower for alternatives to foreclosure before the borrower becomes delinquent on four mortgage payments.[37] This raises the question of why HUD has not required the application of similar home-saving strategies for reverse mortgages.

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[30] 24 CFR §206.37.

[31] *See* discussion of MetLife's withdrawal from the market after experimenting with underwriting requirements, Consumer Financial Protection Bureau, Reverse Mortgages, Report to Congress, June 28, 2012, §6.6.4a.

[32] Id.

[33] Dep't of Hous. and Urban Dev., "HECM Prop. Charge Loss Mitigation", Mortgagee Letter 2011-01 (Jan. 3, 2011). The Mortgagee Letter required lenders to make loss mitigation options available to borrowers by establishing a realistic repayment plan for the delinquent property charges, referring the borrower to a HUD-approved housing counseling agency to receive free assistance in developing a resolution to the delinquency, or refinancing the delinquent HECM if there is sufficient equity.

[34] Dep't of Hous. and Urban Dev., "HECM Prop. Charge Loss Mitigation", Mortgagee Letter 2011-01 (Jan. 3, 2011).

[35] *See* Dep't of Hous. and Urban Dev., Mortgagee Letter 2010-04 (Jan. 22, 2010).

[36] *See* 12 U.S.C. §1715u. A borrower facing imminent default is defined as one that is current or less than 30 days past due on the mortgage and is experiencing a significant reduction in income or some other hardship that will prevent him or her from making the next required payment on the mortgage in the month it is due. Borrowers facing imminent default can take advantage of HUD's forbearance or FHA–HAMP options. *See* Dep't of Hous. and Urban Dev., Mortgagee Letter 2010-04 (Jan. 22, 2010).

[37] 24 CFR §203.605. Notice to the homeowner about foreclosure prevention options together with a HUD brochure on that topic must be sent between the 35th and the 45th day of delin-

For example, in standard, forward-mortgages, servicers are required to evaluate homeowners for a special forbearance which allows homeowners to reduce or suspend payments for a minimum of 4 months so long as the arrearage does not exceed the equivalent of 12 monthly mortgage payments.[38] At the end of the forbearance period, the homeowner must typically begin paying at least the full amount of the monthly mortgage payment due under the mortgage. The repayment period must last at least 4 months, but otherwise lenders and homeowners are free to agree to any repayment plan for the accumulated arrears throughout the remaining term of the loan.[39] There is no maximum length of time to repay.

Reverse mortgage homeowners should be afforded a similar opportunity to repay the arrears on their loans. It simply does not make sense for HUD to insist that reverse mortgage homeowners repay delinquent amounts in 24 months or less, when it is the goal of the FHA and HECM programs to help keep seniors in their homes and there are reasonable alternatives that will protect the Fund from large losses.

We ask that HUD revise its guidelines for assisting homeowners currently in default to lengthen the period for repaying arrears. Such a home-saving strategy would by necessity, involve a repayment period beyond 24 months for most homeowners.

Stronger Substantive Protections Should Be Added to the HECM Program To Prevent Eviction of the Nonborrowing Spouses of Reverse Mortgage Borrowers

A second serious problem is that nonborrowing spouses are being forced out of their homes upon the death or move of the mortgagor-spouse.[40] The cause of this problem is that lenders and brokers encourage the younger spouse (generally the wife) to deed over her share of the house to the husband prior to originating a reverse mortgage so that more funds or better terms will to be available from the loan. This often occurs if one spouse is 62 years of age or older and the other spouse is younger than the required age. Even when both spouses are eligible for the reverse mortgage, the available proceeds will be maximized by having only the older of the two listed as the borrower.[41]

Couples rarely understand the consequences of taking the younger spouse off the title and taking out the reverse mortgage only in the name of the older spouse. Lenders and brokers often mislead or outright lie to consumers regarding the consequences of leaving younger spouses off the deed and reverse mortgage.[42] Borrowers have reported to the CFPB that brokers promised lower rates, additional funds or a more favorable deal if the spouse's name was not on the deed or reverse mortgage, and promised that borrowers would be able to add a spouse or family member when they reached a certain age.[43] According to officials at HUD, who have received many complaints regarding this practice, "borrowers were told the loan was assumable, or a loan officer said that it was alright to remove a spouse from title because they could refinance or add the spouse back to title later without any problem."[44]

Our NCLC attorneys have worked with attorneys in many States who are representing the widowed spouses in these situations. In every single case the widow

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quency. *See* Dep't of Hous. and Urban Dev., Mortgagee Letter 00-05 (Jan. 19, 2000); Dep't of Hous. and Urban Dev., Mortgagee Letter 97-44 (Sept. 29, 1997).

[38] HUD temporarily changed its guidelines to extend the minimum forbearance period to 12 months. This change to the guidelines will expire August 1, 2013, and the minimum forbearance period will revert back to 4 months. *See* Dep't of Hous. and Urban Dev., Mortgagee Letter 2011-23 (July 7, 2011).

[39] Dep't of Hous. and Urban Dev., Mortgagee Letter 2002-17 (Aug. 29, 2002).

[40] *See* e.g., Jessica Silver-Greenberg, "A Risky Lifeline for Elderly Is Costing Some Homes", *New York Times*, Oct. 14, 2012; Norma Paz Garcia, Prescott Cole, Shawna Reeves, "Examining Faulty Foundations in Today's Reverse Mortgages", *Consumers Union*, at 19 (December 2010); "As Complaints Increase, HUD to Address HECM Non-Borrowing Spouse Issue", *Reverse Mortgage Daily*, Apr. 29, 2010, available at *http://reversemortgagedaily.com/2010/04/29/as-complaints-increase-hud-to-address-hecm-non-borrowing-spouse-issue/*

[41] This is because the available proceeds on a reverse mortgage are determined based on the life expectancy of the younger spouse.

[42] *See*, e.g., *Ellison v. Wells Fargo Home Mortgage, Inc.,* 2010 WL 3998091 (E.D. Mich. Oct. 12, 2010) (borrower told that by adding nonborrower spouse's name to the mortgage agreement, spouse could remain in home even after borrower died, and spouse's interest in the property would be protected by borrower's quit-claim deed issued to himself and spouse after execution of the reverse mortgage).

[43] *See* Consumer Financial Protection Bureau, Reverse Mortgages, Report to Congress, June 28, 2012, §6.7.1.

[44] "As Complaints Increase, HUD To Address HECM Non-Borrowing Spouse Issue", *Reverse Mortgage Daily,* Apr. 29, 2010, (statement of Erica Jessup, Program Specialist at the Dep't of Housing and Urban Dev.) available at *http://reversemortgagedaily.com/2010/04/29/as-complaints-increase-hud-to-address-hecm-non-borrowing-spouse-issue/*

is shocked to find herself not only a widow, but also about to be evicted from the home she thought the reverse mortgage would preserve for her until death. The stories we hear are near identical, despite the diverse geographical locations from which they come: the couple was assured that when the older spouse died, the younger one would be permitted to assume the mortgage and continue to live in the home until her death. [45]

Contrary to this sales pitch, when the older spouse dies, sells, or permanently relocates from the home, the reverse mortgage lender calls the loan due and payable. Currently, neither HUD nor reverse mortgage lenders permit the loan to be assumed by the nonborrowing spouse. This position has led to many foreclosures, leaving bereaved spouses not only widowed, but also homeless and generally penniless.

These blatant misrepresentations echo some of the false promises that brokers made during the subprime boom. As with those earlier practices, brokers stand to profit by putting pressure on consumers to remove younger spouses from the reverse mortgage loan. Brokers earn a percentage of the funded loan balance at closing. Any practice that leads to an increase in that amount will put more money in the pocket of the broker.

In the authorizing statute, Congress expressed its intent to protect spouses. The HECM statute states that HUD may not insure a reverse mortgage "unless the mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in the regulation of the Secretary. For the purposes of this subsection, the term "homeowner" includes the spouse of homeowner." [46] The statute's broad definition of homeowner anticipated the need to keep an elder housed even if the spouse passed away or was forced to move.

Though this statutory language indicates that nonborrowing spouses have the same rights as the mortgagor-spouse to remain in the home, HUD's regulation requires the mortgage to state that it is due and payable upon the death of all surviving mortgagors. [47] In a recent decision in a case which challenged this regulation, the D.C. Court of Appeals noted that it was "somewhat puzzled as to how HUD can justify a regulation that seems contrary to the governing statute." [48]

HUD has issued guidance requiring that nonborrower spouses and co-owners receive HECM counseling. [49] This is simply not sufficient. Misinformation and sales pressure from lenders and brokers too often override information provided by counselors, especially if consumers are told that they need to remove the younger spouse from the deed and reverse mortgage to receive more proceeds. Moreover, the couple simply may not inform the counselor that they are considering removing one spouse from the deed. As a result, the nonborrowing spouse is not fully counseled and will not understand the risks posed by quitclaiming his or her interest in the home.

HUD should take more aggressive action to ensure that nonborrowing spouses do not end up homeless. The removal of the younger spouse from the title prior to origination of the reverse mortgage almost always involves fraud. This fraud is compounded by HUD's regulation which is consistent with neither the spirit nor the letter of the authorizing statute. The regulation should be revised to ensure that if a couple is married when the reverse mortgage is originated, the life expectancy runs for the youngest member of the couple, and the termination of the reverse mortgage for death applies to both spouses regardless of who actually owns the home. This resolution furthers the traditional and sensible homestead rule of preserving the home for the spouse after widowhood, regardless of legal ownership of the home. Moreover, this rule will not impact the MMI Fund as, going forward, loans will be originated based on the youngest of the couple.

Eviction from the home puts the nonborrowing spouse, mainly women, at risk not only for homelessness, but premature entry into long-term care facilities, like nursing homes. The premature displacement of elders is clearly counter to the purpose of the reverse mortgage product, and to public policy, which supports having older adults "Age in Place."

Conclusion

Reverse mortgages provide a real benefit to many older homeowners struggling to meet day-to-day expenses. However, these mortgages are complex and subject to abuse, and stronger measures are needed to protect consumers, stabilize the pro-

[45] *See,* e.g., Jessica Silver-Greenberg, "A Risky Lifeline for the Elderly Is Costing Some Their Homes", *New York Times,* October 14, 2012. Available at *http://www.nytimes.*

[46] 12 U.S.C. §1715z-20(j).

[47] 24 CFR §206.27.

[48] *Bennett v. Donovan,* 703 F.3d 582, 586 (D.C. Cir. 2013).

[49] *See* Dep't of Housing and Urban Dev. Mortgagee Letter 2011-31 (Aug. 26, 2011).

gram and prevent depletion of the Fund. Thank you for this opportunity to testify. I look forward to your questions.

PREPARED STATEMENT OF RAMSEY L. ALWIN

SENIOR DIRECTOR, ECONOMIC SECURITY, NATIONAL COUNCIL ON AGING

JUNE 18, 2013

Chairman Menendez, Ranking Member Moran, esteemed Members of the Subcommittee, my fellow witnesses, and guests. On behalf of the National Council on Aging (NCOA), I appreciate the opportunity to testify today.

NCOA *(www.ncoa.org)* is a nonprofit service and advocacy organization headquartered in Washington, DC. NCOA's mission is to improve the health and economic security of millions of older adults, especially those who are vulnerable and disadvantaged. NCOA is a national voice for older Americans and the community organizations that serve them. Working with nonprofit organizations, businesses, and Government, NCOA develops creative solutions to help seniors find jobs and benefits, improve their health, live independently, and remain active in their communities.

I would like to take this opportunity to talk about the current Federal Housing Administration (FHA) Home Equity Conversion Mortgage (HECM) program and to share with you our recommendations for sustaining and improving this program, with particular emphasis on the vital role of HECM counseling. My remarks are grounded in research, including what NCOA has learned about the motivations and potential risks facing older homeowners who consider these loans. My comments also reflect our experience as a U.S. Department of Housing and Urban Development (HUD) HECM counseling intermediary over the past 6 years. In this capacity, our counselors have listened to the hopes and concerns of thousands of older homeowners nationwide, as we have educated them about the potential reverse mortgages may offer for their retirement plans.

NCOA recognizes the need for the FHA to shore up HECM by making changes to the product that will, in turn, strengthen the Mutual Mortgage Insurance Fund. The changes proposed could have a stabilizing effect on the program, assuring its existence for years to come. NCOA's primary concern is ensuring that vulnerable older adults have access to appropriate resources to help them age in place with dignity, coupled with strong protections against financial abuse and exploitation.

As the only national aging organization acting as a HUD-approved HECM counseling intermediary, I'd like to highlight the positive impact that unbiased third-party education has on this complex product. Going forward, it will be important to consider the following:

Changes to the HECM Program Should Not Come at the Expense of Seniors of Modest Means for Whom the Program Was Originally Designed

A financial assessment, tax and insurance set-asides, or limiting the amount of cash available up front can be useful tools in assuring that a borrower can sustain the financial obligations associated with obtaining a HECM. It is an expensive product and is therefore best suited for those wishing to age in place for years to come. The product also can work well for those who plan for unexpected future expenses and use the HECM accordingly. A financial assessment that considers residual cash flow and future financial obligations could protect borrowers from obtaining a loan that is not a good financial fit for them. Flexibility to adjust for an individual's circumstance is essential. NCOA has tools that allow seniors to visualize potential future health and financial expenses, such as the NCOA BenefitsCheckUp®, which is a required component of the HECM counseling session. This NCOA tool is online and free to the borrower and counselor. It assists a potential borrower in identifying public and private community resources that can help them pay for daily expenses. For those who have difficulties paying property taxes or insurance, the tool can identify if the borrower qualifies for any tax relief or hazard insurance assistance. Currently, the tool screens borrowers for 160 tax relief programs and 31 insurance programs. NCOA's BenefitsCheckUp® also screens eligibility for up to 2,000 other community resources, including prescription drug, utility, food, and transportation assistance, as well as programs that help with Medicare premiums and copays. The average potential borrower screened during a counseling session often identifies over $5,500 in annual reoccurring public and private benefits.

HECM Counseling Is Critical to the Product's Long-Term Viability and Wise Decision Making

Due to the widespread inadequacy of retirement savings, home equity is becoming an increasingly critical component of economic security in later life. As a result, the issue for many low- to moderate-income seniors today is not whether to tap this asset, but when and how. NCOA believes that the HECM program serves a unique and important role in meeting these emerging needs. Access to unbiased counseling ensures that consumers are protected. NCOA has been a HUD-approved HECM counseling intermediary for 6 years, and we view our role in consumer education to be of utmost importance.

Increasing the Strength and Sustainability of the HECM Program Requires Greater Collaboration and Consideration for Counselor Training

While counselors do not determine eligibility, they must be informed and knowledgeable about eligibility considerations in the marketplace. It is essential that resources be made available for the ongoing training of HECM counselors. If training is not taken into consideration, the industry risks gaps in information between originators/underwriters and what is discussed in the counseling session.

The HECM Program Is an Important Retirement Planning Option for Lower- to Middle-Income Older Homeowners

As people live longer, there is an increased responsibility to adequately plan for future financial security. At the same time, many older Americans have seen their hard-earned retirement savings and assets diminish, with an unclear future ahead. When their financial management strategies are limited, seniors' capacity to stay at home becomes uncertain.

Older homeowners are looking for solutions to help manage their financial situation. If used wisely, a reverse mortgage can help. These loans are especially important for lower- to middle-income families. Data collected by HECM counselors [1] using the Financial Interview Tool (FIT)—developed by NCOA and now required by HUD for all intermediaries—suggest that about 44 percent of reverse mortgage borrowers have incomes under 200 percent of the Federal poverty level ($22,980 for a single person). [2] By increasing liquidity, these loan funds can fill unmet needs and buffer against cash flow shortages that may disrupt the family budget.

Reverse mortgage counseling session data also show that reverse mortgages are not a "one size fits all" solution. Instead, older homeowners consider these loans for a wide range of reasons, including:

- To support household consumption (33 percent)
- To plan ahead for emergencies (26 percent)
- To pay for home repairs or improvements (20 percent)

Reverse mortgages also can play an important role in helping older adults stay independent longer. Among counseling clients:

- About 44 percent were widowed or divorced. Among those under age 70, 37 percent reported that they no longer have a spouse.
- 12 percent had a hospital or nursing home stay in the 6-month period before counseling.
- 8 percent were considering a reverse mortgage to deal with out-of-pocket health expenses. Among those aged 80 and older, 18 percent were considering a HECM for this purpose.

Small infusions of cash can help older homeowners remain flexible and adaptive, so they can respond to problems while they are still manageable. Increasing seniors' discretionary income may encourage them to maintain their home and participate in social activities and programs that can lead to healthier lifestyle choices.

Recommendations to support older homeowners of modest means:

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[1] Demographic and other counseling client information presented here are based on NCOA calculations using data from Financial Interview Tool (FIT) reviews that were conducted by HECM counselors from August 2010 through April 2013. All responses reflect self-reported data. HUD requires all reverse mortgage counselors to collect systematic data on the risks and financial shortfalls facing their HECM counseling clients during the counseling session, using the Financial Interview Tool.

[2] In 2013, gross incomes at 200 percent of the Federal poverty level are $22,980 for single households and $31,020 for couples. NCOA calculations are based on the 2013 HHS Poverty Guidelines, available at: *http://aspe.hhs.gov/poverty/13poverty.cfml.*

1. *Adequately fund HECM counseling, so seniors can understand their options and the financial implications of these loans.* It is a hardship for many lower-income homeowners to pay for counseling up front. Charging fees for this counseling also discourages seniors from getting unbiased information from a HUD-approved counselor before they talk to a lender.
2. *Assure that any HECM policy changes allow seniors of modest means to continue to access a portion of their equity.* For instance, the HECM product may be a good, economical fit for a modest-income individual if access to public and private benefits programs and services, including local property tax relief programs, are factored into the suitability determination.
3. *Support ongoing consumer research to enhance the soundness of the HECM program.* FIT data collected through the counseling process can be used to:

- Rapidly assess the changing needs and vulnerabilities of seniors who are considering a reverse mortgage.
- Enhance consumer protections for different sub-groups of borrowers and identify factors that could reduce the risk of loan default.
- Explore ways to appropriately use HECMs to help borrowers with chronic conditions stay at home and avoid institutionalization that can lead to reliance on Medicaid.

Reverse Mortgage Borrowers Are at the Leading Edge of a New Trend To Use Home Equity To Deal With Cash Shortfalls

The reverse mortgage marketplace is very dynamic and must be understood within the broader perspective of our Nation's current housing and economic situation. Several years ago, many older homeowners took out this loan as a way to improve their quality of life (73 percent).[3] Today, people who consider these loans are more concerned about urgent financial needs, including lowering debt. Among HECM counseling clients from August 2010 through April 2013, most of these homeowners (70 percent) wanted to lower household debt. Only 28 percent were considering a reverse mortgage to enhance their lifestyle.

The aging of the Baby Boomer generation is another important demographic trend, which is already reflected in the declining age of reverse mortgage borrowers and counseling clients. Despite lower available loan limits at younger ages, the average age of all HECM borrowers has continued to decline, from 76.7 years in 1990 to 72.0 years in 2012.[4] Among homeowners who went through HECM counseling between August 2010 and April 2013, one in five (20 percent) were Baby Boomers aged 60 to 64.

The consequences of these market shifts are still unclear. On one hand, as the Baby Boomer generation ages, reverse mortgages may be part of a growing trend to include home equity as part of retirement planning. For some older homeowners, orderly liquidation of home equity could be a better option to sustain community living than preserving this asset for financial emergencies. On the other hand, using a reverse mortgage to address income shortfalls can increase financial risks if borrowers do not manage their spending or if they rapidly draw down their home equity.

Based on FIT data, about two-thirds (67 percent) of counseling clients in 2010 had a conventional mortgage that would need to be repaid if they decided to take out a reverse mortgage.[5] For about one-third (32 percent) of these counseling clients, their existing mortgage exceeded 50 percent of the value of their home. About one in four (27 percent) reported having both housing and nonhousing debt. Borrowers with sizable existing debt may rapidly deplete home equity by taking out a HECM loan to repay debt. The challenges of meeting borrower obligations on a limited income already are reflected in the numbers of reverse mortgage borrowers in default.

Growing numbers of older homeowners will benefit from additional support and guidance, since the decisions they make about this valuable asset will have long-term ramifications for the well-being of themselves and our Nation. Policy makers are concerned that older adults who tap their home equity to pay for everyday expenses early in their retirement years will have fewer resources to deal with declining health in later life. Many States already struggle to pay for public programs,

[3] Redfoot, D.L., Sholen, K., and Brown, S.K. (2007), "Reverse Mortgages: Niche Product or Mainstream Solution?" Washington, DC: AARP.

[4] HUD Office of Evaluation. "Home Equity Conversion Mortgage Characteristics—March 2012", Available at *http://portal.hud.gov/hudportal/HUD?src=/program__offices/housing/rmra/oe/rpts/hecm/hecmmenu.*

[5] Stucki, B., "Changing Attitudes, Changing Motives, The MetLife Study of How Aging Homeowners Use Reverse Mortgages", Westport, CT: MetLife Mature Market Institute, 2012.

such as Medicaid, that assist older adults with low incomes and those who are impoverished by health expenses. Financial shortfalls among middle-income older adults that accelerate the need for public assistance could make these fiscal pressures even greater. An HECM at the right time, for the right person, with the right supports can serve as an important public–private solution to ensure older adults have the financial resources needed to meet their own health needs.

Recommendations To Ensure Wise Decision Making

Ensure That HUD Program Changes, Such as the Proposed Financial Assessments or Tax and Insurance Set-Asides, Do Not Become Overly Restrictive So That the HECM Program Remains a Viable Option for Moderate-Income Seniors

Reverse mortgages can bring new risks to people who may have limited experience dealing with large sums of money. As the Consumer Financial Protection Bureau indicated in its "Reverse Mortgages: Report to Congress" in June 2012, 70 percent of the HECM marketplace was fixed rate-full draw loans.[6] HUD issued a moratorium on the HECM Standard Fixed Rate product as of April 1, 2013. This is a step in the right direction.

Support and Strengthen Consumer Education To Ensure That Older Homeowners Make Informed Decisions About the Most Appropriate Use of Home Equity

Younger borrowers would especially benefit from working more closely with financial advisors, senior advocates, housing specialists, and other experts.

The HECM Program Is a Platform for Innovation

Over the past 10 years, reverse mortgages have evolved both as a product and as a solution for many financial security concerns. We can expect that both the reverse mortgage industry and the marketplace will continue to change as the Baby Boomers represent a growing portion of the pool of potential borrowers. With older Americans increasingly relying on home equity to increase cash flow, our strategies for using HECMs will need to shift from product-focused solutions to comprehensive financial plans that include reverse mortgages as an integral part of retirement security.

Older homeowners often are advised that home equity should be used only as a "last resort." However, our counseling experiences suggest that cash-poor seniors who take out a reverse mortgage when they face serious financial difficulties are at higher risk of defaulting on these loans. Therefore, we believe that the long-term sustainability of the HECM program rests on increasing the use of home equity as more than a tool for crisis management.

Older homeowners also need multiple, affordable HECM products that can meet both their long- and short-term financial goals. For example, the HECM Saver loan, with its lower up-front costs, could be an option for those who cannot stay in their home for many years. This approach may be helpful for seniors with chronic conditions, so they can pay out-of-pocket health expenses without disrupting their budget.

Meeting these challenges opens the door to a wide array of opportunities for collaboration. For example, financial services industry professionals could work with consumer advocates to find ways to assist lower- and middle-income families who have not traditionally used financial planning services. New tools and supports will be essential to address the problems these older homeowners face as they shift from a financial planning strategy that aims to preserve housing wealth to one that uses this asset as a retirement resource.

Reverse mortgage counseling also offers a new pathway to reach seniors who need help to live independently. Integrating this counseling with assistance from social service agencies is important for older homeowners who are unlikely to tap home equity without guidance on how to use this asset for community living. As trusted local resources, Area Agencies on Aging (AAAs) and Aging and Disability Resource Centers (ADRCs) can help older homeowners access community programs. These agencies also can facilitate the transition from the home to other living arrangements, should these borrowers need to move.

For many homeowners living on a fixed income, combining a reverse mortgage with public benefits also could improve their chances of keeping up with their borrower obligations and staying at home. In August 2010, HUD began requiring that all reverse mortgage counselors conduct an NCOA BenefitsCheckUp® screening as part of HECM counseling for clients with incomes under 200 percent of poverty. Since the implementation of this mandate, reverse mortgage counselors have used

[6] "Reverse Mortgages: Report to Congress", Consumer Financial Protection Bureau. June 28, 2012, p. 8. Available at *http://files.consumerfinance.gov/a/assets/documents/201206_cfpb_Reverse_Mortgage_Report.pdf.*

this Web-based service to screen eligibility for public and private benefits for almost 103,000 clients. We estimate that these screenings could help these older homeowners find over $378 million worth of annual benefits in total, which could serve as a supplement or alternative to a reverse mortgage.[7]

Recommendations To Promote Innovation

Encourage HUD To Continue Using the HECM Program as a Platform To Foster Innovation Through Collaborative Efforts With the Mortgage Industry, Housing Programs, and Aging Services Community

There is an urgent need to break down service silos and address problems holistically to promote consumer confidence in these loans and sustain older homeowners in their homes.

Enhance the Long-Term Viability of the HECM Program Through a Balanced Approach That Ensures Strong Oversight To Promote Responsible Lending, But Also Supports Continued Collaborative Research and Development of This Emerging Financial Solution

We need strong consumer protections to reduce fraud and mitigate risk, but we also want to give older homeowners the flexibility to meet their evolving financial needs.

Thank you again for this opportunity to share NCOA's research and insights into the HECM program and older homeowners who consider these loans. For more information on our work in this area, please visit *www.ncoa.org/HomeEquity.* I welcome the opportunity to answer any questions you may have.

PREPARED STATEMENT OF PETER H. BELL

PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL REVERSE MORTGAGE LENDERS ASSOCIATION

JUNE 18, 2013

Mr. Chairman and Members of the Subcommittee, thank you for convening this hearing to look into Long Term Sustainability for Reverse Mortgages: HECM's Impact on the Mutual Mortgage Insurance Fund. I am here today in my capacity as President and CEO of the National Reverse Mortgage Lenders Association (NRMLA), a trade association of over 300 companies involved in the origination, funding and servicing of reverse mortgages. Our organization has been serving the reverse mortgage industry as a policy advocate and educational resource since 1997. We also provide information about reverse mortgages to consumers and members of the press.

NRMLA member companies are responsible for over 90 percent of the reverse mortgages made in the United States. All NRMLA member companies commit themselves to our Code of Ethics and Professional Responsibility. Under that Code, placing the needs of the client takes precedence over all other considerations.

This Subcommittee, including members from both sides of the aisle, has been consistently sensitive to reverse mortgage issues and has continually taken steps to improve and enhance FHA's Home Equity Conversion Mortgage (HECM) program. For that, we are very appreciative, as are the three-quarters of a million senior households who have utilized the HECM program since its inception.

The issues surrounding reverse mortgages bring a key question into consideration: How do we finance our longevity?

There were 4.2 million Americans over 85 years old in 2000; there will be over 9 million Americans over 85 years old in 2030. With life carrying on for decades beyond our earning years, we must manage assets and resources to sustain ourselves longer. Aging in place, remaining in one's own home for the duration of life or as long as physically possible, is simply the most cost-effective and financially sensible housing option for many. This requires the strategic use of home equity as a means of financial support.

Housing wealth, the equity accumulated in a home, represents the largest component of personal wealth for many American households. Typical retiree households might have Social Security income, a modest pension, limited income from low-yielding fixed-income instruments, and, perhaps, a diminished 401(k) account. The eq-

[7] NCOA data from the Reverse Mortgage Counseling Toolkit Web site for HUD-approved HECM counselors. To view the consumer version of BenefitsCheckUp®, visit: *www.benefitscheckup.org.*

uity they have built up in their home is often their greatest asset, an important resource for funding their future.

The Bi-Partisan Policy Commission, in a report issued earlier this year, cited that half of homeowners 62 years of age or older had at least 55 percent of their net worth tied up in home equity. Furthermore, according to the Commission report, 9.5 million households headed by someone age 65 or older, spend more than 30 percent of their income for housing expenses, including mortgage payments; 5.1 million spend more than half their income on housing.

Congress recognized this when initially authorizing the HECM program as part of the Housing and Community Development Act of 1987.

I would like to thank the Subcommittee and its staff for making it relatively easy to prepare for this hearing by inviting me to address five specific items. I have organized my testimony accordingly. In addition to the testimony I am delivering today, I would urge the Subcommittee to review the testimony I presented before the full Senate Committee on Banking, Housing and Urban Affairs in a hearing on the financial condition of FHA convened on February 28, 2013. That testimony provides a background narrative on the history of the HECM program and current issues.

Programmatic Challenges of HECM

HECM is a versatile personal financial management tool that was designed to empower older homeowners (over 62 years of age) with the ability to convert the wealth they have accumulated in the equity in their homes into cash to meet a variety of needs as they age.

Each and every borrower has particular needs and intended uses of the funds made available via a HECM; no two cases are the same. Consumer research of reverse mortgage borrowers, conducted last summer by ORC International, a global consumer opinion research firm engaged by NRMLA, revealed that most borrowers utilize the funds from their reverse mortgage to pay off existing mortgages and other consumer debt (59 percent of respondents); establish a "standby reserve" of cash for emergencies (53 percent) or uncovered health care expenses (24 percent); supplement monthly income (49 percent), repair or upgrade their home (33 percent) and/or provide financial assistance to a family member (14 percent). Most borrowers interviewed utilized funds from their reverse mortgage for a few of these categories.

The complex economic environment that followed the meltdown of the U.S. housing market in recent years has had a significant impact on how and why U.S. homeowners utilize reverse mortgages. Individuals approaching retirement, whom had intended to work a few years longer, found themselves unexpectedly out of jobs prematurely and facing significant payments on their existing mortgages—payments they could no longer afford to make. As a result, in a number of cases, HECMs were utilized to pay off the underlying mortgage and eliminate the need to make monthly payments, preserving their ability to sustain themselves in their homes.

While this strategy has helped numerous older homeowners sustain themselves in their homes, it has also caused some stress to the HECM program. The combination of up-front lump sum draws for the entire amount of funds available—often required to pay off the existing mortgage loans—and diminished income from job loss, has left some borrowers with a deep challenge in being able to continue to meet their obligations for paying taxes and insurance. With all of the funds from the HECM already spent to cover the prior mortgage balance and few additional financial resources left, some HECM borrowers have become delinquent on their property charges. When coupled with diminished home values, the HECM program has experienced new stresses, previously unforeseen, as a result of this confluence of factors.

To address this going forward, HUD staff, with input from the industry and other stakeholders, has been working on programmatic changes that would promote more prudent utilization of reverse mortgage funds. Restricting the amount of equity that would be available upon closing of a HECM and encouraging that funds be drawn down slowly over a longer period of time addresses the primary problem to some extent. When this concept of a "principal limit utilization" restriction is combined with a financial assessment of a prospective borrower's ability to meet their obligations, and a "set-aside" for taxes and insurance, the recently experienced stresses can be substantially mitigated.

Need To Address and Improve Consumer Protections

The HECM program has several important consumer protections inherent in its design. First and foremost is the requirement that every prospective borrower must go through a HECM counseling session prior to submitting a formal application to a lender. The counseling sessions are conducted by "exam qualified" professional counselors, employed by HUD-approved nonprofit counseling agencies that have no business relationship with a lender or financial interest in the transaction. The counseling is conducted in accordance with a "counseling protocol" that has been developed by a multidisciplinary group of stakeholders, including senior advocacy organizations, counseling agencies, reverse mortgage specialists and HUD personnel. Counseling is continually monitored and improved periodically with additional aspects added to the protocol when deemed necessary.

Counseling is an area where an intensified approach might be beneficial for some prospective borrowers. However, it should be noted that while some observers outside of the industry have been critical of the efficacy of counseling, surveys of individuals who have actually gone through the counseling and then obtained reverse mortgages indicate a high degree of satisfaction with the process and information presented. While some critics question whether consumers actually understand reverse mortgages, those who have the loans feel that they do and have indicated such feelings on various surveys.

That being said, the three primary changes that FHA would like to quickly implement on the program, (a.) financial assessment of borrowers; (b.) principal limit utilization restrictions; and (c.) tax and insurance set-asides, would not only protect the FHA insurance fund, but simultaneously provide yet another level of safeguards for consumers. These additional provisions might preclude some needy borrowers from obtaining HECMs, thus forcing them to make the difficult decision to move out of their homes. However, these changes are intended to eliminate those prospective borrowers who are less likely to have a successful experience with their HECM loan.

The counseling protocol, of course, would have to be updated once these changes are implemented, so that these three items can be discussed as part of the counseling process.

In addition to the mandatory counseling for all prospective borrowers, the HECM program has other important consumer protections, including required disclosures and limits on fees that can be charged.

Benefits of HECM Loans to Seniors Who Are Able To Age in Place

America faces a growing crisis in the years ahead. It is estimated that by 2030, there will be 72.1 million adults aged 65 and older, accounting for 19 percent of the population. People are experiencing longer life spans with the 85+ becoming the fastest growing demographic group. Social Security replaces only 40 percent of preretirement earnings and most Americans have inadequate savings to sustain themselves through the retirement phase of their lives, a phase that is growing in duration as longevity increases.

Only 42 percent of retirees have pensions. Sixty percent (60 percent) of U.S. workers report that their total household savings and investments, excluding the value of their home and any defined benefit pension, is less than $25,000. Making those meager resources last over an unknown period of time is a primary stress factor for many older Americans. They are one mishap away from facing a personal financial disaster.

A HECM loan is not a complete solution to filling this retirement financial gap, but it is a valuable tool that has been utilized by nearly 800,000 older Americans to provide a degree of financial stability that helps them maintain their homes and age in place. In some cases, homeowners utilize a HECM to pay off an existing mortgage, freeing up cash that has been going out the door every month for mortgage payments, so that it can be used for other expenses. In other cases, homeowners are establishing lines of credit to be used as a stand-by cash reserve for expenses that they might have trouble otherwise paying. These might include emergency repairs, taxes, insurance or unanticipated, uncovered health care expenses, such as in-home care. Others utilize the proceeds to make home improvements or modifications designed to create a home environment in which they can age in place. Some HECM borrowers choose to receive fixed monthly payments to supplement their other sources of income on an ongoing basis.

The HECM program offers enormous flexibility in how homeowners can draw down their equity allowing the program to be utilized in a number of different ways and enabling homeowners to plan and maximize the benefit of their HECM loan proceeds. The stories we hear from HECM borrowers are each individual and unique. What they share in common is that, in each and every case, it is the story of an individual homeowner, or a couple, who needs or wants to reorganize the way they manage their personal living and health care expenses to achieve a less stressful and more fulfilling life.

The Impact of HECM on the Mutual Mortgage Insurance (MMI) Fund and Potential Changes To Protect Taxpayers

The HECM program was the product of much forethought and the program's designers at HUD did a tremendous job in blazing the trail and developing a very helpful and flexible loan product. The Department should be commended for this.

What could not be foreseen at the time the program was conceived was the deep diminution in home values that occurred in recent years, coupled with widespread loss of jobs. This tandem occurrence led to an increase in the number of HECM borrowers utilizing the program to simultaneously eliminate a mortgage for which they could no longer afford to make the payments and bolster their current cash flow.

Loans originated in the few years immediately before the housing crash, when property values were at a historical high, and before FHA reduced the amount of funds available under HECMs and increased the mortgage insurance premium (MIP), have had a deleterious impact on FHA's Mutual Mortgage Insurance (MMI) fund. Because a HECM loan relies solely on the future value of the home for repayment—no other source of payment from a borrower is expected—the projected economic value of the HECM portion of the MMI fund has been disproportionately impacted by diminished home values. As home price appreciation reverts to its norm, some of the hypothetical projected loss will be mitigated.

Furthermore, FHA has taken steps to strengthen the HECM program with more recent books of business. These steps include reducing the "principal limit factors" (the reverse mortgage equivalent of loan-to-value factors) on two occasions and increasing the annual mortgage insurance premium. As a result of these steps, more recent books of business are projected to show a positive performance.

In addition to the steps previously taken to improve HECM program performance, FHA, with industry concurrence, would like to implement a few additional enhancements to the program. The changes under consideration would both help protect taxpayers and further safeguard consumers from entering into a loan transaction that might not be beneficial to them.

The three changes under discussion include:

A. Financial Assessment of Loan Applicants

This would be a form of underwriting, assessing each applicant's sources of funds and expenses to ascertain that the prospective borrower has sufficient resources and income to meet their obligation to pay property charges, including taxes and insurance, while having enough money left to cover normal living expenses.

Underwriting for a reverse mortgage would be different than for a forward mortgage. In a forward mortgage, underwriting essentially focuses on ascertaining that income will be sufficient for making loan payments and utilizes debt-to-income ratios to make this determination.

A reverse mortgage requires a slightly different approach. First of all, there are no monthly payments to be made on the mortgage. Secondly, a retiree might not have income per se, but instead might have assets to be spent down, as well as cash advances from the HECM loan. Accordingly, a "residual cash flow" analysis is an approach to underwriting for reverse mortgage borrowers.

Under this concept, a lender would evaluate a prospective borrower's income from all sources (Social Security, pensions, employment), their financial assets (being drawn down on a straight-line basis over their remaining life expectancy), and any cash available from the reverse mortgage. The cost of taxes and insurance would be subtracted from this available "cash flow" leaving a "residual cash flow" that must be sufficient for covering all other normal living expenses. NRMLA suggests that FHA require lenders to utilize a residual income table created by the Veteran's Administration (VA) for its mortgage programs to determine if sufficient cash flow is available to make the HECM loan.

B. Principal Limitation Utilization Restriction

HECM loans perform best when funds are drawn down slowly over a longer period of time. Unfortunately, a confluence of factors over the past few years has resulted in a disproportionate number of HECM borrowers drawing down all available funds up front at closing. This results in interest on the loan balance growing more quickly and loan balances growing larger than if funds are drawn over time.

FHA is considering implementing restrictions on the amount of funds that could be drawn down at closing. A Principal Limit Utilization (PLU) restriction would allow borrowers to only draw enough at closing to pay off existing liens on the property, plus the costs associated with obtaining the loan and some modest "stipend" for paying other current expenses. The balance of loan proceeds available would either remain in a line of credit for future use or be paid out in fixed monthly payments.

NRMLA believes this is a sensible program improvement that will lead to a higher degree of success among HECM borrowers and reduce the risk to the MMI fund.

C. Set-Asides for Taxes and Insurance

There has been some experience with HECM borrowers utilizing all of their available resources and finding themselves eventually unable to meet their obligation to keep their property insured and pay real estate taxes. Under current program procedures, if the homeowner fails to pay these items, the lender is required to advance its own funds to cover them. The lender must then work with the borrower to establish a repayment plan to be reimbursed for such advances. If the homeowner fails to follow through on the reimbursement plan, the loan is in default and the loan servicer must seek permission from HUD to call the loan due and payable.

To help avoid such situations in the future, FHA is planning to implement a requirement for a "set-aside" of some of the proceeds available from the HECM loan to be used as a source for covering taxes and insurance. A set-aside is essentially the reverse mortgage equivalent of an escrow in a forward mortgage.

Other Opportunities To Improve the Home Equity Conversion Mortgage To Ensure Long-Term Sustainability for the Program, Consumers, and the MMI Fund

The aforementioned changes to the HECM program that are under consideration by HUD and the reverse mortgage industry should address the shortcomings that have been identified with the program. The challenge is that, as of now, these types of changes can only be made by the full regulatory development process. This typically takes a year and a half or more to complete.

Therefore, the most productive action Congress can take is to provide HUD with the administrative authority to make changes on a more expeditious basis, so that it has the ability to respond in "real time" as it observes various trends in the economy and patterns of behavior among HECM borrowers and lenders.

Making the types of program changes outlined above, as well as continually updating and enhancing reverse mortgage counseling, should enable the Department to effectively manage the HECM program enabling it to remain a useful tool for elderly homeowners, while minimizing risks to the taxpayers.

It is my understanding that some parties are concerned with vesting too much authority with FHA by granting them the ability to make program changes via Mortgagee Letter, in lieu of regulations. I do not share this concern.

I have worked with HUD on HECM program issues for nearly 15 years now and have always found the Department to be a responsible steward of the program. FHA has continually monitored performance, collected feedback both informally and through various studies, and consulted with many stakeholders before modifying any procedures. I have no reason to doubt that such responsible leadership would continue if HUD is given the authority to fine-tune the HECM program as economic conditions and program performance require it to do so.

Thank you for the opportunity to appear here today. More importantly, thank you for the support that the HECM program has received over the years from Members of this Subcommittee from both sides of the aisle.