U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

**Date: January 18, 2017**

**Mortgagee Letter 2017-05**

**To All FHA-Approved Reverse Mortgage Loan Servicers**

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**Subject**

**Home Equity Conversion Mortgage (HECM) Claim Type 22 (CT-22) Assignment Requests**

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**Purpose**

This Mortgagee Letter provides consolidated and updated guidance regarding the submission of HECM assignment requests to HUD. It outlines the documentation needed to demonstrate that a HECM has been serviced in accordance with applicable HUD regulations and meets all assignment eligibility criteria.

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**Affected Topics**

The policies in this Mortgagee Letter modify or supersede, where there is conflict, relevant policies in Handbook 4235.1, REV-1, Chapter 8 and Handbook 4330.1, REV-5, Chapter 13. Selected policies in this Mortgagee Letter reiterate and do not supersede Mortgagee Letter 2015-15.

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**Effective Date**

The guidance in this Mortgagee Letter is effective no later than 90 days after its publication date.

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**Technical Instructions for Mortgagees**

HECM Claim Type 22 (CT-22) Assignment Requests are processed through HUD's Home Equity Reverse Mortgage Information Technology (HERMIT) system. Therefore, Mortgagees should refer to the HERMIT User Guide for technical instructions on initiating and submitting a CT-22 Assignment Request.

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**Basic Assignment Eligibility Criteria**

The following basic HECM assignment eligibility criteria apply:

- The Mortgagee is current in its payment of the Mortgage Insurance Premium (MIP), including late charges and interest on the MIP, as applicable;
- The mortgage is not Due and Payable;
- There are no outstanding Property Charge-related Corporate Advances or Repayment Plans associated with the mortgage;

- If the HECM was subject to a Mortgagee cure, three years have elapsed during which no further Corporate Advances were required;
- The HECM is a valid, legally enforceable, first lien and title to the property, securing the HECM, is good and marketable;
- There are no offsets or counterclaims against the mortgage;
- The Mortgagee has a good right to assign;
- HERMIT reflects the case status as "Endorsed" and the sub-status as "Loan Active";
- HERMIT reflects the correct Lender, Investor, and Loan Number;
- Any tax deferral program in which a HECM borrower may have participated:
  - does not adversely affect the lien priority during the life of the HECM or at the time of any future foreclosure action, and
  - does not result in a requirement that HUD pay the HECM borrower's deferred taxes upon his or her death, or any other maturity event;
- Any repairs related to a hazard and/or flood insurance loss have been completed, and the insurance proceeds disbursed appropriately; and
- The Mortgagee has not signed an Indemnification Agreement for the HECM loan with HUD.

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**Assignment Eligibility Criteria – For Cases that Do Not Involve a Non-Borrowing Spouse**

For cases <u>that do not involve</u> an Eligible Non-Borrowing Spouse, the following additional criteria apply:

- The Mortgagee is current in making the required payments under the mortgage to the borrower;
- The Mortgagor's obligations under the mortgage are current and as such, the Mortgagee has not informed the Secretary of a Due and Payable event, or the Secretary has been so informed but, has denied approval for the mortgage to be called Due and Payable; and
- The outstanding loan balance is greater than or equal to 97.5% of the Maximum Claim Amount (MCA) unless HUD has approved a Line of Credit (LOC) advance request that would cause the outstanding balance to exceed 100% of the MCA. Assignment approval will not be granted until the outstanding loan balance is greater than or equal to 98% of the MCA.

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**Assignment Eligibility Criteria – For Cases that Involve a Non-Borrowing Spouse with an FHA Case Number Assigned On or After August 4, 2014**

For cases that involve an Eligible Non-Borrowing Spouse and the FHA Case Number was assigned on or after August 4, 2014, the following additional eligibility criteria also apply:

- For a HECM that is not within a deferral period, the Mortgagee is current in making the required payments under the mortgage to the Borrower;
- The Borrower's obligations under the mortgage are current and as such, the Mortgagee has not informed the Secretary of a Due and Payable event, other than in the case of the death of the last surviving borrower with an Eligible Surviving Non-Borrowing Spouse, or the Secretary has been so informed but, has denied approval for the mortgage to be called Due and Payable;
- All required certifications have been obtained by the Mortgagee; and
- The outstanding loan balance is greater than or equal to 97.5% of the Maximum Claim Amount (MCA). Assignment approval will not be granted until the outstanding loan balance is greater than or equal to 98% of the MCA.

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**Assignment Eligibility Criteria – For Cases that Involve a Non-Borrowing Spouse Under MOE Assignment Election**

For cases that involve an Eligible Surviving Non-Borrowing Spouse, and the HECM will be assigned to HUD in accordance with Mortgagee Letter 2015-15, the following additional eligibility criteria apply:

- The Mortgagee has not informed the Secretary of a Due and Payable event, other than in the case of the death of the last surviving borrower with an Eligible Surviving Non-Borrowing Spouse, or the Secretary has been so informed but, has denied approval for the mortgage to be called Due and Payable;
- The HECM remains a valid and legally enforceable first lien under state law and no Statute of Limitations or other barrier exists to the exercising of rights to gain good, marketable title under the mortgage; and
- There are no allegations or claims that would invalidate the HECM or any such allegations or claims have been judicially resolved in favor of the Mortgagee.

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**Required Documentation General**

Mortgagees must submit each of the following documentation packages in support of their CT-22 Assignment Request:

- Compliance Package;
- Collateral Package; and
- Servicing Package.

For a HECM being assigned in accordance with Mortgagee Letter 2015-15, Mortgagees must also submit a Mortgagee Optional Election (MOE) Assignment Package.

The documentation packages must be submitted via the appropriate CT-22 "timeline step" in HERMIT. Mortgagees should refer to the HERMIT User Guide for technical instructions on completing such actions.

HUD will only review complete CT-22 Assignment Requests. Incomplete requests, including those with missing documentation or those for which the documentation has not been *stacked in the order* identified herein, will be denied. In such cases, the Mortgagee will receive a denial letter in HERMIT that advises the Mortgagee of the reason for denial and identifies the required documentation that was missing or filed improperly. The Mortgagee must re-file a complete CT-22 Assignment Request if it chooses to proceed with its request.

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**Required Documentation Compliance Package**

The Compliance Package includes the items listed below in the following order:

1. Cover letter, which includes the FHA Case number, borrower's name, property address (and mailing address, if different from the property address), and telephone number;
2. Payment method, if paid via Automated Clearing House (ACH), must include the ACH information and indicate if the ACH account is a *Checking Account or Savings Account*;
3. Property tax statement confirming taxes are current or a screenshot from the website of the county (in which the property is located) confirming taxes are current;
4. If the borrower is participating in an approved tax deferral program, evidence of the terms of the deferral from the taxing authority confirming that the deferral does not jeopardize HUD's lien position;
5. Payment Plan that must be signed by the borrower and must coincide with the current "Active" Payment Plan status in HERMIT;
6. Copy of the Notice of Assignment letter sent to the borrower;
7. Payment history from the Mortgagee's system through the current month and including the current Net Principal Limit (NPL);
8. Annual Occupancy Certification signed by HECM borrower;
9. Current hazard insurance declaration page;
10. Current flood insurance declaration page, if applicable;
11. Evidence that any repairs related to a hazard or flood insurance loss have been completed and the insurance proceeds disbursed appropriately, if applicable;
12. Power of Attorney, Life Estate Deed, Trust or Conservator documents if applicable;
13. Name, address and contact number for any applicable HOA/Condo Association, along with evidence all such HOA/Condo fees are current;

14. Copy of any applicable Compliance Inspection Report (form HUD-92051) and confirmation that the Repair Set-Aside balance is zero;
15. Death Certificate, if applicable;
16. Where the HECM has a Line of Credit (LOC) or Modified Payment Plan and has a negative Net Principal Limit (NPL), an explanation as to why the NPL is negative and whether the Borrower(s) is on a Repayment Plan. *(Note: This is to ensure that the negative NPL is not the result of a payment made on the borrower's behalf for property charges, which may make the loan Due and Payable and therefore, ineligible for assignment)*;
17. Documentation outlining the Borrower's participation in, and any remaining funds from, a Hardest Hit Funds (HHF) program of any kind, if applicable;
18. All certifications related to a Non-Borrowing Spouse required by Mortgagee Letters 2014-07 and 2015-02, for loans originated on or after August 4, 2014, or those required by Mortgagee Letter 2015-15 for loans originated prior to August 4, 2014, and being assigned under a MOE Assignment;
19. Certification that there are no offsets or counterclaims against the HECM FHA Case Number and the Mortgagee has a good right to assign; and
20. Certification that the HECM is not subject to an Indemnification Agreement entered into by the Mortgagee assigning the mortgage.

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**Required Documentation Collateral Package**

The Collateral Package must include the items listed below in the following order:

1. Original Note;
2. Recorded First Mortgage/Deed of Trust and addendums, if applicable;
3. Subordination Agreement, if applicable;
4. Evidence that Mobile Home title has been retired, if applicable;
5. All recorded intervening assignments;
6. Proposed assignment to HUD, which does not need to be signed and notarized; and
7. Title Policy which must include the language "its successors and/or assigns" after the Mortgagee's Name. Title commitments are <u>not</u> acceptable.

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**Required Documentation Servicing Package**

The Servicing Package must include the items listed below in the following order:

1. Second Note, if applicable;
2. Recorded Second Mortgage/Deed of Trusts and addendums, if applicable;

3. Loan application and addendums;
4. Complete Loan Agreement, including all Exhibits;
5. Complete Origination appraisal and any subsequent appraisals obtained, if applicable;
6. Current flood certificate, if property lies in a flood zone;
7. HUD-1 Settlement Statement; and
8. Name Affidavit, if applicable.

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**Required Documentation MOE Assignment Package**

Where applicable, the MOE Assignment Package must include the items listed below in the following order:

1. Mortgagee Optional Election Letter, verifying that the date of the MOE was made within 120 days from the death of the HECM Borrower;
2. Evidence that the required assessment was performed within 60 days of the Mortgagee's MOE Assignment election;
3. Borrower's Death Certificate;
4. Copy of HECM Borrower and Eligible Surviving Non-Borrowing Spouse's Marriage Certificate, legal opinion certifying the validity of the marriage, or other evidence sufficient to establish the legal validity of the marriage;
5. Evidence of Eligible Surviving Non-Borrowing Spouse's title (or other ongoing legal right) to remain in the property;
6. Affirmation that no allegations which would invalidate the HECM mortgage exists or if there were allegations, evidence of the judicial resolution documenting a finding in favor of the Mortgagee;
7. Signed Mortgagee Certification as provided in Mortgagee Letter 2015-15; and
8. Signed Eligible Surviving Non-Borrowing Spouse Certification as provided in Mortgagee Letter 2015-15.

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**Preliminary Review by HUD**

HUD will review the Mortgagee's CT-22 Assignment Request and the documentation supporting its request to determine whether the HECM is eligible to be assigned. If the Mortgagee's request is approved, it will receive a preliminary approval letter in HERMIT with instructions on how to proceed with recording the assignment to HUD and filing its claim. If the Mortgagee's request is denied, it will receive a denial letter in HERMIT indicating the reason for the denial.

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**Completing the Assignment Process**

Upon receiving preliminary approval from HUD, the Mortgagee must send the items listed below to HUD's loan servicing contractor and complete the required step in HERMIT:

- The endorsed, original first Note;
- The original first Mortgage/Deed of Trust;
- A check made payable to HUD for any Hardest Hit funds remaining, if applicable; and
- A manifest identifying the FHA Case Number(s) and all documents enclosed in the shipping package.

After HUD's loan servicing contractor acknowledges receipt of the above-referenced documents in HERMIT, the Mortgagee must submit the assignment for recordation. Only after submitting the assignment for recordation may the Mortgagee complete its claim in HERMIT. Successfully filing the CT-22 will complete the transfer of servicing to HUD.

Mortgagees must forward the recorded assignment to HUD's loan servicing contractor once received, but no later than six (6) months after the claim has been paid. After HUD's loan servicing contractor acknowledges receipt of the recorded assignment in HERMIT, the Mortgagee will receive a final title approval letter confirming receipt in HERMIT.

If the recorded assignment is not received within six (6) months of claim payment, the Mortgagee will be responsible for reimbursing HUD for any costs incurred to obtain copies of the recorded assignment and will be referred to the appropriate office(s) for sanctioning.

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**Servicing Responsibilities for Pending HECM Assignments**

A HECM Assignment is not complete until the following actions occur:

- The Mortgagee receives approval from HUD to assign the HECM;
- The Mortgagee sends the assignment for recording; and
- The Mortgagee files the CT-22 claim for insurance benefits, which completes the transfer of servicing to HUD.

Until a HECM Assignment is complete, the Mortgagee must continue to service the HECM, make all scheduled payments, and make all unscheduled payments that will not result in the loan balance exceeding 100% of the Maximum Claim Amount (MCA).

When an unscheduled payment to a HECM Borrower would cause the loan balance to exceed 100% of the MCA, the Mortgagee may request that HUD make the unscheduled payment. Such requests must be submitted to HUD in time for HUD to make the disbursement within five (5) business days of the Borrower's request to the Mortgagee for the unscheduled payment.

Should the Mortgagee's delay prevent HUD from meeting this timeframe, the Mortgagee must pay any penalties and interest due to the Borrower as a result of the delay.

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**HUD Advances**

In cases where HUD advances funds to the HECM Borrower on the Mortgagee's behalf, the Mortgagee must initiate a CT-22 Assignment Request within thirty (30) days of the HUD advance.

**Failure to Initiate Assignment.** If the Mortgagee fails to initiate such a request within the allotted timeframe, a "Repayment" task will be generated in HERMIT and the Mortgagee must reimburse HUD for the amount of the advance plus any accruals added to the loan balance through the date the Mortgagee authorizes repayment in HERMIT. Such reimbursement must be completed in HERMIT within 30 days of the "Repayment" task being generated. Mortgagees should refer to the HERMIT User Guide for technical instructions on completing such actions.

**Denied Assignment Requests.** If the Mortgagee's CT-22 Assignment Request is denied, the Mortgagee must reimburse HUD for the amount of the advance plus any accruals added to the loan balance through the date the Mortgagee authorizes repayment in HERMIT. Such reimbursement must be completed in HERMIT within 30 days of the date of the denial. Mortgagees should refer to the HERMIT User Guide for technical instructions on completing such actions.

**Failure to Reimburse HUD.** Mortgagees who fail to reimburse HUD within the allotted timeframes will be referred to the appropriate office(s) for sanctioning.

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**Information Collection Requirements**

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Numbers 2502-0059, 2502-0524, and 2502-0611. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

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**Questions**

Any questions regarding this Mortgagee Letter may be directed to HUD's National Servicing Center at (877) 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, visit the FHA Resource Center online knowledge base to obtain answers to frequently asked questions 24/7 at www.hud.gov/answers.

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**Signature**

Edward L. Golding
Principal Deputy Assistant Secretary for Housing

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