February 16, 2010

Paul Sanford
Executive Secretary
Federal Financial Institutions Examination Council
L. William Seidman Center
Mailstop: D 8073a
3501 Fairfax Drive
Arlington, VA 22226-3550

Re: **FFIEC Docket Number FFIEC-2009-0001**
Reverse Mortgage Comments

Dear Mr. Sanford:

The Mortgage Bankers Association (MBA)[1] appreciate the opportunity to comment on the Federal Financial Institutions Examination Council's (FFIEC) proposed guidance for managing compliance and reputation risks in connection with reverse mortgage products (Docket Number FFIEC-2009-0001). Upon final completion of the guidance, the federal financial institution regulatory agencies will issue supervisory guidance to the institutions that they supervise and the State Liaison Committee of the FFIEC will encourage state regulators to adopt the guidance.

MBA's Position

In order to improve consumer protection and help restore confidence in the mortgage market, MBA supports supervisory action to provide guidance to lenders on reverse mortgage consumer protections and reputation risk management. MBA recognizes that reverse mortgages are relatively new and complex financial products designed to provide assistance to a uniquely vulnerable consumer population. For these reasons, MBA believes all reverse mortgages should be accompanied by strong consumer protections. In addition, MBA believes lenders that offer reverse mortgages, whether they are the U.S. Department of Housing and Urban Development (HUD) Home Equity Conversion Mortgages (HECMs) or proprietary products, should abide by high standards of quality in order to enhance and protect their reputation and the reputation of the entire industry. This includes following the HECM program requirements as an

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,400 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

industry standard as they relate to areas including, but not limited to, mandatory counseling, disclosures and restrictions on cross-selling.

Additional comments regarding the proposed guidance are below.

Avoidance of Potential Conflicts

MBA strongly opposes inappropriate cross-selling practices. For example, MBA believes lenders should not require an applicant for a reverse mortgage to purchase an insurance annuity or other similar financial product, excluding title insurance, hazard, flood or other peril insurance, as a condition of obtaining a reverse mortgage loan. Specifically, a lender should not offer an insurance policy, annuity or other similar financial product, (excluding title insurance, hazard, flood or other peril insurance) to the borrower prior to the closing of the reverse mortgage or before the borrower's right to rescind the reverse mortgage agreement expires. Moreover, mortgage originators or any other party that participates in the origination of a reverse mortgage must comply with all applicable state and/or federal laws and regulations.

Qualified Independent Counseling

Given the complex nature of reverse mortgages, counseling by a qualified independent counselor is essential for ensuring that consumers are aware of and understand the benefits and risks associated with these products in addition to their rights and obligations. Required counseling not only protects the borrower, but also helps ensure that the lender is working with an educated consumer.

We recognize that some degree of flexibility within the counseling guidelines is necessary to accommodate the unique features of proprietary products that are likely to vary from lender to lender. MBA realizes that some counseling agencies will be more informed about particular proprietary products than other agencies. Some agencies may not be the most appropriate resource for proprietary product counseling because their access to specialized training or counseling materials is limited. MBA believes measures should be implemented to prevent lenders from steering borrowers to specific counseling agencies for inappropriate reasons. However, the fact that there may be fewer counseling options for proprietary borrowers should not be considered steering.

MBA believes all reverse mortgage borrowers should have access to knowledgeable counselors regardless of their ability to pay for this mandatory service. MBA supports borrowers having the option of face-to-face and counseling via the telephone as a way to provide uncomplicated counseling options for borrowers and not delay their access to funds. Additionally, we have always supported increased government funding for HECM counseling.

We understand that HUD plans to release an updated robust counseling protocol designed to encompass all of the material forms, features and risks of reverse mortgages and to help determine whether a reverse mortgage is an appropriate option for a particular borrower based on individual circumstances. It is anticipated that this protocol will cover many of the subjects outlined in the proposed guidance. We believe that will be an immense benefit to the counseling field and we look forward to the release of HUD's updated protocol.

Marketing and Communications with Consumers

MBA supports measures to ensure potential borrowers receive clear and accurate information regarding the risks and benefits of reverse mortgages. Providing misleading or inaccurate information should not be tolerated, as it puts a blemish on the entire industry.

We agree that the differences between HECMs and proprietary products should be explicitly noted, specifically the government insurance feature of HECMs that proprietary products do not have. Nevertheless, it is important that language conveying such differences does not portray proprietary products in a less favorable light. Under certain circumstances, proprietary products may offer a better value or more flexibility for borrowers. If the lender is abiding by the same regulatory standards as HECM lenders, we would not want a borrower dissuaded from the proprietary reverse mortgage due to unfounded apprehension about the product.

Coordination with Other Regulatory Requirements

As noted in the proposed guidance, reverse mortgage products are subject to numerous laws and regulatory requirements. The mortgage lending industry recently completed a year-long implementation of new requirements under HUD's regulations under the Real Estate Settlement Procedures Act (RESPA). Traditionally, RESPA-related requirements have focused on settlement charges while requirements related to the Truth in Lending Act (TILA) focused on credit terms. However, these lines have blurred considerably as regulations under each statute have evolved. In addition, the Board of Governors of the Federal Reserve System has solicited comments on a proposal to amend Regulation Z as part of a comprehensive review of the TILA rules for closed-end and open-end credit. Given the number of existing legal requirements, new or additional disclosures increase the potential for borrower confusion. Additional disclosures could also overwhelm consumers with the sheer volume of paperwork. MBA would urge the FFIEC and its member regulatory agencies to simplify and harmonize disclosure requirements whenever possible.

Supplemental Guidance

The proposal indicates the FFIEC is developing sample illustrations to assist institutions in providing consumers with information about the benefits and risks of reverse mortgages. MBA requests the FFIEC issue the sample illustrations for public comment prior to finalizing them to ensure that the illustrations do not conflict with other required disclosures and to offer an opportunity for industry review and comment.

Policies, Procedures, and Internal Controls and Third Party Risk Management

MBA believes that all forward and reverse mortgage lenders must establish internal policies, procedures and controls to ensure compliance with existing consumer protections. Policies and procedures also should be in place to monitor and update compliance.

Moreover, when appropriate, lenders must establish specific third party risk management standards. Reverse mortgage lenders who originate loans through mortgage brokers or correspondents must establish policies and procedures to ensure that such third parties comply with this guidance.

Conclusion

MBA appreciates the effort of the FFIEC to provide leadership and direction on reverse mortgages. With the growing senior population and the product's appeal, we expect the demand for reverse mortgages to increase. MBA realizes that the reputation of the industry is at stake and we strongly support consumer and lender protections. We look forward to working with you to advance this important consumer financing option in a safe and sound manner. Please contact Tamara King at (202) 557-2758 or tking@mortgagebankers.org if you have any questions.

Sincerely,

John A. Courson

John A. Courson
President and Chief Executive Officer
Mortgage Bankers Association