



[Docket No. FR-6382-N-02]

Federal Housing Administration (FHA): Home Equity Conversion Mortgage (HECM) for Purchase-Acceptable Monetary Investment Funding Sources and Interested Party Contributions

AGENCY: Office of the Assistant Secretary for Housing – Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: On October 24, 2023, HUD published a *Federal Register* notice (October FR Notice) announcing and seeking public comment on changes to the Federal Housing Administration’s (FHA) Home Equity Conversion Mortgage (HECM) for Purchase Program – Acceptable Monetary Investment Funding Sources and Interested Party Contributions requirements. The proposed changes from HUD’s October FR Notice were included in an update to HUD’s Single Family Housing Policy Handbook, which was published October 31, 2023, and becomes effective on April 29, 2024. After consideration of the public comments received in response to the notice of the proposed changes, FHA has decided not to implement some of the changes proposed in the October FR Notice at this time. HUD will publish a Mortgagee Letter or update the Single Family Housing Policy Handbook to align HUD’s policy with this *Federal Register* notice. All other changes previously included in the Handbook will go into effect on April 29, 2024, as planned.

FOR FURTHER INFORMATION CONTACT: Brian Faux, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9266, Washington, DC 20410 – 9000, telephone number 202-402-2378 (this is not a toll-free number); email address sffeedback@hud.gov. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about

how to make an accessible telephone call, please visit:

<https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

SUPPLEMENTARY INFORMATION:

I. Public Comments in Response to HUD's October Federal Register Notice

HUD's regulations at 24 CFR 206.44(b)(4) and 206.44(c)(2) provide the FHA Commissioner authority to permit additional funding sources for a borrower's monetary investment and interested party contributions for HECM for Purchase transactions through notice in the *Federal Register*. HUD relied on these authorities in making the proposed changes described in HUD's October FR Notice published on October 24, 2023, at 88 FR 73040. The changes proposed in that October FR Notice also were prospectively included in an update to HUD's Single Family Housing Policy Handbook, published October 31, 2023, and becoming effective on April 29, 2024.

FHA received two public comments in response to the October FR Notice. One commenter was broadly supportive of the proposed changes to the HECM for Purchase program. The commenter supported HUD's effort to align the HECM for Purchase program with FHA's forward mortgage programs by permitting the interested party contributions explained in HUD's October FR Notice up to six percent of the sales price. The commenter stated that these changes would help more seniors qualify for and receive the benefits of the HECM for Purchase program, especially in downsizing or otherwise changing the size of their current homes before and during retirement. The commenter concluded that the changes would improve and strengthen seniors' financial status.

The other commenter raised significant concerns about allowing HECM for Purchase borrowers to use lender credits, including premium pricing, to satisfy the monetary investment requirement for a HECM for Purchase. The commenter noted that, because HECMs are negative amortization loans where the loan balance increases over time and interest costs are added to the loan balance each month, accepting a higher interest rate in return for a credit at closing would

be very costly for the borrower. The use of premium pricing may result in HECM for Purchase borrowers being steered into more expensive products that do not meet their long-term financial needs.

The commenter further noted that HECM for Purchase borrowers are not likely to understand the true, long-term cost of the higher interest rate nor are they likely to receive a credit at closing that will fully compensate them for paying the higher interest rate because the termination date of a HECM loan is unknown at the time of origination, so the cost calculation can only be an estimate. Additionally, in light of recent enforcement actions by state authorities against mortgage lenders in the forward mortgage market that failed to refund surplus lender credits to borrowers, the commenter also raised concerns that HECM for Purchase borrowers may not receive the full benefit of premium pricing credits.

Finally, the commenter disagreed that FHA should allow mortgagees and third-party originators (TPOs) to contribute to closing costs. The commenter noted that allowing mortgagees and TPOs to contribute toward closing costs would increase the chances of undue influence, fraud, and unaffordable loans for HECM for Purchase borrowers.

II. This Notice

HUD has carefully considered the comments received and has determined that the potential harms to borrowers are significant enough that it would be imprudent to make these changes at this time. Thus, pursuant to the abovementioned authorities, HUD will remove the following changes from HUD's Single Family Housing Policy Handbook 4000.1: (1) permitting premium pricing as an additional funding source used to satisfy a HECM for Purchase borrower's monetary investment; (2) including discount points in the definition of "interested party contribution"; (3) permitting interested party payment for permanent and temporary interest rate buydowns as an interested party contribution; (4) allowing mortgagees and third parties to make any interested party contributions; and (5) allowing discount points and interest rate buydowns as permissible closing costs for HECM for Purchase transactions. Removing

these changes means that the use of premium pricing to help satisfy the borrower's monetary investment and including discount points and permanent and temporary interest rate buydowns as interested party contributions for a HECM for Purchase will not be permissible, that mortgagees and third party originators (TPOs) will be prohibited from making interested party contributions, and that discount points and interest rate buydowns as permissible closing costs will not be allowed after the effective date of HUD's Mortgagee Letter or update to the Single Family Housing Policy Handbook.

Julia R. Gordon,
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Federal Housing Commissioner.*

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