



## Reverse Mortgage Lending: Pending Federal Guidance and State Legislation for Proprietary Products

by [John Levonick](#), Chief Legal and Compliance Officer at Mortgage Cadence, Inc.

The Reverse Mortgage lending industry has begun to attract the attention of Federal and State Regulators, and, as a result, national and local lending institutions now have the obligation to build a strong Compliance and Risk Mitigation program to properly manage and assess risks associated with reverse lending products in order to meet all regulatory obligations.

While much of the reverse industry is currently focused on Home Equity Conversion Mortgage (HECM) production, the current legislative and regulatory attention is moving toward creating clear lending requirements aimed at protecting consumers as the proprietary reverse product market grows. There is significant concern that reverse mortgages are highly complex products and are growing in popularity as more homeowners reach the age of eligibility. Since reverse products are becoming a primary source of retirement income to an ever increasing demographic, Federal and State Regulators are seeking to establish rules that will impose specific disclosure and counseling obligations on financial institutions that originate proprietary reverse products in order to educate and protect vulnerable elderly homeowners who may fall prey to misleading sales and marketing techniques.

### Pending State Legislation

States such as Florida ([SB 1532](#)), Pennsylvania ([HR 4419](#)), Nebraska ([LB 892](#)) and Arizona ([HB 2242](#)) have pending legislation (as of the time of this article) that will clearly define what a reverse mortgage is, create restrictions on product terms and obligations, create express reverse product disclosures with specific content and timing requirements, impose homeowner counseling requirements through preapproved agencies and finally create the proper authority within each of these states to enforce reverse lending requirements.

### Pending Federal Guidance

In December 2009, the Federal Financial Institutions Examination Council (FFIEC) proposed to the Federal financial institution regulatory agencies guidance on managing compliance and reputation risks presented by reverse mortgage products. The FFIEC is currently reviewing the approximately twenty-one public comment letters submitted prior to the February 16th deadline, and once completed, the FFIEC will issue its final supervisory guidance to the member institutions they supervise (OCC, OTS, FDIC, FRB, & NCUA) as well as to the State Liaison Committee (SLC) of the FFIEC that will encourage state regulators to adopt the guidance.

The FFIEC guidance addresses the following compliance and reputational risks concerns:

1. Consumers shall enter into a reverse mortgage loan understanding the costs, terms, risks and other consequences of these products and may not be misled by marketing and advertisements promoting reverse mortgage products.
2. Counseling shall be provided to properly educate borrowers and remove any confusion or misunderstanding about the product.
3. Proper steps shall be taken to determine that consumers will be able to pay required taxes and insurance.
4. To protect against potential conflicts of interest and abusive practices that may arise in connection with reverse mortgage transactions, including the targeted use of loan proceeds and the sale of ancillary investment and insurance products.

As the demand for reverse mortgages increases, financial institutions need to develop responsible reverse lending products, they must also build strong Compliance and Risk Mitigation programs to ensure that their obligations to the borrowers are met. Based upon the content of the pending legislation and guidance, the burden will be on the lenders to not only prove that they met all disclosure content and timing requirements, but that the borrowers understood the product and the obligation they were undertaking at the time the loan was made. The Federal and State Regulators will continue to make considerable efforts to control the development of the private proprietary reverse lending market to ensure that the reverse lending industry does not exploit a vulnerable population.

---

*Disclaimer:* The information presented in this article represents the opinion of the author and not that of AllRegs. This article is not meant to be nor should it be construed as advice of legal counsel. The applicability of the information contained herein will vary based on the nature of each lending institution's business, under what law it was created, and its loan products and procedures. Readers are strongly urged to consult with their legal counsel and/or contact local counsel as appropriate in the various states and jurisdictions to determine the applicability of the materials contained herein to the specific facts and circumstances of each organization's programs and products and to identify other law applicable to its business operations. The information contained herein was not reviewed or approved by counsel in the respective jurisdictions.

---

Read Previous articles in our [Article Archive](#).



---

To learn more, email [sales@allregs.com](mailto:sales@allregs.com) or call (800) 848-4904.  
© 2010 AllRegs