Fact Sheet: FOIA request uncovers **646% increase** in the number of foreclosures against seniors with reverse mortgages in 2016

Background: In January 2017, the California Reinvestment Coalition and Jacksonville Area Legal Aid submitted a Freedom of Information Act (FOIA) request to the Department of Housing and Urban Development, seeking data about reverse mortgage foreclosures in HUD's Home Equity Conversion Mortgage (HECM) program, and about a new HUD program meant to keep widowed and widower non-borrowing spouses in their homes after the death of their spouse. While the nonprofits requested expedited processing, HUD was unable to produce the interim data until nine months later, in September 2017. CRC and JALA still await a complete response to their request.

The new data from HUD show that in a mere 9 month time period (April 2016 to December 2016), there were 32,976 reverse mortgage foreclosures. In comparison, HUD disclosed in an earlier FOIA response that from April 2009 until April 2016 (a seven year period), there were 41,237 total reverse mortgage foreclosures in the HECM program. When the total number of foreclosures is compared as a monthly average, it increased dramatically, from 490 per month from April 2009 to April 2016, to 3,664 foreclosures per month from April 2016 to December 2016. The FOIA response includes state by state foreclosure numbers for Financial Freedom and the industry.

	April 2009 to April 2016 (84 months)	April 2016 to December 2016 (9 months)	April 2009 to Dec 2016 (93 months)	Percent Increase in 2016
Total number of federally insured reverse mortgage foreclosures	41,237	32,976	74,213	
Average number of foreclosures per month	491	3,664		646% increase
Total number of Financial Freedom reverse mortgage foreclosures	16,220	6,990	23,210	
Average number of Financial Freedom reverse mortgages foreclosures per month	193	777		303% increase

New FOIA data adds to concerns about whether or not seniors are needlessly losing their homes, and about HUD's oversight role.

Seniors who have a reverse mortgage don't have a mortgage payment, but are required to occupy their home and to stay current on their home insurance and property taxes. However, consumer attorneys and seniors have raised the alarm in recent years about reverse mortgage servicers making a number of mistakes related to these requirements and then attempting to foreclose on homeowners. Advocates are also concerned about uneven implementation of loss mitigation procedures that reverse mortgage servicers should be using to help seniors retain their homes when possible. Additionally, heirs have raised a number of concerns about servicers not informing them about their right to pay off a loan in order to retain a family home.

Top 5 States for Number of Financial Freedom and Overall HECM foreclosures from April 2009 to December 2016.

State	Financial Freedom foreclosures	Total number of HECM foreclosures	Financial Freedom percent of total
Florida	4,428	13,600	33%
California	2,991	8,052	37%
Texas	1,195	4,992	24%
Michigan	1,963	3,923	50%
Illinois	1,153	3,637	32%

In a recent compilation, the National Consumer Law Center documented a number of stories of consumers from around the US who were facing imminent foreclosure and evictions because of "difficulty accessing loss mitigation and the inconsistent and arbitrary servicing guidelines which lead to servicing abuses." During 2014-2017, the California Reinvestment Coalition, Jacksonville Area Legal Aid and other advocates spoke with seniors and advocates from around the country who had faced improperly forced placed insurance, improperly paid property taxes, and attempted foreclosures based on inaccurate occupancy assessments (seniors who received notices of foreclosure for non-occupancy, even though they did in fact still live in their homes, and had actually received the foreclosure notice at their home). CRC heard from homeowners and their family who were experiencing these problems in Oregon, New Jersey, Colorado, California, Florida, Arizona, and Massachusetts, all of whom had Financial Freedom as their servicer.

Increase in Defaults: In addition to the FOIA data on foreclosures, earlier data from HUD (see Appendix D of linked document) indicates that reverse mortgage defaults doubled from 2015 to 2016. In FY 2016, there were an astonishing 89,064 reverse mortgage defaults (loans held by seniors who were at least 12 months behind in payment of taxes or insurance) that were expected to end in "involuntary termination," (or, foreclosure). In comparison, there were 45,381 defaults reported in the previous fiscal year. That increase surpassed the rate of increase for the previous five years. According to the Center for NYC Neighborhoods, one reverse mortgage servicer estimated that 1/3 of its 10,000 loans in New York State were in default.

In-Depth Look: Financial Freedom Reveals New Problems, Will Be Sold to Unnamed Buyer

In a previous FOIA response, HUD disclosed that Financial Freedom was responsible for 39% of all federally insured reverse mortgage foreclosures from the time period of April 2009 (when Steven Mnuchin and other investors purchased the failed IndyMac Bank which also owned Financial Freedom) until April 2016. This was a surprisingly large number of foreclosures, especially since Financial Freedom was only servicing an estimated 17% of the market at the time of the FOIA request. **In other words, Financial Freedom was foreclosing on more than twice the number of households that one might expect, based on the size of the reverse mortgage market it was servicing.**

Since that FOIA data was released in April 2016, Financial Freedom has disclosed more troubling news.

New York Attorney General Investigation: In January 2017, *Reuters* reported that Financial Freedom was "being probed over alleged complaints it deliberately targeted seniors with dementia and other memory-loss related issues, among other things..." by the New York Attorney General. CIT Group, which purchased Financial Freedom in 2015, recently disclosed that in the second quarter of 2017, the New York Attorney General had subpoenaed the company regarding HECM loans, but that the subpoena was subsequently withdrawn and that the NY AG is requesting CIT Group to voluntarily cooperate with the ongoing inquiry.

$89 Million Whistleblower Settlement: In May 2017, CIT Group, Financial Freedom's parent company, agreed to an $89 million settlement with the US Department of Justice over alleged fraud that Financial Freedom engaged in against the Federal Housing Administration (FHA). In June, Representative Maxine Waters and Representative Al Green sent a letter to Representative Jeb Hensarling, Chair of the Housing Financial Services Committee, requesting an investigation into the settlement.

According to CIT Group's latest 10-Q, filed on November 3, 2017, the HUD Office of Inspector General investigation that was part of the whistleblower complaint continues: "CIT has provided information and documents responsive to the subpoena's request for information relating to the mortgage originations and does not currently expect the outcome of the remaining loan origination matter to have a material adverse effect on CIT's financial condition or results of operations."

Financial Freedom for Sale: Should Seniors Be Concerned? In October 2017, CIT Group announced plans to sell Financial Freedom, but refused to disclose who the buyer is. Given Financial Freedom's track record, advocates are concerned and want to know what improvements a new buyer will implement to prevent more alleged fraud and to ensure there will be no more avoidable foreclosures against vulnerable seniors.

Is HUD Exercising Sufficient Oversight of the Industry?

Advocates are deeply troubled by the dramatic increase in defaults and foreclosures, a lackluster response from the industry towards helping senior homeowners, and what appears to be a lack of concern or investment in the problem by the main regulator overseeing this industry, which is HUD. In response to a prior FOIA request from CRC, HUD indicated it would take approximately 100 years to determine how many consumer complaints had been filed against Financial Freedom.

Are Seniors Benefitting From the MOE Program? In June 2015, in response to a legal challenge, HUD announced a new policy, the Mortgagee Optional Election, to prevent avoidable foreclosures against non-borrowing surviving spouses. However, this "solution" appears to have gained little traction, is not widely known, is being implemented unevenly by reverse mortgage servicers, and most seniors who could benefit from the program are unaware that it exists.

In response to an earlier FOIA request by CRC, HUD disclosed that almost a year after the program was announced, only 100 people had applied for it, and of that number, **HUD had denied more requests (38) than it had granted (32).** Advocates were also troubled by the top 3 reasons HUD gave for denying homeowners this option, including "social security verification was not provided for the non borrowing spouse." It seems counterintuitive that a non-borrowing spouse would not verify their social security number if it meant remaining in their home by using the MOE option.

In the September 2017 FOIA response, HUD was unable to provide updated data on how many non-borrowing, surviving spouse had been able to access the MOE program, but that data is expected to be released at a later date.

Recommendations to Congress, HUD, and the CFPB

1) **Require Servicers to Help At-Risk Seniors:** The Ranking Chair of the House Financial Services Committee, Congresswoman Maxine Waters, has introduced legislation, the Preventing Foreclosures on Seniors Act that would require the

mandatory assignment of federally insured reverse mortgage loans to HUD if a non-borrowing spouse was living in the home at the time of death of the borrower. Advocates support this provision because the current program (MOE) is voluntary for reverse mortgage servicers. The bill would also require servicers to pursue other reasonable loss mitigation options in order to prevent unnecessary foreclosures.

2) **Increased Oversight and Enforcement to Protect Seniors:** Based on the alarming increase in foreclosures and defaults, advocates believe that HUD and the Consumer Financial Protection Bureau should increase their oversight and enforcement activities to better protect seniors, to hold institutions accountable for noncompliance with applicable rules, and to ensure that no unnecessary foreclosures take place.

Enhanced oversight, scrutiny and enforcement requires that:

> **2A: Servicers must improve their processes:** Advocates have heard from a number of seniors and their families that reverse mortgage servicers are incorrectly determining that a senior is no longer occupying their property, and are moving to foreclose as a result. HUD must do a better job monitoring servicers when they report "non-occupancy" as the reason for foreclosing. In some cases, this may be because the homeowner didn't respond to a mailing from their servicer, asking them to confirm their continued occupancy. Advocates have also worked with a number of homeowners whose reverse mortgage servicer improperly either forced-placed insurance, or paid property taxes prematurely.
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> **2B: HUD should redouble its efforts to keep seniors in their homes when possible**, including ensuring that seniors and their servicers are aware of and utilize programs to help preserve homeownership. Under the Hardest Hit Fund, some states have created programs to help seniors facing foreclosure because of a reverse mortgage. In California, a pilot program to assist seniors with property tax expenses has helped just over 600 seniors as of September 2017. Other such programs exist in Florida, Illinois, Michigan, and Oregon. No seniors in these states should lose their homes where existing programs can help.

- **2C: In the case of a borrower's death:**
  - Servicers and HUD must ensure that any non-borrowing spouses in the home have been made aware of the HUD MOE option and how it may enable them to keep their homes.
  - HUD must ensure that heirs are aware of their rights to purchase the home and be given a meaningful opportunity to do so.

3) More transparency and oversight of reverse mortgage company change of ownership, such as the reported sale of Financial Freedom to an unnamed purchaser. All regulatory approvals for the sale of reverse mortgage originators and servicers should be withheld until regulators have considered the experience and comments of reverse mortgage borrowers, Non Borrowing Spouses, and heirs who will be impacted by the sale (as well as nonprofit attorneys and housing counselors who are helping seniors to avoid preventable foreclosures). Regulators should require the companies to complete independent audits that can be reviewed by regulators to determine what issues at the company for sale must be fixed, if any, and whether the purchasing company has the capacity, policies and controls to make those fixes in order to prevent all unnecessary foreclosures against vulnerable seniors.