Strategies For Home Equity Investment Providers In 2025

By **A.J. Dhaliwal, Moorari Shah and Mehul Madia** (December 11, 2024)

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Home equity investment products, often referred to as shared appreciation agreements, have garnered significant attention in recent years.

These arrangements provide immediate funds to residential homeowners from a home equity investment product, or HEI, company in exchange for sharing a percentage of the home's appreciation over time with an HEI company. There are no monthly payments or interest contemplated under these arrangements.

Rather, in the typical scenario, when the house is sold or refinanced, the HEI company receives a return of the initial funds provided to the homeowner, plus or minus the HEI company's share in the appreciation or depreciation of the home between the time of the initial cash infusion and the refinance or sale.

Bolstered by new products, strategic partnerships and sizable venture capital raises, the segment is thriving. However, these advancements are accompanied by growing legal and regulatory scrutiny, as consumer protection advocates and state regulators push for tighter oversight.

This article explores the current trends in HEIs, the regulatory challenges they face, and their potential impact on homeowners and investors in 2025.

A Growing Market

Traditional lenders and fintechs are increasingly embracing HEIs to meet consumer demand for nontraditional lending solutions. These products allow homeowners to access a property's value without taking on additional debt.

Instead, consumers agree to share a portion of their home's future appreciation with an HEI provider. Repayment typically occurs upon an agreed-upon date, the sale of the home or the homeowner's death.

Two recent key developments have propelled HEIs into the spotlight, as discussed below.

Unison's Partnership With Major Private Equity Backer

Unison, a leading HEI provider, in September partnered with Carlyle, a global investment firm, on a $300 million secondary market investment in Unison's new home equity loans, which combine the benefits of mortgages and equity draws. This innovative product offsets costs by sharing future home appreciation and partially deferring interest.[1]

Unlock Technologies' Capital Raise

Also in September, Unlock Technologies secured $280 million in funding, including a $30 million Series B equity investment and $250 million for product expansion. The company plans to enhance its technology and broaden its national footprint.[2]

These developments underscore investor confidence in HEIs as a viable alternative to traditional home equity loans. However, the growing popularity of these products has also amplified calls for stricter consumer protections.

The Rise of Hybrid Models

The innovation driving HEIs reflects a broader industry trend toward hybrid financial products. Unison's interest-only loan, for example, combines features of mortgages and shared appreciation agreements to offer more flexible options for consumers.

This innovation is not without risks. Combining multiple financial models can introduce complexities that are difficult for consumers to understand fully, emphasizing the importance of transparency in product design and marketing.

Regulatory Uncertainty

The rapid growth of the HEI market has outpaced regulatory clarity, creating significant challenges for both providers and regulators. HEIs occupy a legal gray area due to their unconventional structure, which does not fit neatly into existing lending laws.

Unlike traditional loans, HEIs often lack fixed repayment schedules or interest obligations, leading to debates over whether they should be classified as loans under statutes such as the Truth in Lending Act.

Conflicting Interpretations

Courts and regulators have struggled to establish a consensus on how to treat HEIs. In some cases — such as Foster v. EquityKey Real Estate Investments LP in the U.S. District Court for the Northern District of California in 2017 — courts have ruled that HEIs are not loans because they do not create a clear, immediate repayment obligation.[3]

This interpretation has exempted HEIs from many lending laws, including disclosure requirements under the Truth in Lending Act.

However, consumer advocates argue that these agreements function like loans from the consumer's perspective, as they require repayment contingent on future events, such as the sale of the home.[4] This disconnect between legal definitions and consumer experience has fueled calls for regulatory reform.

Challenges for Providers

For HEI providers, the absence of clear federal guidelines has resulted in a fragmented regulatory landscape. Providers must navigate a complex patchwork of state laws, each with its own requirements for licensing, disclosures and consumer protections. For example:

- States like Maryland and Connecticut have recently mandated that HEI providers obtain licensure as mortgage lenders, adding another layer of regulatory complexity for providers operating nationally.

- Maryland has also enacted robust disclosure requirements, compelling providers to clearly outline fees, terms and the financial implications of shared appreciation agreements. In contrast, states without such mandates leave consumers with limited information.[5]

- The lack of uniform classification complicates compliance. In 2021, Connecticut enacted legislation defining "shared appreciation agreements" as residential mortgage loans, triggering additional regulatory burdens such as interest rate caps and Truth in Lending Act-like disclosures.[6]

- As consumer products, home equity investment agreements are governed by federal and state laws addressing unfair and deceptive acts and practices that shape how these products are designed, documented and marketed. Unfair and deceptive acts and practices laws mandate transparent disclosures and prohibit misleading or incomplete representations regarding terms or potential risks. Additionally, when a consumer's credit history is evaluated as part of the agreement process, the federal Fair Credit Reporting Act imposes compliance obligations, including securing a permissible purpose for accessing credit data, issuing adverse action notices as required, and ensuring the accuracy of reported information.

Federal Regulatory Developments

The Consumer Financial Protection Bureau has yet to issue formal guidance specific to HEIs, but recent trends suggest that the agency may soon address this gap. Indeed, the agency's broader focus on financial transparency and consumer protection aligns with calls to regulate HEIs more rigorously.

If the CFPB were to take action, it could provide much-needed clarity by establishing uniform standards for disclosures and consumer protections.

Additionally, the CFPB's approach may help clarify which federal laws apply to HEI providers and how to create a cohesive framework that either preempts conflicting state rules or guides states on enforcing their licensing laws.

However, such action would likely face legal challenges, particularly from industry stakeholders who argue that HEIs should not be regulated as loans. The recent U.S. Supreme Court decision in Loper Bright Enterprises v. Raimondo, which curtails agencies' interpretive authority, could further complicate efforts to regulate HEIs through administrative rulemaking.[7]

Under the forthcoming Trump administration, the federal regulatory landscape for HEIs may shift toward a deregulatory approach, emphasizing market-driven solutions over stringent consumer protections.

For example, the CFPB under Trump appointees might reduce enforcement actions and scale back rulemaking efforts, focusing instead on fostering innovation and reducing compliance burdens for providers.

Specific actions could include rescinding guidance interpreting HEIs as loans or revisiting policies that mandate extensive disclosure requirements, signaling a preference for limited federal oversight in this emerging market.

Case Studies

Recent cases and reports highlight the evolving legal and regulatory scrutiny surrounding home equity investment products, including court decisions and state agency analyses that underscore the complexities and risks of these agreements.

EasyKnock

EasyKnock's sale-leaseback product has faced legal challenges and regulatory scrutiny. Critics allege deceptive marketing practices that obscure the product's implications, such as loss of homeownership.

While EasyKnock in December 2022 prevailed in Sitzman v. EK Real Estate Services, a case in the U.S. District Court for the Northern District of Texas affirming the validity of its contracts, it continues to face lawsuits in other states, including Stewart v. EasyKnock Inc. filed in August in the U.S. District Court for the Eastern District of Pennsylvania.[8]

Additionally, a National Public Radio investigation highlighted consumer complaints about the product, further fueling calls for tighter oversight.[9]

Unison

In the case Stone v. Real Estate Equity Exchange Inc. filed Aug. 9 in the U.S. Bankruptcy Court for the District of Colorado, a Colorado homeowner sued Unison, claiming bankruptcy due to unforeseen costs associated with their agreement.[10]

The National Consumer Law Center is assisting with the case, advocating for HEIs to be regulated as loans. The center argues that consumers often perceive HEIs as loans, even when marketed otherwise, due to their repayment structures.[11] Such perceptions underscore the disconnect between consumer understanding and provider disclosures.

Washington State Report

In September 2024, the Washington State Department of Financial Institutions released a report scrutinizing home equity sharing agreements. The report identified significant parallels between these agreements and traditional loan products, including the use of deeds of trust, origination fees and underwriting processes.

It also highlighted concerns regarding consumer protection, particularly for vulnerable groups such as communities of color and seniors. The department's findings underscore the necessity for clear regulatory guidelines to safeguard homeowners engaging in these agreements.

Investor Perspective

The growing interest in securitizing HEIs highlights their appeal to investors. These securities often combine a fixed coupon rate with shared appreciation, offering potentially higher returns than traditional mortgage-backed securities. However, they also carry unique risks, including the below.

Appreciation Volatility

Returns depend on unpredictable home price appreciation. While this risk can yield high returns in strong housing markets, downturns could significantly affect investor profits. For example, in regions with declining home values, investors may struggle to recoup their initial outlays.

Delinquency Risks

Nonpayment or delays in repayment can affect investor yields. The relatively untested nature of HEI securitizations adds another layer of uncertainty. Additionally, variability in state-level enforcement could exacerbate risks, particularly in markets with stringent consumer protection laws.

Despite these challenges, the influx of HEI securitizations signals strong investor appetite, particularly as traditional mortgage origination volumes decline. Secondary market activity, such as the $300 million investment in Unison's offerings, exemplifies the potential for HEIs to diversify investor portfolios.

Opportunities for Providers in 2025

To succeed in this evolving landscape, HEI providers must address both regulatory and consumer concerns. Key strategies include the following.

Enhanced Disclosures

Providers should adopt transparent, user-friendly disclosures that clearly explain terms, fees and potential risks.

For example, using plain language and interactive tools, such as online calculators, can help consumers better understand their financial obligations. Maryland's recent requirements offer a useful model for improving transparency.

Leveraging Technology

Advanced analytics and AI-driven platforms can streamline operations and enhance risk assessments. Providers can use machine learning tools to predict market trends and improve customer experiences, such as providing real-time updates on home equity valuations or repayment options.

Product Innovation

Developing hybrid models, such as Unison's interest-only loan, can address diverse consumer needs.

Additional innovations, like options to cap shared appreciation percentages, can offer more predictability to homeowners while maintaining investor appeal.

Proactive Consumer Education

Providers should invest in educational initiatives to foster trust and minimize misunderstandings. Hosting webinars, creating explainer videos and publishing guides on

HEI agreements can demystify these products for prospective consumers.

Engagement With Regulators

Establishing open channels of communication with state and federal regulators can help providers shape the regulatory narrative. By actively participating in discussions and offering feedback on proposed rules, providers can advocate for balanced policies that protect consumers while enabling market growth.

Engagement With the *Uniform Law Commission*

Providers may consider engaging with the Uniform Law Commission in developing a model law that could balance innovation with consumer protection, creating a uniform nationwide approach to licensure, disclosures and other guardrails to keep the product safe for both investors and consumers.

These strategies not only help providers navigate regulatory challenges but also build consumer confidence and ensure the long-term sustainability of the HEI market.

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[1] https://www.unison.com/press/unison-launches-equity-sharing-home-loan.

[2] https://www.prweb.com/releases/unlock-technologies-secures-280-million-capital-commitment-to-empower-homeowners-with-innovative-home-equity-solutions-302235741.html.

[3] See Foster v. EquityKey Real Estate Invs. L.P., No. 17-cv-00067-HRL, 2017 WL 2269963 (N.D. Cal. May 9, 2017) (holding that a home equity option contract was not a "loan" under California law or subject to TILA because it was a real estate option contract where the option price payment was not guaranteed to be returned or yield a profit, the parties intended to enter into an option contract, and the agreement did not provide title or possession rights to the property); Goldwater Bank, N.A. v. Elizarov, No. 521-CV-00616-JWH-SPX (C.D. Cal. Dec. 12, 2022) (granting a motion to dismiss and holding that the home equity option contract at issue was "almost identical" to the EquityKey product and not a loan, with product materials making clear the Option Agreement was not a lending program).

[4] https://www.nclc.org/resources/home-equity-investment-loans-are-subprime-mortgages-federal-and-state-policymakers-should-update-rules-to-protect-

consumers/?utm_source=chatgpt.com.

[5] https://mgaleg.maryland.gov/2023RS/bills/hb/hb1150T.pdf.

[6] https://cga.ct.gov/2021/sum/pdf/2021SUM00138-R01SB-00848-SUM.pdf?utm_source=chatgpt.com.

[7] Loper Bright Enters. v. Raimondo, No. 22-4751, 2024 WL 3208360 (U.S. June 28, 2024).

[8] Sitzman v. EK Real Estate Servs. of N.Y., No. 3:21-CV-2666-E, 2022 WL 17853343 (N.D. Tex. Dec. 21, 2022).; see also Stewart v. EasyKnock Inc., No. 2:24-cv-03704 (E.D. Pa. filed Aug. 2, 2024).

[9] https://www.npr.org/2024/05/15/123456789/easyknock-sale-leaseback-controversy. Notably, EasyKnock announced in December 2024 that it would cease operations, citing market conditions and regulatory challenges (see https://www.npr.org/2024/12/06/nx-s1-5218625/sale-leaseback-rent-mortgage-easyknock).

[10] Stone v. Real Estate Equity Exch., Inc., No. 24-01181-MER (Bankr. D. Colo. filed Aug. 9, 2024).

[11] Id.