Introduction

Midwest Loan Solutions, Inc. (MLS) is committed to the highest standards of Federal and state borrower compliance. MLS requires all management, employees and third-party originators and vendors to follow these policies and to adhere to these standards.

The purpose of this policy is to ensure MLS and its third party originators are complying with the requirements of the provisions of the Homeowners Protection Act and to implement borrower protection mechanisms as required by Federal regulation.

The standards set out in this policy represent minimum requirements based on applicable legal and regulatory guidance and apply throughout MLS's operations. In accordance with MLS's policy, the Homeowners Protection Act policy and procedures described herein shall apply to all residential mortgage transactions and represent the full scope of products, property types, branches and geographic locations.

Background

The Homeowners Protection Act of 1998 became effective on July 29, 1999. The Act was amended on December 27, 2000 to provide technical corrections and clarification. The Act, also known as the "PMI Cancellation Act," addresses homeowners' difficulties in canceling private mortgage insurance (PMI) coverage. It establishes provisions for canceling and terminating PMI, establishes disclosure and notification requirements, and requires the return of unearned premiums.

Review Requirement

MLS requires this policy and procedure to be reviewed no less than annually or when Federal regulation is amended and such amendments apply to MLS and its third party originators.

The Act's requirements vary depending on whether the mortgage:

- Is a residential mortgage or a residential mortgage transaction
- Is defined as high risk (either by the lender, in the case of nonconforming loans, or by Fannie Mae or Freddie Mac, in the case of conforming loans)
- Has a fixed rate or an adjustable rate
- Is covered by borrower-paid or lender-paid private mortgage insurance

Definitions

Residential Mortgage Transaction- mortgage loan transactions consummated on or after July 29, 1999, the purpose of which is to finance the acquisition, initial construction, or refinancing of a single-family dwelling that serves as a borrower's primary residence. Condominiums, townhouses, and cooperative or mobile homes are considered single-family dwellings covered by the act.

Borrower Paid Mortgage Insurance (BPMI) - PMI that is required for a residential mortgage transaction, the payments for which are made by the borrower.

Lender Paid Mortgage Insurance (LPMI) - PMI that is required for a residential mortgage transaction, the payments for which are made by a person other than the borrower.

Basic Disclosure and Notice Requirements

At the time of consummation of a residential mortgage transaction, the lender must give the borrower certain disclosures that describe the borrower's rights with regard to PMI cancellation and termination. The requirements for initial disclosures vary depending on whether the transaction is a fixed-rate mortgage, an adjustable-rate mortgage or a high-risk loan. Borrowers must also be given certain annual and other notices concerning PMI cancellation and termination. Borrowers may not be charged for any disclosure required by the Act.

Cancellation and Termination of PMI

1. **Borrower Requested Cancellations**

   A borrower may initiate cancellation of PMI coverage by submitting a written request to the servicer. The servicer must take action to cancel PMI when:

   - The principal balance of the loan
     - Is first scheduled to reach 80 percent of the ''original value'' (regardless of the outstanding balance), based on:
       - The initial amortization schedule (in the case of a fixed-rate loan)
       - The amortization schedules (in the case of an adjustable-rate loan) or
     - Reaches 80 percent of the ''original value,'' based on actual payments
   - The borrower has a good payment history
   - The borrower satisfies any requirement of the mortgage holder for:
     - Evidence of a type established in advance that the value of the property has not declined below the original value and
     - Certification that the borrower's equity in the property is not subject to a subordinate lien

       Once PMI is canceled, the servicer may not require further PMI payments or premiums more than thirty days after the later of:
   - The date on which the written request was received; or
   - The date on which the borrower satisfied the mortgage holder's evidence and certification requirements, described above.

2. **Automatic Termination**

   A servicer must automatically terminate PMI for residential mortgage transactions on the earliest date that both:

- The principal balance of the mortgage is first scheduled to reach 78 percent of the original value of the secured property (based solely on the initial amortization schedule, in the case of a fixed-rate loan, or on the amortization schedules, in the case of an adjustable-rate loan, regardless of the outstanding balance) and
- The borrower is current on mortgage payments.

If PMI is terminated, the servicer may not require further payments or premiums of PMI more than thirty days after:

- The termination date; or
- The date following the termination date on which the borrower becomes current on the payments, whichever is sooner.

There is no provision in the automatic-termination section of the act, as there is in the borrower-requested PMI cancellation section, which protects the lender against declines in property value or subordinate liens. The automatic-termination provisions make no reference to good payment history (as prescribed in the borrower-requested provisions) but state only that the borrower must be current on mortgage payments.

3. **Final Termination**

If PMI coverage on a residential mortgage transaction was not canceled at the borrower's request or by the automatic-termination provision, the servicer must terminate PMI coverage by the first day of the month following the date that is the midpoint of the loan's amortization period if, on that date, the borrower is current on the payments required by the terms of the mortgage.

The servicer may not require further payments or premiums of PMI more than thirty days after PMI is terminated.

4. **Exclusions**

The cancellation and termination provisions apply only to residential mortgage transactions for which the borrower pays the PMI. The provisions do not apply to those for which someone other than the borrower makes the payments.

5. **Return of Unearned Premiums**

The servicer must return all unearned PMI premiums to the borrower within forty-five days after cancellation or termination of PMI coverage. Within 30 days after notification by the servicer of cancellation or termination of PMI coverage, a mortgage insurer must return to the servicer any amount of unearned premiums it is holding, to permit the servicer to return such premiums to the borrower.

6. **High-Risk Loans**
   MLS does not originate or purchase high-risk loans as defined by HPA. The notices required under HPA do not apply to federally insured or guaranteed loans. This includes loans made under FHA, VA and USDA insurance and guarantee programs.

Borrower-Paid Mortgage Insurance

1. **Origination Disclosures**
   The required notice outlined below must be provided at application, to satisfy the requirements of some state specific regulations, and at consummation. The initial amortization schedule must also be provided at consummation. The required disclosures appear in the appropriate print groups in Mortgage Builder depending on which MI program is selected in the system. Verify the MI program is correct before sending the notices to the borrower.

   A. Fixed-rate
   For fixed-rate loans that have BPMI in which MLS provides the borrower disclosures, MLS provides the borrower with a written notice that discloses:
   - The borrower's right to request cancellation of PMI, and, based on the initial amortization schedule the date the loan balance is scheduled to reach 80 percent of the original value of the property;
   - The borrower's right to request cancellation on an earlier date, if actual payment bring the loan balance to 80% of the original value of the property sooner than the date based on the initial amortization schedule;
   - That PMI will automatically terminate when the LTV reaches 78% of the original value of the property and the specific date that is projected to occur (based on the initial amortization schedule); and
   - The act provides for exemptions to the cancellation and automatic termination provision for high-risk mortgages and whether these exemptions apply to the borrower's loan.

   B. Adjustable-rate
   For adjustable-rate loans that have BPMI in which MLS provides the borrower disclosures, MLS provides the borrower with a written notice that discloses:
   - The borrower's right to request cancellation of PMI on:
   - The date on which the loan balance is first scheduled to reach 80 percent if the original value of the property based on the amortization schedules, or
   - The date on which the balance actually reaches 80 percent of the original value if the property based on actual payments.

- The notice must also state that the servicer will notify the borrower when either 1 or 2 occurs.
- That PMI will automatically terminate when the loan balance is first scheduled to reach 78 percent of the original value of the property based on the amortization schedules. The notice must also state that the borrower will be notified when PMI is terminated (or that termination will occur when the borrower becomes current on payments).
- That there are exemptions to the cancellation and automatic-termination provisions for high-risk mortgages, and whether such exemptions apply to the borrower's loan.

2. Annual Disclosures

For all residential mortgage transactions for which PMI is required, the servicer must provide to the borrower an annual written statement that sets forth the rights of the borrower to cancel and terminate PMI and the address and telephone number that the borrower may use to contact the servicer to determine whether the borrower may cancel PMI.

For residential mortgages consummated before the Act took effect on July 29, 1999 for which PMI was required, the servicer must provide to the borrower an annual written statement that:

- States that PMI may be canceled with the consent of the lender or in accordance with state law; and
- Provides the servicers address and telephone number so that the borrower can contact the servicer to determine whether the borrower may cancel PMI.

3. Notification of Cancellation or Termination

Not later than 30 days after PMI relating to a residential mortgage transaction is canceled or terminated, the servicer must notify the borrower in writing that:

- PMI has terminated and the borrower no longer has PMI; and
- No further premiums, payments or other fees are due or payable by the borrower in connection with PMI.

4. Notice of Grounds and Timing of Notice

If a servicer determines that a borrower in a residential mortgage transaction does not qualify for cancellation or automatic termination of PMI, the servicer must provide to the borrower a written notice of the grounds relied on for making that determination. If an appraisal was used in making the determination, the servicer must give the results of the appraisal to the borrower. If a borrower does not qualify for cancellation, the notice must be provided not later than 30 days following the later of:

- The date the borrower's request for cancellation was received; or

- The date on which the borrower satisfied any of the mortgage holder's evidence and certification requirements.

If the borrower does not meet the requirements for the automatic termination, the notice must be provided not later than 30 days following the scheduled termination date.

Lender-Paid Mortgage Insurance

1. **Origination Disclosures**

   The required notice outlined below must be provided at application and at consummation for all loans containing LPMI. The required disclosure appears in the appropriate print groups in Mortgage Builder depending on which MI program is selected in the system. Verify the MI program is correct before sending the notice to the borrower.

   In the case of LPMI that is required in connection with a residential mortgage transaction, MLS or its third party originators must provide a written notice to the borrower advising the borrower of the differences between LPMI and BPMI by notifying the borrower than LPMI:

   - Differs from BPMI because it cannot be canceled by the borrower or automatically terminated as provided under the Act,
   - Usually results in a mortgage having a higher interest rate than it would be in the case of BPMI, and
   - Terminates only when the mortgage is refinanced, paid off or otherwise terminated.

   The notice must also contain:

   - A statement that both LPMI and BPMI have benefits and disadvantages,
   - A generic analysis of the costs and benefits of a mortgage in the case of LPMI versus BPMI over a ten-year period, assuming prevailing interest and property appreciation rates, and
   - A statement that LPMI may be tax deductible for purposes of federal income taxes, if the borrower itemizes expenses for that purpose.

   If this notice is not in the file at the time of underwriting, the underwriter should condition for it to be provided to the borrower and signed prior to the file being clear to close.

2. **Notice at Termination Date**

   Not later than 30 days after the termination date that would apply in the case of BPMI, the servicer must provide to the borrower a written notice indicating that the borrower may wish to review financing options that could eliminate the requirement for LPMI in connection with the mortgage.

Fees for Disclosures

As previously stated, no fee or other cost may be imposed on borrowers for the disclosures and notifications that MLS is required to give them.