

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 Regulation X 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' operations. In accordance with MLS' policy, the Real Estate Settlement Procedures 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 Real Estate Settlement Procedures Act (RESPA) is implemented by Regulation X. RESPA was enacted in 1974 to effect certain changes in the settlement process for residential real estate that would result in the following:

- In more effective advance disclosure to home buyers and sellers of settlement costs
- In the elimination of kickbacks or referral fees that tend to increase unnecessarily the costs of certain settlement services
- In a reduction in the amounts homebuyers are required to place in escrow accounts established to ensure the payment of real estate taxes and insurance
- In significant reform and modernization of local recordkeeping of land title information

RESPA initially focused on three problem areas:

- Abusive and unreasonable practices within the real estate settlement process that increased settlements costs
- The lack of understanding by consumers about the settlement process and the fees associated with it
- The complexities and inefficiencies in the system for recording land titles in public records, which had been identified as a real barrier to significant reductions in the level of settlement costs

Since RESPA's first introduction, additional focus/problem areas were added for the following:

- Prohibitions against kickbacks and unearned fees
- Establishing and maintaining escrow accounts
- Responding to Notices of Error or Requests for Information (qualified written requests)
- Transfer of Servicing Notices
- Force-placed Insurance

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.

Violations under Section 8

Section 8 of RESPA provides two prohibitions:

- Section 8(a) prohibits a person from giving or accepting any fee, kickback, or thing of value in exchange for the referral of settlement service business incident.
- Section 8(b) prohibits the splitting of any fee for a settlement service if services are not actually performed.

MLS expressly prohibits actions by its employees and third party originators that would be in violation of Section 8 of RESPA. Violation of this policy will result in immediate disciplinary action, up to and including termination of the origination approval.

Affiliated Business Arrangements

Section 8(c)(4) of RESPA provides a safe harbor from violations for affiliated businesses. This safe harbor provides that referrals to affiliated businesses are permissible if all of the following requirements are met:

- The borrower is provided a written disclosure in a particular format, setting forth the affiliated nature of the businesses and a written estimate of the charge or charges generally made by the company to which the client is referred;
- The borrower is not required to use the affiliated business; and
- The only thing of value received under the arrangement are returns on ownership interest.

RESPA mandates that the disclosure be in written format and provided to the borrower either at or before the time of referral, or delivered within three business days after the receipt of a telephone application. The disclosure must include:

- Identification of the borrower and the entity making the referral, the property address, and the date;
- A description of the business relationship between the referring entity and the company to which the borrower is being referred;
- A signature line for the borrower to sign acknowledging their understanding;
- The estimated charge or charges for the settlement service; and
- A clear statement that the borrower is not required to use the affiliated company, and an explanation that the borrower has other choices in settlement service providers.

MLS has an affiliated business relationship with its insurance subsidiary. Borrowers are not referred to this subsidiary so affiliated business arrangement disclosures are not required. This disclosure is required for third party originators with an affiliate in which the borrower is referred to the affiliate. This information must be presented in the third party origination application package prior to agreement being executed or as soon as known when an affiliate change is made.

Special Information Booklets

1. Your Home Loan Toolkit

MLS or its third party originator must deliver or place in the mail the CFPB's special information booklet entitled "Your Home Loan Toolkit" no later than three business days after receipt of an application for a mortgage loan. The requirement to provide the booklet applies to closed-end purchase transactions for one- to four-unit properties. MLS provides this booklet to all borrowers applying for a mortgage for which MLS provides the borrower disclosures.

If MLS denies the borrower's application for credit before the end of the three-business-day period, then MLS or the third party originator does not need to provide the booklet to the borrower.

2. Consumer Handbook on Adjustable-Rate Mortgages

For a federally-regulated mortgage loan involving an adjustable-rate mortgage, the borrower must receive a copy of the CFPB booklet entitled "Consumer Handbook on Adjustable-Rate Mortgages" or CHARM booklet.

Disclosures Required before Closing

MLS or its third party originator must provide all borrowers with a Mortgage Servicing Disclosure Statement, which discloses whether MLS or the third party originator intends to service the loan or transfer it to another lender. It also provides information about complaint resolution. MLS provides this information on the Loan Estimate within three business days of receiving the loan application for which MLS provides the borrower disclosures.

Disclosures Required at Closing

At closing, MLS provides all borrowers with the Initial Escrow Statement for loans establishing an escrow account. This disclosure itemizes the estimated taxes, insurance premiums and other charges anticipated to be paid from the escrow account during the first twelve months of the loan. It lists the escrow payment amount and any required cushion.

Disclosures Required after Closing

RESPA requires a Notice of Servicing Transfer to be sent to the borrower if MLS or its third party originator sells or assigns the servicing rights to a borrower's loan to another loan servicer. MLS or its third party originator must notify the borrower 15 days before the effective date of the loan transfer. The notice must include the name and address of the new servicer, toll-free telephone numbers, and the date the new servicer will begin accepting payments.

Limitation on Payments to Escrow Accounts

When MLS creates an escrow account for a borrower, the borrower is charged an amount sufficient to pay items such as taxes and insurance, calculated based on the time of the most recent payment until the next payment. MLS charges the borrower a 2 month cushion of each of the estimated charges for the annual payments from the escrow account.

Before establishing an escrow account, MLS conducts an escrow account analysis to determine the amount the borrower must deposit into the escrow account and the amount of the borrower's monthly payments into the escrow account. When completing the escrow account analysis, MLS estimates the disbursement amounts using a date on or before the due date. This date is used to avoid a late payment penalty for the escrow item.

List of Homeownership Counseling Organizations

1. Background

The 2013 HOEPA Final Rule under RESPA requires lenders to provide applicants with a written list of HUD-approved housing counseling agencies. This includes all purchase and refinance transactions originated by MLS and its third party originators.

2. Disclosure Requirements

The CFPB Housing Counselor List is generated through the CFPB Housing Counselor Interface in the Loan Origination System (LOS) using the zip code of each borrower's current mailing address. The list uploads into the initial disclosure package for loans in which MLS provides the borrower disclosures.

The Homeownership Counseling list is required to be disclosed to all borrowers no later than 3 business days after receipt of application. Verification of receipt by all borrowers will be shown with a signed Finding Approved Housing Counseling Agencies List and Acknowledgement form. These forms must be disclosed to all borrowers with the initial Loan Estimate.