



BULLETIN C009-12-01

DATE: December 24, 2009

TO: All Correspondent Lenders

FROM: Wintrust Mortgage Corporation

RE: RESPA/Regulation X – New Requirements

In November 2008, the U.S. Department of Housing and Urban Development (“HUD”) issued changes to Regulation X, the primary regulation under the federal Real Estate Settlement Procedures Act (“RESPA”). The changes that take effect January 1, 2010 deal primarily with revisions to the Good Faith Estimate (GFE) and the HUD-1/HUD-1A Settlement Statement.

Correspondents must adhere to all changes relating to the regulation. This information is not be construed as legal advice, and is not meant to be a complete summary of the laws. If you have questions related to this or any other law, you are strongly encouraged to contact your legal counsel or compliance department for further guidance.

Effective with all new applications dated January 1, 2010 and after, lenders will be required to issue the new GFE. This includes compliance with changed circumstances that allow re-disclosure of and increase in settlement charges related to the changed circumstance.

Application Redefined -

The New Rule redefines the term “Application” for RESPA.

Lenders are considered to have received an application when potential borrowers submit the following financial information to the Loan Officer in anticipation of a credit decision, including at a minimum:

- Customer name(s)
- Gross Monthly income
- Social Security number
- Property address
- Estimate of the value of the property/Sales Price
- Amount they wish to borrow
- Any other information deemed necessary by the loan officer

After the borrower has received the initial GFE the loan originator is responsible for obtaining and documenting the borrower's expressed intent to proceed with the transaction. This documentation must be included in the closed loan file submission.

Changed Circumstances –

The loan originator must issue a re-disclosure GFE and SSP list to the borrower within the required time frame of three business days of receiving the changed circumstance information (file should be documented to include dates received of the changed information). If a changed circumstance occurs, only those fees affected by the changed circumstance may change.

A "changed circumstance" is defined as follows:

- Acts of God, war or disaster
- Changes or inaccuracies in information relating to the borrower or the transaction that was relied upon in providing the GFE
- Changes to the loan amount or estimated value of the property
- New information regarding the borrower or transaction not relied upon when the initial disclosure was provided

A revised GFE must be issued upon a lock event (locking the rate or expiration of the lock) and may be issued in the event the borrower requests a change in the mortgage loan that was identified in the GFE and which changes the settlement charges or terms of the loan.

The new HUD Settlement Statement (HUD-1 and HUD-1A) will be in effect with all new applications dated January 1, 2010 to coincide with the new GFE.

Fee Tolerances

Tolerances (allowable increases between disclosed and actual fees at closing) on changes to settlement charges between the final GFE and HUD-1 will be defined in three categories:

- 1) Charges that cannot increase at settlement:
 - Origination charges. Origination charges include the loan originator's origination fees.
 - Discount or premium points for a specific interest rate selected.
 - Adjusted origination charges (after the interest rate is locked)
 - Transfer taxes.
- 2) Charges that cannot increase in the aggregate by more than 10% at settlement:
 - Required settlement services that the lender selects, such as appraisal services
 - Title services and lender's title insurance (if selected by lender or if the borrower uses a company identified on the Settlement Services Provider List)
 - Owner's title insurance (if the borrower uses a company identified on the Settlement Services Provider List identified).
 - Required settlement services (such as Pest Inspections) that the borrower selects from the Settlement Services Provider List
 - Government recording charges

3) Charges that can increase at settlement:

- Required settlement services that the borrower can select, if the borrower selects a service provider not listed on the Settlement Services Provider List
- Title services and lender's title insurance, if the borrower selects a service provider not listed on the Settlement Services Provider List
- Owner's title insurance, if the borrower selects a service provider not listed on the Settlement Services Provider List
- Initial deposit for borrower escrow account
- Daily interest charges
- Homeowner's insurance

Submission Requirements

Correspondents are required to submit the following documents with the closed loan file.

- Proper versions of initial disclosures, including the GFE (this includes any and all changes which occur later in the process to any of the disclosures and any supporting documentation that would be required to support the changes).
- Final HUD-1/HUD-1A
As of January 1, 2010, Correspondents must ensure the revised version of the HUD-1/HUD-1A that aligns with the applicable GFE issued, is used based on the regulatory changes.

If the application was taken....

Prior to January 1, 2010 and the new version GFE was issued, the new version HUD-1/HUD-1A must be used.

Prior to January 1, 2010 and the old version GFE was issued, the old version of the HUD-1/HUD-1A must be used.

Prior to January 1, 2010 and the old version of the GFE was issued, but a changed circumstance occurs on or after 1/1/2010, and the loan was re-disclosed on the new version of the GFE, the new version of the HUD-1/HUD-1A must be used.

On or after January 1, 2010, the new version GFE and HUD-1/HUD-1A must be used.

If the incorrect forms were used, Wintrust Mortgage Corporation will not purchase the loan as these loans cannot be cured.

It is imperative that all loan originators, processors, and closers understand and comply with the new requirements. Correspondents should review page three (3) the final HUD-1/HUD-1A prior to disbursing any funds. This will provide a reconciliation of the fees disclosed on the GFE with those charged at closing. Any variance exceeding the tolerance allowed by RESPA must be noted as a "Lender Credit to cure 10% tolerance" on line 204 of the HUD-1/HUD-1A. Failure to double check these documents prior to delivery may result in non-purchase for compliance.

If you have any questions regarding the procedure, please feel free to contact the Correspondent Lending Division at correspondent@wintrustmortgage.com.

We thank you for your continued support in our Correspondent program.