



Mortgage Services III, LLC

*A Subsidiary of First State Bank Member FDIC*

# Wholesale Partner Announcement

At MSI...Your Interest Is Our Priority!

Issue Date 12/23/09

Effective Date As Noted

WPA 2009-048

## Reminder – RESPA Reform; Various Topics

### Purpose

This Announcement:

- ✓ Issues a critical reminder to Sellers regarding RESPA Reform.
- ✓ Clarifies MSI position regarding gift funds.
- ✓ Clarifies MSI's position regarding FHA and VA loans and using rental income.
- ✓ Provides guidelines and clarifications regarding Auction properties, FHA Condos and FHA Second Appraisals.
- ✓ Provides advance notification of a change in the underwriting submission process.

### Effective Date

**As Noted.**

### RESPA Reform Basic Overview

**Effective for all new loan applications dated on/after January 1, 2010.**

- ✓ MSI validates the application date as the date the application is signed and dated by the Loan Officer (in all cases) and the Borrower(s) as applicable to the method of application.

MSI is not dispensing legal advice and is providing information in relation to how we will audit loans for purchase. The below is a summary and is not intended to provide full guidance on the new RESPA reform. Additional information is available at [http://www.hud.gov/offices/hsg/ramh/res/respa\\_hm.cfm](http://www.hud.gov/offices/hsg/ramh/res/respa_hm.cfm).

#### **New Mandatory RESPA Reform Good Faith Estimate (GFE) format:**

- ✓ Three pages.
- ✓ New definition of what constitutes an "application" under RESPA.
- ✓ Settlement charges must be listed as dollar amounts; estimated ranges are no longer permissible.
- ✓ "Important Dates" section is new and of critical importance in complying with the new RESPA rules.
  - Brokers and lenders are bound by the dates selected.
- ✓ Extensive new "Summary of Your Loan" section. This requires information that has not been previously disclosed.

#### **New Fee Restrictions:**

- ✓ Brokers/lenders may not charge any fee prior to the borrower receiving the GFE other than the fee for the **actual** cost of the credit report.

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### RESPA Reform - Basic Overview-, Continued

#### **New Tolerance Rules:**

- ✓ The new regulation limits the extent that settlement charges in several categories may differ between the most recently issued GFE and the HUD-1 Settlement Statement.
- ✓ When a tolerance is exceeded, it must be cured by reimbursing the borrower, either at settlement or within 30 calendar days after settlement. If a loan is cured by the broker/lender either prior to or after sale to MSI, the broker/lender must promptly provide copies of all documentation of the cure to MSI.
- ✓ Review the regulation carefully to understand what tolerance levels apply to what fee types. Take special note that some settlement charges have a zero tolerance.

#### **Changed Circumstance – Revised GFE**

- ✓ If the borrower expresses intent to continue with the application within the 10 business day period the estimated settlement charges must remain available (or a longer time period provided by the broker or lender), the lender is bound by the original GFE, subject to the tolerance rules.
  - However, under certain circumstances the lender may or must issue a new GFE prior to settlement.
- ✓ If the interest rate on the initial GFE expires, and the borrower later locks the rate, a new GFE must be provided reflecting the revised rate and terms. No other charges may change unless a “Changed Circumstance” exists as defined by RESPA. They are very limited.
- ✓ Review the Changed Circumstance requirements carefully. RESPA requires documentation of the reason a new GFE is issued.
  - MSI will require that documentation to be included in the loan file.

#### **New Mandatory RESPA Reform HUD-1 Settlement Statement**

- ✓ The new HUD-1 is designed to allow for quick and easy comparison with the new GFE.
- ✓ The form includes a new “Loan Terms” section which summarizes the transaction. Lenders/Brokers are required to submit all information necessary to complete this section to the Settlement Agent.

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### RESPA Reform MSI Audit and Documentation Requirements

As noted, MSI will require documentation in the loan delivery file for:

- ✓ Changed Circumstances –issuance of a new GFE.
- ✓ Tolerance Limitations.

#### Changed Circumstances – Documentation Requirements

- ✓ Any time a new GFE is required, MSI will require documentation that explains the reason for the new GFE.
- ✓ At a minimum, the broker/lender should include:
  - **Re-Disclosed GFE (s)** – the loan must include the initial GFE and any subsequent re-disclosed GFE in order of date (to clearly indicate the date order of the changes).
    - The Final GFE should be stamped or printed clearly “Final” on the top of the form.
  - **History:** Seller may use documentation generated by their system or process, or use a detailed explanation sheet for each valid changed circumstance. The detailed history must contain (but is not limited to) the elements below:
    - Date of each changed circumstance.
    - Date of each re-disclosure.
    - Description of or reason for each changed circumstance
    - Fees impacted by the changed circumstance.

#### Tolerance Limitations

- ✓ MSI requires supporting documentation of the cure when RESPA tolerance limitations are exceeded.
- ✓ MSI will require the following in the closed loan file as acceptable support documentation. (Reminder: RESPA requires that the cure be completed within 30 days of loan closing.)
  - Copy of the corrected HUD-1 Settlement Statement sent to the borrower.
  - Copy of the letter sent to the borrower, **and**
  - Copy of the check or evidence that a check has been issued.

### Gift Requirements

#### Effective Immediately

MSI permits gifts only from a close relative or a grant (as permitted by the applicable product).

MSI will update the USDA Product Suite to clarify this requirement.

### Auction Properties

#### Effective Immediately

MSI will not purchase loans for which the subject property is purchased at auction. This guideline is effective for all product types.

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### Government Rental Income

#### Effective Immediately

MSI requires that all rental income be properly supported by documentation prior to using it as qualifying income. MSI will accept the following as acceptable documentation.

For Subject Property	For Other Property (Including Former Primary to Rental)
<ul style="list-style-type: none"> <li>✓ A Fannie Mae 1007 completed by the Appraiser to document (support) market rents.</li> <li>✓ When applicable, the rents must be documented on tax returns or if received less than 12-months, a copy of each lease <b>and</b> documentation of receipt of the security deposit <b>and</b> the most current last month's rent.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Copy of tax returns showing rental income for a minimum of 12 months.</li> <li>✓ <b>IF</b> the rental income is not included on the tax returns for a minimum of 12 months, the borrower must provide: <ul style="list-style-type: none"> <li>• A Fannie Mae 1007 completed by a licensed Appraiser to document market rents for <b>each</b> property not documented for a minimum of 12 months, <b>and</b></li> <li>• A copy of <b>each</b> lease(s) and documentation of receipt of the security deposit <b>and</b> the most current last month's rent.</li> </ul> </li> </ul>

### FHA Condos

FHA Condos must meet the FHA requirements outlined in Mortgagee Letters 2009-46b and 2009-46a. MSI would like to remind Sellers of the following:

- ✓ **As applicable**, FHA condos must have a current active FHA Project Approval.
  - MSI will **not** provide the Direct Endorsement Lender Review and Approval Process (DELRAP).
  - The project must be listed on FHA's approved condominium project list at <https://entp.hud.gov/idapp/protect/condlook.cfm>.
- ✓ If the project is no longer approved or does not meet approval criteria, then only an FHA-to-FHA streamline refinance without appraisal is permitted in the project; no other type of FHA transaction is permitted.

### MSI FHA Second Appraisal Policy

Mortgagee Letter 2009-48 modified FHA's requirements for second appraisal for higher balance loans in declining markets. MSI guidelines are as follows:

#### Eliminated:

- ✓ Base loan amounts greater than \$417,000 with an LTV greater than or equal to 95.00% and located in a declining markets.
- ✓ Cash Out transactions with a base loan amount greater than \$417,000.

#### Retained:

- ✓ Transactions that meet FHA Property Flip specific criteria.

#### Added (New):

- ✓ 2-Unit properties with base loan amounts greater than \$533,850, effective with FHA loans **locked** on/after 1/01/2010.

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#### New Underwriting Submission Requirements – Advance Notice

#### **Effective for all underwriting submissions on/after 1/15/2010.**

MSI is changing our process for accepting files for loan underwriting. Effective with **all submissions received** on/after 1/15/10, the only acceptable Underwriting Submission fax number is: **866.726.6324**.

Additionally MSI will **not** accept loan underwriting submissions via email.

- ✓ Loans submitted via email will be destroyed in accordance with acceptable privacy requirements and MSI will request that the loan file be re-submitted via one of the methods below.

On/After 1/15/10, the **only acceptable** methods of submitting a loan file for underwriting to MSI are:

1. Via Facsimile (866.726.6324)
2. Via Electronic Submission on the Web Site.
3. Via hard copy "mail" only to the Bloomington, IL, address. Underwriting loan submissions will no longer be accepted at the Oakbrook, IL location.

Please ensure that your staff is aware of these new procedures that will be effective on Friday, January 15, 2010; underwriting files submitted to MSI by any other method may be lost.

#### Seller guide

The Seller Guide will be updated within 2 business days of the effective date of each topic.

#### Questions

If you have questions, contact your Account Executive.

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