



September 23, 2019

Department of Financial Institutions
150 Israel Road SW
Tumwater, WA 98501

Subject: DFI Rulemaking – MBPA

Thank you for taking comments.

1. **Trust Accounting** – Overall, want to thank the Department for simplifying Trust Accounting rules even further than those provided by your Interim Regulatory Guidance of October 31, 2018.
2. **WAC 208-660-410 Trust accounting (1) What are trust funds?** – For clarification purposes, the proposed language permits the deposit of funds from closing directly to the broker’s general, not trust, bank account that the broker “will make” to a third party. If correct, huge simplification.
3. **WAC 208-660-410 Trust accounting (16) If a mortgage broker receives funds on or after closing from a settlement agent, or a lender, for the payment of third-party provider services, are these funds considered trust funds?** No.
4. **WAC 208-660-410 Trust accounting (24) What disbursement are prohibited? (d)** – Request consideration of allowing the transfer of funds from one subaccount to another, provided the borrower has provided written authorization.
5. **WAC 208-660-410 Trust accounting (32) How does a mortgage broker disburse funds from a subaccount when there is more than one borrower due to receive those funds?** Two points –
 - a. Instead of making a check payable to “all borrowers,” suggest it can be made to one borrower, provided all borrowers have consented in writing.

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- b. It goes on further to state that instructions of disbursement are permitted when "all borrowers...sign the written notice of instruction."

Let's get this applied to item 4 and 5a, above.

- 6. WAC 208-660-430 Disclosure Requirements (3) What is the disclosure requirement under RCW 19.146.030 (2) ? (e) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection.** This seems to differ from RCW 19.146.030 (3), covering subsequent to written disclosures are provided, in which it states "...no less than three business days thereafter including Saturdays..."

I suggest DFI clarify that Saturday's are not counted unless the mortgage broker is open on Saturday's for substantially all its business, which would be conformity with other pertinent rules and regulations.

- 7. WAC 208-660-430 Disclosure Requirements (10) Are there any model forms that suffice for the disclosure content under RCW 19.146.030 (2)?** Earlier this month a new model disclosure was posted to DFI's website with little to no involvement of industry. While under this subparagraph (10) it repeatedly states that forms provided under TILA and Reg Z are deemed sufficient. However, for compliance with interest rate locks that same 'deemed sufficient' is not applied.

I understand that the Interest Rate Lock Agreement is meant to provide both critical information to the consumer while giving a higher level of protection to the mortgage broker in a rising interest rate environment. Realize, however, that this was put into place prior to today's GFE and TRID disclosures, which include all the same information with the exception of who is guaranteeing the lock and how an interest rate lock-in fee, if charged, is being applied.

In that regards, may I suggest that this disclosure only be required when an interest rate lock-in fee is applicable. No lock-in fee, no disclosure requirement.

- 8. Education** – Consideration ought to be given to increase the required education and/or experience to obtain the Designated Broker designation. The state's education requirements haven't changed or kept up with the additional responsibilities of a DB.

A simple review of the most recent enforcement action listed on your website, Case # C-18-2564 dated 8/26/19, sites –

- a. Failure to submit accurate and timely MCR and FC reports
- b. Conducted business using an unregistered trade name
- c. Advertised using misleading and disallowed phrases
- d. Failure to disclose required information in advertisements
- e. Originated loans from unlicensed locations
- f. Failure to provide borrowers with a complete and accurate rate lock agreement
- g. Failure to deposit third party fees into a trust account
- h. Failure to provide required disclosures and estimates
- i. Failure to provide a complete and accurate privacy policy
- j. Failure to develop a compliant AML policy

9. **Licensing of Loan Originators** – It was my understanding that DFI was going to move this section of the rules for both MB's and CLA's to another section. I did not find that in the materials for this rulemaking hearing. Can I get an update please?

Thank you for your continued involvement and monitoring of our industry, and working with industry when developing changes to these rules.

With best regards,

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