



October 18, 2014

To All Licensed Mortgage Loan Correspondents:

According to the records maintained by the Commonwealth of Pennsylvania, Department of Banking and Securities ("Department"), your company is licensed as a mortgage loan correspondent ("correspondent") under Pennsylvania's Mortgage Licensing Act ("MLA"), 7 Pa. C.S. § 6101 *et seq.* It has come to the attention of the Department that correspondents may be engaging in activities outside the scope of their authority. The purpose of this correspondence is to provide you with guidance to enable you to determine whether the correspondent license remains appropriate for your activities.

The MLA defines a "mortgage loan correspondent" as a:

person who engages in the mortgage loan business by directly or indirectly originating and closing mortgage loans in his or her own name utilizing funds provided by a wholesale table funder or other funding sources under the circumstances described under section 6123(6) . . . and *simultaneously assigning the mortgage loans to the wholesale table funder.*

See 7 Pa. C.S. § 6102 (emphasis added). Thus, a correspondent may use funds provided by a wholesale table funder from a warehouse line of credit to complete originating and closing mortgage loans for consumers but the correspondent must simultaneously assign the loans to the wholesale table funder at funding.

The Department is concerned that there may be situations whereby assignment of the loan does not occur simultaneous with the loan funding. Specifically, the wholesale table funder may refuse to accept assignment of the loan until the wholesale table funder has done a post-closing review of the loan file or may, for any reason, simply refuse to accept assignment of the loan. This practice forces a correspondent to take responsibility for the loan until it can sell the loan or otherwise address the problem. If the correspondent accepts any responsibility for the loan at any point in time, the correspondent acts as a lender outside the scope of its authority subjecting itself to penalties authorized by the MLA. See 7 Pa. C.S. §§ 6102, 6140.

The Department is aware that, on July 9, 2014, the Consumer Financial Protection Bureau ("CFPB") issued "Policy Guidance on Supervisory and Enforcement Considerations Relevant to Mortgage Brokers Transitioning to Mini-Correspondent Lenders." In the Guidance, the CFPB explained the role of a correspondent but this Guidance does not change the authority of a correspondent set forth in the MLA.

Thus, if you, as a correspondent, plan to use funds provided by a wholesale table funder to complete a mortgage loan transaction and may have to assume responsibility for the loan at any point in time, you must be licensed as a mortgage lender. If you are in this position, you should consider applying for a lender license, rather than a correspondent license, during the upcoming license renewal period. The license renewal period commences November 1, 2014. As a lender, you may act as a broker or correspondent without a separate broker or



correspondent license. *See* 7 Pa. C.S. § 6111(b)(1). However, if you wish to simply act as a broker, *i.e.*, not close loans in your name, you may do so either as a licensed mortgage broker or under your existing mortgage loan correspondent license. *Id.* at 6111(b)(2). As noted above, violations of the MLA subject you to orders, fines and other action by the Department.

If you have any questions or concerns regarding the guidance set forth in this correspondence, please contact the Compliance Office at (717) 772-3889.

Sincerely,

/s/ Rebecca Doane
Acting Deputy Secretary
for Non-Depository Institutions