

LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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OFF THE RADAR—BRE'S MLDS

It is always apparent when advising clients on the mortgage lending compliance and regulatory side of our practice that we see only a slice of this world. How big that slice is, may sometimes be open to question.

Changes occurred this fall which significantly affected the operations of mortgage brokers and lenders.

The new TRID rules obviously become effective. In turn, this huge change impacted the California Bureau of Real Estate's ("BRE") Mortgage Loan Disclosure ("MLDS") requirements. This issue is somewhat old news now, but from the view of our slice, still not well known. We thought it might be wise to call it to your attention once again, at least for the uninitiated.

The MLDS is a disclosure required by California statute and given by a mortgage broker to a borrower detailing the maximum costs and expenses of the expected loan. It is to be provided within 3 days of application. It is required only for a broker arranging a loan, not

a broker making the loan in its own name. Forms have been provided by BRE as models for these disclosures. However, the law provides that, for a federally related loan of more than \$30,000 dollars for a first lien loan or, \$20,000 for a junior lien, the broker may not be required to provide the MLDS if a GFE was provided which also included certain other minimal information.

Well, along came TRID and no more GFE. Now as we know, we have the Loan Estimate or LE. So The BRE changed its policy.

As an aside, the LE may not have state required disclosures added to that form. So the solution of just adding additional information to the LE is no longer available as it was previously with the GFE.

So if you want to avoid providing the MLDS and you are brokering a loan, there is a BRE policy change to help. The scenario would go like this:

The borrower signs the LE. He/she is also provided with a separate disclosure contemporaneously with the LE disclosing that the LE does not constitute a loan commitment and that the borrower can check the license status of the broker by calling the BRE license information telephone number or by checking the BRE's web site. If the compensation paid to the broker or loan originator by other than the borrower is not disclosed on the LE (which it usually isn't), that compensation information should be provided on the additional disclosure.

You may find the entire BRE advisory at:

<http://www.bre.ca.gov/files/pdf/adv/MLDS%20and%20Loan%20Estimate%20Advisory.pdf>.

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ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations.

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