



Wells Fargo

## Settlement Agent Communications

News for Wells Fargo Settlement Agents

December 17, 2015

### 2015 has been quite a year!

With the year coming to an end, we want to extend our sincere thanks to our industry partners for all that you have done this year. We appreciate how you have worked with our Wells Fargo team to provide top notch settlement services to our customers. This final newsletter for 2015 would be incomplete if we did not thank you again for your hard work to prepare for the "Know Before You Owe" TILA-RESPA Integrated Disclosure Rule (the Rule) changes, which we recognize was a significant effort and accomplishment for everyone - something that will make 2015 stand out for years to come.

### Know Before You Owe - after the first 60 days

In the first two months since implementation more than 10,000 closings for Wells Fargo customers have been completed using the new disclosures and processes. The diligent efforts of settlement agents across the country played a huge role in this milestone.

Like you, we have learned a great deal in these initial weeks. As we all anticipated, the changes were not implemented without some bumps, and we still have a lot to learn as we work together to smooth out new processes. We know that if we continue to partner and communicate during the upcoming weeks, we can work through these bumps before the traditional seasonal volumes increase.

Our September 14, 2015 edition of this newsletter was dedicated to providing "need to know" information to anyone closing Wells Fargo loans. Please review the September newsletter as needed. Request a copy by writing to us at [WellsFargoSettlementAgentCommunications@wellsfargo.com](mailto:WellsFargoSettlementAgentCommunications@wellsfargo.com)

Knowing that we are all still adapting to a huge amount of change, we will focus on several critical areas we need to highlight.

#### 1. Use only the Wells Fargo provided and approved borrower Closing Disclosure (CD)

**This is not negotiable for any Wells Fargo loan closing.** In our loan reviews we have seen a concerning number of examples where settlement agents provided their own CD to the borrowers instead of the Wells Fargo document. We have also seen closings where settlement agents provided their CD version to the borrowers in addition to the Wells Fargo document. Neither practice is acceptable under any circumstances.

The Rule holds the lender fully accountable for compliance, and Wells Fargo made decisions on how to achieve compliance. We have been communicating our decision to control the borrower CD since the September 24, 2014 edition of this newsletter. Any settlement agent closing Wells Fargo transactions is expected to follow our instructions without exception.

If your company requires you to provide additional documentation to the borrower of monies collected and paid out at the closing, you should use a settlement statement - **not your own version of a borrower CD** - for this purpose. If your company does not currently use any form of settlement statement, the American Land Title Association (ALTA) has created model forms which are available at [alta.org](http://alta.org).

#### 2. Collaborate to provide *actual* fees for the borrower CD

When the Wells Fargo closer contacts the settlement agent to begin the collaboration to prepare the borrower CD, we need actual fees - not estimated fees. Our expectation is for the borrower CD to contain the most accurate information available, allowing our customers no fewer than three business days to review this important information.

We understand that there will be circumstances when a fee legitimately changes after the borrower CD has been provided. If this occurs, all changes known prior to signing must be communicated to the Wells Fargo closer. The Wells Fargo closer is responsible to approve the change, determine if the change triggers a new three business day review period, and issue the updated CD if needed. Refer to the September 14, 2015 edition of this newsletter for instructions on reporting changes detected post-closing.

### **3. Follow Wells Fargo instructions to disclose fees and credits**

There are multiple ways to be compliant with the Rule. One example: There are different methods for disclosing seller-paid premiums for owner's title insurance. Although the Rule included specific direction on how to disclose the premiums for both lender's and owner's title insurance policies on the CD, it did not specify how to disclose seller-paid amounts when the actual owner's policy premium differs from the premium disclosed on the CD.

Wells Fargo's decision was to apply the seller-paid amounts for owner's title insurance at a fee level, rather than as a lump sum title premium adjustment. Example:

- Seller agrees to provide owner's policy of title insurance with actual cost of \$1,900
- Owner's policy premium disclosed on the borrower CD (per the Rule) is only \$600
  - Reflect the \$600 as seller paid (Section H)
  - Apply the remaining \$1,300 expected from the seller to the cost of the lender policy, reflecting that amount as seller paid (Section B or C, as appropriate)

Now that we are in production we are aware that the Wells Fargo approach - even though it is compliant - differs from the prevalent approach implemented by others in the industry. This difference is causing confusion between our closers and settlement agents, adding extra time to work through the borrower CD information. Our leaders have agreed that making a change to align more closely with others across the industry will help to smooth the collaboration process. Updated processes and training are now being developed for our teams and should be ready to implement in January. In the meantime, please continue to follow the direction of your Wells Fargo closer.

Wells Fargo is responsible for the borrower CD for any Wells Fargo loan closing. We understand that an outcome of this new lender responsibility that you may not have expected is our Wells Fargo closer providing you with specific direction on disclosing fees and credits - things that settlement agents had complete control over with the HUD-1. This is part of the change we must align on going forward. Many additional factors such as investor and credit policy requirements can impact the specific direction you are given in our loan closing instructions and by your Wells Fargo closer. Please trust and comply with this direction when you interact with our closer to create and approve the borrower CD. If you encounter a scenario you do not think is accurate and cannot solve it directly with the closer, please escalate to their manager.

### **4. Settlement agent must provide seller CD**

Our initial closed loan reviews reflect a concerning number of examples where no seller CD was provided to us. In some cases a seller-signed settlement statement was provided, and some include a signed HUD-1.

For purchase transactions, the Rule requires the settlement agent to create and provide the seller CD and to provide a copy to the lender. Wells Fargo's closing instructions require a copy of the seller CD be provided to us with the executed closing package.

A settlement statement may be provided in addition to, but not in place of, the seller CD. The HUD-1 should no longer be in use at all unless the loan application was prior to October 3, 2015 or the transaction is outside the scope of the Rule. Confirm with your Wells Fargo closer if you have a transaction for which you think a HUD-1 still applies.

Your perspective on what is working and items needing improvement is important to us, and we want to hear from you. Please communicate with your Wells Fargo contacts to share your feedback and specific suggestions to make the new processes work more smoothly for us all. If you are unsure who to communicate an idea or pain point to, write to us at [WellsFargoSettlementAgentCommunications@wellsfargo.com](mailto:WellsFargoSettlementAgentCommunications@wellsfargo.com)

## Closing Insight Update

Wells Fargo's commitment has not changed to make Closing Insight the standard for interaction with our closers to exchange fees, status and other information needed to prepare and approve the borrower CD. With thousands of settlement agents already registered with RealEC® Technologies prior to October 3, we had hoped to see a fast adoption of Closing Insight and its standard workflow for CD collaboration on Wells Fargo closings. Unfortunately this has not happened - yet. The combination of new processes and technology, training gaps, some technology issues and the sheer amount of change proved to be too much for many companies to absorb, including for some of our Wells Fargo team members. Transition to using Closing Insight has been slower than it needs to be. The result in many locations has been a fall back to what was comfortable - using email to exchange fee information and trade draft CDs between the settlement agent and our closer, just as the HUD-1 was passed back and forth in the pre-TRID process.

Many things are in motion to change this, and the expectation to use Closing Insight for Wells Fargo closings will increase rapidly in early 2016. We want to be ready to take advantage of the benefits of Closing Insight as soon as possible.

What should you do?

- If you are not yet registered, register now at [ClosingInsight.com](http://ClosingInsight.com). Validate that all of your locations that will use Closing Insight are registered with complete and accurate information - including their physical office addresses. Also validate that your Closing Insight registration information matches your eLynx registration information.
- Determine if the software that your company uses is one that is integrated with RealEC to exchange data in the Closing Insight collaboration process. The participating software companies and their contact information is as follows:
  - First American FAST, Phone 866-701-3361 or email [agency support@firstam.com](mailto:agency support@firstam.com)
  - Impact, Phone 800-280-8472 ext 111 or email [support@digisolaz.com](mailto:support@digisolaz.com)
  - RamQuest, Phone 214-291-1616 or email [support@ramquest.com](mailto:support@ramquest.com)
  - Resware, Phone 303-554-0301 ext 1 or email [support@adeptivesw.com](mailto:support@adeptivesw.com)
  - SnapClose, Phone 877-476-2725 or email [techsupport@snapclose.com](mailto:techsupport@snapclose.com)
  - SoftPro, Phone 1-800-848-0143 Option 3 or email [support@softprocorp.com](mailto:support@softprocorp.com)
  - Stewart AIM+, Phone 877-800-3132 [customercare@propertyinfo.com](mailto:customercare@propertyinfo.com)
  - StreamLine, Phone 800-767-7831 or email [software.support@firstam.com](mailto:software.support@firstam.com)
  - TitleExpress, Phone 443-321-5600 or email [ears@iwantTSS.com](mailto:ears@iwantTSS.com)

- RealEC (Web Portal User and all other software platforms not listed), Phone 877-273-2532 or email [Clsupport@realec.com](mailto:Clsupport@realec.com)
- Train your staff or refresh the training if it was not recent. If your software company is on the list above, contact them directly for training assistance. If they are not on the list, contact RealEC Technologies at 800-893-3241.
- Report any technology problems to your software provider listed above or RealEC Technologies.
- Accept Wells Fargo closing orders\*. Hands on experience using Closing Insight and the standard workflow are needed for us to jointly gain experience and remove obstacles, and now is a good time to gain this experience. If you receive the "Agent Invitation by Lender" email from RealEC Technologies, this email informs you that Wells Fargo is attempting to place an order with your company. Respond by using the applicable link imbedded in the email - depending on whether (1) you are an existing user of RealEC, (2) you have forgotten your RealEC user name or password, or (3) you are not yet a user of RealEC.

\*Important note: We are aware that a Wells Fargo technology defect is sometimes causing multiple closing orders to be sent for the same loan. A correction is being developed and will be implemented as quickly as possible. We apologize for any confusion this is causing and appreciate your patience. If you have any questions on a specific closing order, communicate directly with the assigned Wells Fargo closer.

### **eLynx updated browser support policy**

Wells Fargo uses eLynx's Electronic Closing Network (eCN) service to deliver its closing documents electronically to all settlement agents. As eLynx recently announced, effective January 12, 2016 only these browsers and versions will be supported:

- Microsoft Edge
- Internet Explorer 11.0 and 10.0
- Chrome 44.0 and 43.0
- Firefox 39.0 and 38.0
- Safari for Mac 8.0 and 7.0

Why does this matter to you? Your web browser is the application that enables your computer to access and view web pages, including the eLynx eCN service. If your company uses a web browser version that is no longer supported, you may not be able to interact with eCN after January 12, limiting your ability to download Wells Fargo closing packages, add new individuals to receive closing packages or make other updates to your registration information.

Important for Internet Explorer 8 (IE8) users: As of January 12, eLynx will completely block the use of IE8. This means that IE8 users will not be able to utilize the eLynx service until they upgrade to a supported version.

Please review this information with your manager or your internal technology representative to validate that you are operating with a supported browser. If not, you must take steps to update your browser to avoid disruption to your ability to receive Wells Fargo closing packages using the eLynx eCN service.

If you have questions please contact eLynx directly at 800-905-0939 or [customer care@elynx.com](mailto:customer care@elynx.com).

### **CFPB issues guidance on Marketing Service Agreements**

Many settlement agents have entered into Marketing Service Agreements (MSAs) with other settlement service providers in order to generate business. Wells Fargo Home Lending announced its decision earlier this year to withdraw from its marketing services agreements and desk rental agreements with real estate firms, builders and certain other referral sources. This decision was made as a result of increasing uncertainty surrounding the regulatory oversight of these types of arrangements.

With the release of the PHH decision, CFPB put the industry on notice that it was interpreting RESPA differently than its predecessor (HUD), and that MSAs would be an area of focus for them. After coming under criticism by numerous sources for not providing guidance before it instituted enforcement actions, CFPB has issued a Guidance Bulletin 2015-05 to deal with MSAs. This bulletin can be accessed at the CFPB website: [consumerfinance.gov](http://consumerfinance.gov).

Although the guidance is primarily a recap of its recent enforcement actions based on RESPA violations, the guidance basically provides the following warnings:

- MSAs are fraught with legal and regulatory risks
- Risks are very difficult to control even with careful monitoring
- Adequate monitoring is inherently difficult
- MSAs are vehicles to create opportunities to violate RESPA

Although the CFPB did not say that MSAs are illegal, they only provided examples of RESPA violations and gave no examples of compliant MSAs. In response to this guidance the Mortgage Bankers Association (MBA) issued a warning to its members urging its members "to re-evaluate existing MSAs if they wish to avoid heightened supervisory and enforcement activity from a regulator that has 'grave concerns' about these arrangements." This is good advice to all parties that are involved in these arrangements.

### **Fair and responsible lending - good for all**

*The following message is periodically issued to reinforce the importance of our commitment to fair and responsible lending to all third-party service providers who interact with Wells Fargo and our customers.*

At Wells Fargo we want to help our customers succeed financially. That is why we are committed to making financial services available to everyone on a fair and consistent basis, and providing all applicants an equal opportunity to obtain financing. Our commitment to fair and responsible lending includes:

- Providing responsible consumer loans and services that provide value to the customer and are priced appropriately
- Advertising products and services in a non-discriminatory, clear and balanced manner
- Adhering to responsible lending practices that fully disclose costs and conditions of credit to the customer and allow the customer to make an informed decision
- Promoting credit and pricing decisions that are based on prudent underwriting standards
- Training on Fair Lending and Unfair, Deceptive, or Abusive Acts or Practices (UDAAP) laws and on customer service techniques designed to help our team members treat all applicants fairly and consistently while providing timely and helpful service
- Appropriately handling customer complaints

Fair and responsible lending applies to us all. It's a commitment we expect not only from our team members, but also from the companies we do business with. As a settlement agent providing services to

Wells Fargo customers, we expect you to share our fair and responsible lending commitment in both words and actions by ensuring that all customers you close loans for are treated fairly and consistently. Furthermore, Wells Fargo requires compliance with all applicable laws, including those covering fair and responsible lending.

Thank you for helping support our commitment to fair and responsible lending. If you have any questions about our fair and responsible lending program or how this applies to you as a settlement agent, please do not hesitate to reach out to your Wells Fargo contacts or write to us at:

[WellsFargoSettlementAgentCommunications@wellsfargo.com](mailto:WellsFargoSettlementAgentCommunications@wellsfargo.com)

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[WellsFargoSettlementAgentCommunications@wellsfargo.com](mailto:WellsFargoSettlementAgentCommunications@wellsfargo.com)

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