



TO: Alliant National Agents
DATE: December 15, 2017
SUBJECT: ***NON-INSTITUTIONAL (“HARD-MONEY”) LENDER TRANSACTIONS***

A “hard money lender” is a private lender that is not regulated by federal or state law (seller financed loans are not considered hard money lender transactions). Non-institutional or hard money lenders rely on the value of the property more than the creditworthiness of the borrower. As a result, hard money lenders do not usually vet borrowers in the same manner as institutional lenders. This creates an opportunity for fraudsters. The industry is seeing an increase in claims involving hard money lender transactions, and these are usually expensive, total loss of title claims. Of course, not all transactions involving non-institutional lenders involve fraud, but you need to be diligent and aware of the increased risk for fraud in these transactions.

In light of these concerns, when you are handling a non-institutional lender transaction, comply with the following requirements and consider the following recommendation.

ISSUE: CONTROL OF THE CLOSING DOCUMENTS

Requirements:

1. Comply with all notary requirements set out in Alliant National’s National Bulletin 2017-03 as well as any state-specific requirements.
2. All non-institutional loans over \$250,000 must be closed in your office or in a location where your employee and the borrowers can meet in person. If this is not possible, obtain approval from an Alliant National underwriter to waive this requirement.
3. The borrower must execute the documents in the presence of a notary who is either your employee or a notary who has been vetted by or is well known to you.
4. Require an Identification Verification and Notary Certification for each signer if the notary is not your employee. A sample form is attached. Maintain all Identification Verification and Notary Certifications in the permanent file for the insured transaction.

ISSUE: IDENTITY THEFT – IS THIS THE TRUE PROPERTY OWNER?

Requirements:

1. *Two forms of identification -*
 - a. Require at least two forms of identification from each borrower –

- i. One form of identification must be a current government-issued photo ID with the individual's signature (e.g. driver's license; passport).
 - ii. The second form of identification could be an employee ID, a credit card, a utility bill showing the address of the subject property and the name of the borrower.
 - b. Copies of IDs can be critical to resolving a claim. Retain a copy of each ID in a secure file with appropriate safeguards to protect all non-public private information. If, however, your practice is to not retain copies of IDs, you may instead keep notes (dated with the name of the person creating the notes) in the file as to the type of ID reviewed, the full names and addresses on each, and all other distinct information (expiration date, number, etc.). The notes should be created by the person who verified the identification and include that person's name, title, and the date of verification. An Identification Verification and Notary Certification Notary may be used for this purpose.
2. *Compare Signatures* - Obtain from the lender one or more documents signed by the borrower or, if an entity, the principals of the borrower (e.g., a loan application with non-public private information redacted). Compare the borrower signature(s) with those of the property owners on other documents in the chain of title to make sure the signatures match. This should be done well before closing.
3. *Powers of Attorney* - A Power of Attorney may only be used if (i) the Power of Attorney is specific to the transaction; (ii) it was executed in the presence of a notary who is either your employee or one who has been vetted by or is well known to you, (iii) you verify, if an outside notary is used, that the borrower did appear before the notary, using a Identification Verification and Notary Certification, such as the attached, *and* (iv) you speak with the Principal (borrower) at the time of closing to verify the validity the Power of Attorney. In addition, you must have proper identification for both the Principal and the Agent (attorney-in-fact).
4. *Verify Account Ownership* - Obtain a bank statement or a voided check for the account to which loan proceeds are being wired to verify the funds are going into an account owned by the borrower.
5. *Credit Scores* - Although lenders rarely provide credit information to settlement agents, if you do happen to see the borrower's credit score and it is good (generally 670 or higher) – call an Alliant National underwriter. Borrowers with good credit do not generally use hard money lenders.
6. *Your Intuition* - If your gut tells you something does not feel right, call an Alliant National underwriter.

Recommendation:

1. An on-line search for how to spot a fake driver's license or ID provides a variety of resources. Use these to learn about the peculiarities of different state's IDs.

ISSUE: MULTIPLE INVESTORS / LENDERS

Requirements:

1. Alliant National declines to insure loans with more than one non-institutional lender as the payee on the Note or Beneficiary on the Deed of Trust or Mortgage.
2. If any lender sends, or proposes to send, loan funds in multiple increments and/or with payors other than the lender, immediately contact an Alliant National underwriter and do not proceed further with the transaction.

If in doubt or you have any concerns with a specific file, please contact an Alliant National underwriter to discuss.

We recently provided a Claims Tip regarding fraudulent activity occurring in transactions financed by non-institutional lenders. Be sure to review it for Red Flags to increase your awareness of risk factors.

Reports of fraud activity may be submitted to fraudhotline@alliantnational.com.

If you have any questions regarding these requirements and recommendations, please contact your local Alliant National underwriting counsel.

IDENTIFICATION VERIFICATION AND NOTARY CERTIFICATION

NOTARY INSTRUCTIONS

Before witnessing any signatures, you must obtain satisfactory evidence that the party in your presence is the party whose name appears on the documents. One of the following forms of government-issued photo identification must be provided by each party:

1. Unexpired driver's license or identification card issued by a U. S. state, territory, or federal government,
2. Unexpired Passport – United States or foreign country.
3. Unexpired United States military ID;
4. Permanent Resident Card ("Green Card"), or Employment Authorization document (EAD, or "work permit") issued by U.S. Citizenship and Immigration Services, or Visa issued by the United States.
5. Identification card issued by a federally recognized U.S. tribal government

You must compare the name, address, photograph, signature, and date of birth of the party with the identification provided and the document being signed. Using the identification, provide the information below and return the identification to the party. Do not keep a copy.

IDENTIFICATION VERIFICATION

Name of Party: _____

Type of ID: Driver's License issued by _____
 Identification card issued by _____ of this type: _____
 U.S. Military ID U.S. Passport Passport issued by _____
 ID described in #4 above of this type: _____ Tribal ID as in #5

Last 4 digits of ID: _____ Expiration of ID: _____

Name on document matches name on identification: Yes No

Address on document matches address on identification: Yes No

Photograph matches person before you: Yes No

Signature on document matches signature on identification: Yes No

Date of birth reasonably matches age of person before you: Yes No

Name of Party: _____

Type of ID: Driver's License issued by _____
 Identification card issued by _____ of this type: _____
 U.S. Military ID U.S. Passport Passport issued by _____
 ID described in #4 above of _____ type Tribal ID as in #5

Last 4 digits of ID: _____ Expiration of ID: _____

Name on document matches name on identification: Yes No

Address on document matches address on identification: Yes No

Photograph matches person before you: Yes No

Signature on document matches signature on identification: Yes No

Date of birth reasonably matches age of person before you: Yes No

NOTARY INFORMATION AND CERTIFICATION

I hereby certify, under penalty of perjury, that I am authorized to act as a Notary Public in the jurisdiction set out below; and that in performing my duties as a Notary Public I have complied with all applicable state and local laws. I further certify that I have received and reviewed original government issued identification as set out above, which has not expired and which bears a photo or physical description and a signature which matches the signature on the documents executed by the applicable party. My information below is true, correct, and current.

Notary name: _____

Notary best contact phone: _____

Notary mailing address: _____

Notary for _____ County, State of _____ or for _____ State at large

Notary commission expires: _____

Signature of Notary Public



Stamp or affix Notary Seal in box to the right.