



# RESPA REFORM POLICY STATEMENT

## Effective January 1, 2010

### Overview

HUD has issued revisions to RESPA (Regulation X) which became effective with loan applications taken on or after January 1, 2010. These important regulatory changes impact the Good Faith Estimate (GFE) and HUD Settlement Statements (HUD-1 and HUD-1A) and will place new requirements on loan originators to ensure that borrowers are better positioned to understand their mortgage transaction.

This statement provides important updates to Pinnacle Capital Mortgage's requirements in response to the changes imposed by HUD. Please note that these are provisional guidelines as HUD has continued to issue corrections and clarifications since the original regulations were published on November 17, 2008.

These changes impact the Good Faith Estimate (GFE) and HUD Settlement Statements (HUD-1 and HUD-1A) and **will be effective with all complete loan applications dated on or after January 1, 2010.**

**Important Updates on the GFE and Settlement Services Provider List (SSPL):** The following updates highlight new GFE requirements for all mortgage brokers doing business with PCM:

- **All complete loan applications (as defined in the immediately following bullet point) dated on or after January 1, 2010 must contain the new GFE form. *There are no exceptions to this requirement.***
- **New Definition of a Loan Application under Reg X: For there to be an 'application' under Reg X, at least seven minimum pieces of information must have been received:**
  - Borrower's name
  - Monthly income
  - Social Security Number
  - Property Address (**This criteria does not apply to prequals on TBD\* properties**)
  - Estimated Property Value
  - Loan amount applied for
  - Fully completed 1003

**\*Important note:** PCM will not accept loan submissions with GFEs issued on TBD properties.

- **"Application Date" refers to the date the Loan Originator (broker) receives the seven pieces of information mentioned above.**
- **Brokers are responsible for providing the initial GFE to borrowers within three business days of receiving the last item constituting receipt of a loan application.** "Business days" refers to all calendar days except Sundays and specified Federal legal public holidays.
- **Pinnacle Capital Mortgage will no longer re-issue the initial GFE** whenever a TIL is revised unless there is a valid Changed Circumstance.
- **PCM must issue a revised GFE and SSPL** if a valid Changed Circumstance occurs that affects an increase in fees.
- **Loan originators are obligated to offer GFE disclosed terms for a minimum of 10 business days from when GFE is provided to the borrower.**

- Upon issuing the initial GFE to the borrower, the loan originator is responsible for certifying that the borrower has received the initial GFE and has expressed the intent to proceed with the transaction. (A "Certification of Receipt of GFE and Intent to Proceed" form can be found on [www.pcmloan.com](http://www.pcmloan.com) under "Forms"). **This form is mandatory must be completed on all loan transactions.**
- In the case where a borrower expresses an intent to proceed AFTER 10 business days, there are two options:
  - The original loan file can be cancelled and a new loan file can be originated and a new GFE can be disclosed.
    - **Note:** In this case, the borrower must validate the reason why they did not respond with an intent to proceed with the loan transaction within the 10 business days and explain why they want to continue with the loan process. Explanation must be deemed reasonable as determined by PCM Management.
  - The original amounts disclosed can be honored.
- The settlement charges on each GFE must be offered for 10 days from the date it is mailed to the borrower. However, a new Intent to Proceed is not required each time a GFE is reissued if loan documents are scheduled to sign after the expiration date of the GFE.

**It is not necessary to issue an initial GFE if:**

- A loan is withdrawn within three business days of Loan Application
- An application is denied within three business days of Loan Application
- For Pre-Approvals

Note: When a GFE is issued, all components of an 'application' must have been received. Missing information may not qualify as a Changed Circumstance.

**PCM Loan Submission Package Requirements for Disclosure:**

1. **Loan Submission Form** *(completed in its entirety)*
2. **1008, 92900-LT or 26-6393**
3. **1003** *(completed in its entirety and signed by loan originator)*
4. **Accurately Disclosed GFE & TIL**
5. **Credit Authorization**
6. **Required Disclosures**
7. **"Certification of Receipt of GFE and Intent to Proceed" form**
8. **Servicing Disclosure Statement**
9. **Fee Breakdown Sheet (PCM RESPA Fee Sheet, Calyx Point Initial Fees Worksheet or the equivalent can be used). Please note that these documents are for internal use only and cannot be disclosed to the borrower.**
10. **Mortgage Broker Fee Agreement (or MLDS in California)**
11. **Settlement Services Provider List** *(including Affiliated Business Agreement, if applicable)*

\*\*\*Note: All information included on the Loan Submission Form, 1008/92900-LT/26-6393, 1003 and FNMA 3.2 data file must match.

\*\*\*New Loan Submission Requirements for PCM Disclosure are based on Application Dates on or after January 1, 2010. Dates are subject to reasonability as determined by PCM Management.

**INCOMPLETE LOAN SUBMISSION PACKAGES:** PCM will suspend incomplete files and notify brokers of all defects that require correction. Files will be returned after 1 business day if correction is not received by PCM.

**REJECTED LOAN SUBMISSION PACKAGES:** PCM reserves the right to reject loan files with incorrect GFEs or other RESPA violations in order to avoid exposure to out-of-tolerance error costs.

## Fee Disclosure and Accuracy

The accuracy of the mortgage broker-issued GFE is critical. Please refer to the Pinnacle Capital Mortgage fees found on the daily rate sheet to ensure accurate disclosure of loan origination to borrowers. Please note the following:

- The mortgage broker's compensation may only increase per the guidelines listed under the "Changed Circumstance" section in this policy document.
- All broker origination fees, including broker compensation, disclosed on the GFE must match those fees listed on the **Mortgage Broker Fee Agreement (MBFA)** or **Mortgage Loan Disclosure Statement (MLDS - for California only)**. Please note that the MLDS 882 Form must be provided to the borrower (along with the new GFE) on all fully amortized loans and the MLDS 885 Form must be provided to the borrower (along with the new GFE) on all Interest Only loans.
- It is essential that the MBFA/MLDS and the GFE should be in agreement throughout the loan process and at loan closing.
  - Brokers are responsible for ensuring that the MBFA/MLDS is kept current with the GFE should any Changed Circumstance occur that impacts the fees on the MBFA/MLDS.
  - The broker is bound to the lesser of the MBFA/MLDS or GFE. If both documents are properly disclosed and fees are aligned, fees may only increase based on PCM's defined Changed Circumstances. However, if the MBFA/MLDS reflects broker fees that are less than those on the GFE, the MBFA/MLDS can be re-disclosed if a Changed Circumstance occurs, up to the amount on the GFE.
  - With the RESPA amendments, the MBFA/MLDS is critical as the new GFE does not provide a breakdown of broker fees and compensation. The MBFA/MLDS supplements the GFE – and it will help ensure the borrower can clearly determine broker fees and compensation.
- In addition, for all services where the borrower may select the service provider **brokers must provide borrowers with a Settlement Service Providers List** in the borrowers' geographic area along with the costs for the services.

## Fee Tolerances

The new RESPA Rule imposes tolerances (allowable increases between disclosed and actual fees at closing) on changes to settlement charges between the final GFE and HUD-1 will be defined in three categories beginning January 1, 2010:

Charges that <b>CANNOT INCREASE</b> at settlement:	Charges that <b>CANNOT INCREASE</b> in the aggregate <b>BY MORE THAN 10% AT SETTLEMENT:</b>	Charges that <b>CAN INCREASE</b> at settlement:
<ul style="list-style-type: none"> <li>• <b>Origination charges.</b> Origination charges include the broker origination fee, broker compensation and PCM's lender fee. (See Changed Circumstance Matrix for exceptions to this rule).</li> <li>• <b>Discount or premium points</b> for a specific interest rate selected</li> <li>• <b>Adjusted origination charges</b> (after the interest rate is locked)</li> <li>• <b>Transfer taxes</b> (must be disclosed regardless of who is paying the fee)</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Required settlement services</b> that the lender selects, such as appraisal services</li> <li>• <b>Title services and lender's title insurance</b> (if selected by lender or if the borrower uses a company identified on the broker or lender Settlement Services Provider List)</li> <li>• <b>Owner's title insurance</b> (if the borrower uses a company identified on the broker or lender Settlement Services Provider List identified).</li> <li>• <b>Required settlement services</b> (such as Pest Inspections) that the borrower selects from the lender or broker Settlement Services Provider List</li> <li>• <b>Government recording charges</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>Required settlement services</b> that the borrower can select, if the borrower selects a service provider not listed on the Settlement Services Provider List</li> <li>• <b>Title services and lender's title insurance</b>, if the borrower selects a service provider not listed on the Settlement Services Provider List</li> <li>• <b>Owner's title insurance</b>, if the borrower selects a service provider not listed on the lender or broker Settlement Services Provider List</li> <li>• <b>Initial deposit for borrower escrow account</b></li> <li>• <b>Daily interest charges</b></li> <li>• <b>Homeowner's insurance</b></li> </ul>

**Please note:** For the First and Second columns above, should a Changed Circumstance occur that directly impacts the fee affected by the change circumstance and a revised GFE be provided within three business days after receipt of the information regarding the Changed Circumstance, the tolerance is determined by reference to the fees disclosed on the most recent GFE as compared to the fees at closing. Only fees directly impacted by the change circumstance can be added and/or increased and re-disclosed.

## “Changed Circumstance”

### A Changed Circumstance is defined as follows:

- Act of God, war, disaster or other emergency
- Inaccurate Information provided by borrower, borrower requested changes
- Changed Information such as loan amount or property value
- Transactional Circumstances - interest rate changes until rate lock, expiration of GFE

Beginning January 1, 2010, mortgage brokers will be required to notify Pinnacle Capital Mortgage of a change using the new “Request for Issuance of Revised Good Faith Estimate” form (the form can be found on [www.pcmloan.com](http://www.pcmloan.com) under “Forms”).

**The completed form must be delivered to Pinnacle Capital Mortgage within one business day** of the change event to allow Pinnacle Mortgage Capital to issue a re-disclosure GFE and SSPL list to the borrower within the required time frame of three business days. Please send the completed form to your local PCM Operations Center as indicated below:

**Concord Wholesale:** [disclosures.concord@pcmloan.com](mailto:disclosures.concord@pcmloan.com)  
**Folsom Wholesale:** [FOLsubmissions@pcmloan.com](mailto:FOLsubmissions@pcmloan.com)  
**Northwest Wholesale (Lake Oswego):** [conditionsnw@pcmloan.com](mailto:conditionsnw@pcmloan.com)  
**Southwest Wholesale (Phoenix):** [phosubmissions@pcmloan.com](mailto:phosubmissions@pcmloan.com)

### \*The email Subject Line should include:

- “Changed Circumstance”
- Borrower Last Name
- PCM Loan Number

If the “Request for Issuance of Revised Good Faith Estimate” form is not delivered within **one** business day of a Changed Circumstance, any increases in fees that may be incurred as a result of this change cannot be charged to the borrower and will result in a credit at closing. PCM will instruct the closing agent to take the credit from the broker compensation in the following order 1) YSP 2) Origination 3) Any remainder will require the broker to bring funds to the closing.

- **If a Changed Circumstance occurs**, only those fees affected by the Changed Circumstance may change. See PCM’s Changed Circumstance Matrix for limitations.
- **Origination Charges (GFE Block 1):** When a valid Changed Circumstance occurs that impacts GFE Block 1 (per PCM’s Changed Circumstance Matrix), only the portion of the Block 1 fee that was initially calculated as a percentage of the loan amount can change.
  - If GFE Block 1 fee was calculated as a percentage of the loan amount, the actual percentage used cannot change throughout the duration of the loan transaction.
  - If GFE Block 1 fee was not calculated as a percentage of the loan amount, Block 1 fee cannot increase from the amount disclosed on the initial GFE.
- **Pinnacle Capital Mortgage will review all “Request for Issuance of Revised Good Faith Estimate” forms** and determine when a valid Changed Circumstance occurs, and when fees may be increased.

- **If the estimates within the GFE are inaccurate and a valid Changed Circumstance does not occur,** then both PCM and the mortgage broker are bound to the amounts shown on the last disclosed GFE.
- **If a Changed Circumstance occurs,** PCM must re-disclose within three business days after the mortgage broker is in receipt of the information regarding the Changed Circumstance or the ability to re-disclose (and increase a fee) would have been forfeited.
- **PCM must retain documentation relating to any Changed Circumstance and fee change,** if re-disclosed, for three years. Brokers are advised to do the same and also retain the request form as documentation of the Changed Circumstance.
- **PCM will be responsible for re-disclosing (issuing a revised GFE)** if a Changed Circumstance occurs. Mortgage Brokers CANNOT re-disclose a GFE at any time after the initial GFE.

A revised GFE must be issued upon a lock event (rate lock or lock expiration) and may be issued in the event the borrower requests a change in the mortgage loan that was identified in the GFE which results in changes to the settlement charges or terms of the loan.

**Effective with Notes dated on or after April 1st, 2010, any re-issued GFEs must be dated at least one (1) day prior to the Note Date.**

RESPA 2010 requires that any GFE that is re-disclosed as result of a valid Changed Circumstance should be received by the borrower 'prior to closing' (**meaning no less than one (1) day prior to the Closing Date – which is defined as the Note Date**). This gives the borrower a reasonable amount of time to review the changes on the re-issued GFE and make informed decision about proceeding with the transaction.

After April 1, 2010, any GFEs in a file that are **dated the same day as or after the Note Date will be disregarded.** Only the GFE with the (latest) date which is at least one (1) day prior to the Note Date will be compared to the HUD-1 for purposes of RESPA fee tolerance compliance.

#### **IMPACT OF THIS CHANGE:**

- The GFE may never be re-issued after loan documents have been drawn;
- The Note may never be dated with the same date as the latest GFE;
- The Note may never be dated earlier than **one (1) day after** the date of the latest GFE;
- If a valid Changed Circumstance occurs after loan documents have been drawn (and prior to funding) and a GFE must be re-issued, the loan documents must be re-drawn and dated at least one (1) day after the latest GFE date.

## **Servicing Disclosure Requirements**

As of January 16, 2009, RESPA requires that the Servicing Disclosure Statement must be provided to applicant(s) within three (3) business days of receipt of a Loan Application for any real estate secured dwelling. The disclosure is not required if the application is denied or withdrawn within the three (3) business days of the Loan Application and must indicate if the loan:

- Will be assigned, sold, or transferred at any time;
- Is intended to be assigned, sold, or transferred prior to the first payment due date; and/or
- Will not be serviced by the loan originator.

Pinnacle Capital Mortgage will require that the Servicing Disclosure Statement be provided in compliance with all applicable federal, state, agency, and investor requirements.

## **Help is available**

At Pinnacle Capital Mortgage we are committed to providing you with additional updates and information in the coming weeks as we finalize the new policies and procedures, forms and reference

tools designed to assist you with implementing these important regulatory changes. By providing greater transparency to the borrower, the changes to RESPA / Regulation X present all of us throughout our industry the opportunity to expand on our dedication to responsible lending.

Additionally, HUD has published various new reference tools help prepare you for the changes taking effect on January 1, 2010. You may print these new guides directly from their Website by following the links provided below:

- **RESPA Final Rule:** <http://www.hud.gov/offices/hsg/ramh/res/finalrule.pdf>
- **HUD's FAQs:** <http://www.hud.gov/offices/hsg/ramh/res/resparulefaqs.pdf>
- **Sample GFE:** <http://www.hud.gov/offices/hsg/ramh/res/gfestimate.pdf>
- **GFE Instructions:** [http://edocket.access.gpo.gov/cfr\\_2009/aprqr/24cfr3500AppC.htm](http://edocket.access.gpo.gov/cfr_2009/aprqr/24cfr3500AppC.htm)
- **Sample HUD-1:** <http://www.hud.gov/offices/hsg/ramh/res/hud1.pdf>
- **HUD-1 Instructions:** [http://edocket.access.gpo.gov/cfr\\_2009/aprqr/24cfr3500AppA.htm](http://edocket.access.gpo.gov/cfr_2009/aprqr/24cfr3500AppA.htm)
- **Sample HUD-1A:** <http://www.hud.gov/offices/hsg/ramh/res/hud1-a.pdf>
- **HUD-1A Instructions:** [http://edocket.access.gpo.gov/cfr\\_2009/aprqr/24cfr3500AppA.htm](http://edocket.access.gpo.gov/cfr_2009/aprqr/24cfr3500AppA.htm)

**Additional documentation can be found on PCM's website under Tools > Forms > RESPA REFORM:** <http://www.pcmloan.com/forms.aspx>. Please direct any questions regarding RESPA REFORM to your Account Executive.