

SECONDARY USE POLICY

Effective: January 1, 2007

INSIDE

- > **Policy Summary**
- > **Rules and Conditions**
- > **Terms and Definitions**

Contents

SECONDARY USE POLICY

Overview	1
Policy Summary	1
Secondary Use Terms and Definitions	1
<i>Secondary Use Definition</i>	1
<i>Qualifying Secondary Users</i>	1
<i>Government Sponsored Enterprise (GSE) Exemptions</i>	2
<i>Non-qualifying Parties</i>	2
<i>Rules, Terms & Conditions of Secondary Use</i>	2
<i>Secondary Use Definitions</i>	2

SECONDARY USE POLICY

Overview

The mortgage industry has practiced the concept of “joint use” of credit reports for many years. This practice dates back to the traditional papering of loan documentation, and sharing of this paper file as it moved across departments and companies for approvals and funding requirements unique to the mortgage industry. With today’s technology, the process has evolved into electronic sharing of information to automate underwriting and streamline business practices for quicker and better loan decisions.

The evolution of electronic commerce and use of consumer credit data in more complex business models, combined with increased legislative scrutiny has created policy concerns. Specifically, policies regarding the use of credit data in the mortgage industry need to be revised to increase the transparency of its use to comply with the FCRA, and to ensure consumer awareness and protection.

Policy Summary

Effective January 1, 2007, the Mortgage Credit Reporting Industry will be required by the Credit Repositories – Experian, TransUnion and Equifax – to begin tracking and reporting secondary use of consumer credit data by lenders. Secondary use inquiries will be reported back to the repository and posted back to the consumer’s file. These will be “soft” inquiries and not visible on the report except for consumer disclosure copies, and will not impact credit scores.

The Mortgage Credit Reporting Industry will be required to track all credit transactions and ensure that each entity that is involved in the lending process is known and their involvement in the transaction understood. This increased transparency to the credit process is required to ensure that Secondary Use is accurately tracked and to ensure that all parties that are required to post inquiries or comply with industry regulations are met.

From January 1st to March 31, 2007, the tracking and reporting will not incur charges. Effective April 1, 2007, additional new Secondary Use charges will apply. These charges will equal the normal bureau charge for a credit report. Additional charges for ancillary, add on, score or legislative recovery surcharges will not apply.

Secondary Use Terms and Definitions

Secondary Use Definition

A Secondary Use of a credit report occurs when a credit report containing data purchased from TransUnion, Experian or Equifax is provided in any manner or means, in part or in its entirety, to any Qualifying Secondary User other than the original End User to whom the report was initially delivered.

Qualifying Secondary Users

A Qualifying Secondary User is a lender or other entity that has a permissible purpose under the FCRA to access consumer credit data and has a contractual relationship with the issuing Mortgage Credit Reporting Agency (MCRA).

Government Sponsored Enterprise (GSE) Exemptions

A GSE is a private organization with government charters, such as Fannie Mae or Freddie Mac. GSE usage will be listed on the reports, but will not incur a Secondary Use charge.

Non-qualifying Parties

The following party inquiries are not required to be tracked or reported as a Secondary Use transaction; however, they must be identified by the MCRA for consumer transparency purposes and in compliance audits. Non-qualifying parties must not store, modify or transmit data to any party other than the originating User without express written permission of the issuing MCRA.

- Technical providers
- Loan Origination System
- Loan Origination Portals
- Agents (e.g. Contract Underwriters, Processors)

Rules, Terms & Conditions of Secondary Use

- All End Users of the report must be qualified subscribers of the MCRA who originated the report.
- All Secondary Use is governed by this Policy. If the credit report in any part or by any means is issued to any End User other than original End User a Secondary Use inquiry and charge will apply. This is valid for access through a MCRA or direct access to the applicable Credit Bureau Repositories.
- Entities that violate this Policy will have access suspended immediately by the Credit Bureau data provider(s).
- Secondary Use inquiries must be tracked and reported to the applicable Credit Bureau(s) on a daily basis, or as an exception not more than five(5) days from the date of the event of the Secondary Use.
- Inquiries will be reported to the bureau(s) utilizing formats and specifications supplied by the individual credit bureaus.
- Transaction charges for Secondary Use will be assessed to the MCRA based on individual Credit Repository agreements.
- Secondary Use must occur only when the joint user has a legitimate permissible purpose and is used on the same loan application.
- Applicable permissible purpose codes related to the usage must be reported to the applicable Credit Repositories.
- Secondary Use must be in connection with or related to a real estate loan.
- Secondary Use inquiries will be “soft” or non-displayed inquiries and, therefore, will not impact credit scores.

Secondary User Definitions

End User or User – any entity taking possession of and evaluating the consumer credit report within FCRA permissible purpose requirements. Each User of the data must have an inquiry posted that includes the End User name and the FCRA permissible purpose for display to the consumer.

Secondary End User – any person or entity subsequent to the original End User taking possession of and evaluating the consumer credit report related to an original consumer credit request. A soft inquiry will be posted for each Secondary Use stating the Secondary End Users name and permissible purpose.

Technical Provider (TP) – Any person or entity that provides computer services and performs for one or more of the following actions: takes possession of, retains, transfers or evaluates the consumer credit information on behalf of an End User. Technical Providers will not be considered a MCRA or an End User if their activities are directed by the original End User or the original MCRA that (a) ordered the consumer credit report and evaluated the data, or (b) directed the redistribution of the stored consumer credit report. Technical Providers can become a MCRA themselves if they redistribute consumer credit reports at the request of any entity other than the original MCRA or original End User. TP's that independently evaluate consumer credit reports based on criteria established by the TP are classified as End Users and must have inquiries and permissible purposes posted for them.

Reseller or Mortgage Credit Reporting Agency (MCRA) – In addition to the description in the FCRA Section 603(u), a Reseller or MCRA (a) accesses credit report data and provides the information in whole, part or summary (including scores) to a third party End User that is not necessarily contractually bound directly with the Credit Repository(s) (Experian, Trans Union or Equifax); (b) relies on the permissible purpose of their end user customers; (c) does not lend, arrange for credit, or enter into an actual financial or binding transaction with the consumer; or (d) does not make the binding rental, employment, insurance or lending decision, and is not involved in collections or loan portfolio management but rather provides the resources including credit information for the landlord, employer, insurer or lender to make such decisions, recommendations, etc.

Government Sponsored Enterprise – Private organizations with government charters. Examples are Freddie Mac and Fannie Mae. Each Use and Secondary Use by the GSE's will have an inquiry listed.

HUD, FHA, VA – Government organizations that provide funding and guidelines for loans. GSE use will not be listed as a User or Secondary User unless business involvement reflects practices consistent with a GSE or Lender.

Lender – A person or entity that invests in or originates mortgage loans such as a mortgage banker, credit union, commercial bank or savings and loan. In single family property usage the lender is generally whoever's name the loan is closed in. A lender is either an End User or a Secondary User and will have inquiry and each permissible purpose posted.

Mortgage Broker – A firm or individual who for a commission matches borrowers and lenders. A mortgage broker takes applications and sometimes processes loans, but generally does not use its own funds for closing. Mortgage brokers operate as end users with written instruction from the consumer for the purpose of securing a mortgage loan for the consumer. A mortgage broker is either an end user or a secondary user and will have an inquiry and each permissible purpose posted.

PMI – Insurance written by a private company protecting the mortgage lender against financial loss occasioned by a borrower defaulting on the mortgage. When required. PMI is needed by the lender before is extends credit to the consumer. The insurer is either an End User or a Secondary End User and will have an inquiry and each permissible purpose posted if they use consumer credit reports.

Title Insurance – Insurance which protects the insured against any loss caused by defect of title to the real estate, where in the insured has interest as purchaser, lender or otherwise. When required, title insurance is needed by the lender before it extends credit to the consumer. The insurer is either an End User or a Secondary End User and will have an inquiry and each permissible purpose posted if they use consumer credit reports.

Internet Prequalification – Service providers that utilize a consumer credit report in the course of their business. These service providers are commonly referred to as Internet brokers, loan auctions, loan referral programs or prequalification services.

These service providers:

1. Must rely on written instruction from the consumer as their permissible purpose.
2. Must adhere to special legal guidelines in obtaining a consumer's "written" consent over the Internet.
3. May NOT pass the credit report (in whole or in part) onto the consumer or other third party, nor can they provide a score, decision or any other information or decision derived from the credit report.
4. May NOT make any credit decision nor provide FCRA regulated prescreen services on behalf of a third party.
5. May NOT post "ID stripped" credit profiles for bid by third party.
6. May only direct consumers to third parties that have their own permissible purpose.
7. May NOT operate as the agent of a third party (for example, the Pre-Qualification service cannot provide outsourced application processing on behalf of a credit grantor).

Automated Underwriting System (AUS) – An automated analysis of the risk involved in making a mortgage loan or issuing insurance to determine whether the risk is acceptable to the lender or insurer. Use by an AUS will have an inquiry and each permissible purpose posted unless the usage is in conjunction with or for a User or Secondary End User whom is already listed on the report.

Loan Origination System (LOS) – A loan origination system used by an End User to facilitate the loan process. The End User may store and view consumer credit report within an LOS. An LOS may not furnish the consumer credit report to any other person or entity unless it has the capability of reporting Secondary Use to the applicable credit reporting agency.