



**MFM Bulletin: 029-2024**

**Date:** November 5, 2024

**Subject:** Buyer Agent Fee updates

Due to the National Association of Realtor MLS policy changes that went into effect in August 2024, more buyers are entering into written "Buyer/Agent Agreements" which outline the services to be provided by the buyers' real estate agent and the negotiated terms of payment for those services.

Though Buyers may still ask the seller to pay for their broker's fee as a term of the purchase contract, we are seeing more and more situations where the fee is paid by the buyers, or split arrangements with buyer and seller each paying a portion.

**Buyer paid real estate commissions are subject to TRID disclosure requirements, and failing to disclose buyer agent commission could result in significant tolerance cures.** These charges must be disclosed when the lender has knowledge of those charges when it issues the Loan Estimate. In this case, the lender has knowledge of those charges where, for example, it has the real estate purchase contract or other documentation indicating the buyer will be paying a real estate commission or other fees.

Failure to account for the buyer agent commission in early disclosures and underwriting could result in a shortage of funds needed to close or borrower qualification issues.

Buyer agent commission documents can vary from sale to sale. They can be detailed in the contract itself, contract addendums, or other standalone agreements. It is critical that the Loan Officer ask the borrower if they have a Buyer/Agent Agreement and what the terms of that agreement are. **Make sure you get the contract and any other documentation relating to the buyer paid realtor compensation as early in the process as possible, and whenever possible, at time of application (before disclosures are issued).**

The MFM Disclosure department will review the purchase contract and include buyer commission fees when initially disclosed or whenever the purchase contract is received. See below:

**Additional Disclosure Instructions**

- Prior to Initial Disclosures being sent out, if the Purchase Agreement has been received, place a note in the initial disclosure task regarding the Buyer paid agent fee.
- **If the Purchase Agreement is received after the file is initially disclosed:** A redisclosure task must be placed with specific notes listing the amount, Buyer agent or Seller agent fee paid by the buyer, and the date of the Purchase Agreement or information received.
- **The Buyer commission fee must be disclosed on the Loan Estimate within in three days of the information being made available to the lender.**



As stated in previous bulletins issued, the GSEs, FHA, and VA have updated interested party contribution guidelines to exclude buyer agent commissions from interested party contribution limits.

Please contact the MFM Underwriting Dept. ([underwriting@memberfirstmortgage.com](mailto:underwriting@memberfirstmortgage.com)) if you have any questions or concerns.

Thank you