

FSRA Draft Guidance: Detecting and Preventing Mortgage Fraud

MTIAC's Proposed Amendments

April 26, 2023

~~Forms~~ **Consequences** of mortgage fraud

~~Mortgage fraud takes many forms. It may include the intentional misstatement, misrepresentation, or omission of information to obtain a mortgage. It can result in:~~

Mortgage fraud can result in serious consequences for a number of parties, including:

- [Additional bullet] third party homeowners who may lose equity in or possession of their home if they become the victim of a true owner impersonation

~~Motivators for~~ **Forms** of mortgage fraud

Mortgage fraud may include the intentional misstatement, misrepresentation, or omission of information to obtain a mortgage. In general, there are two broad forms of mortgage fraud that correspond to two different motivations:

Mortgage transaction documentation

FSRA interprets the above prohibitions as requiring licensees and administrator staff to take the following steps, at minimum, to identify potential falsification of documents and help prevent fraud:

- Use multiple third party sources to confirm that information presented by the parties is consistent across different reliable forms and documents provided to support the transaction
- Use multi factor authentication (MFA) to conduct identity confirmation

Role of principal broker in detecting and preventing mortgage fraud

As a reminder, licensees must follow the MBLAA requirements listed below:

- brokerages must take reasonable steps to verify a borrower's legal authority to mortgage a property. See the Key Steps for sample steps. If the brokerage has reason to doubt the borrower's legal authority, the brokerage must each prospective lender and mortgage default insurer at the earliest opportunity. The duty to advise the lender continues even after the borrower enters into the mortgage or renewal agreement or signs the mortgage instrument.
- brokerages must advise each prospective lender and mortgage default insurer if they have reason to doubt the accuracy of information that may be contained in a borrower's application, or in a document given in support of an application. The duty to or signs the mortgage instrument.

Appendices and references

Appendix 1 - Key steps for Detecting and Preventing Mortgage Fraud

Verify identification

- Verify the client's identification through the use of multi-factor authentication (MFA), either in-house or through the services of a third-party provider.

MFA is a method of verifying identity by comparing and validating client information across multiple data points (or factors) that fall under three general categories.

1. Knowledge Factor: Something the client knows. For example, an account number, balance, or other specific information you can confirm against the credit report, utility bill, cell phone bill, etc.
2. Possession Factor: Something the client has. For example, valid government-issued photo identification (ID), original documentation, etc.
3. Inherence Factor: Something inherent and unique to the client. For example, the image of the client on the provided ID matches the client you meet (in-person or via virtual meeting), photos across different ID show the same person, signatures across different ID and documents match, etc.

- At least one data point from each category must be provided in order to authenticate an identity.
- To satisfy the "Possession Factor", collect and check at least three pieces of ID, at least two of which must be government-issued photo ID. All three must include the legal name, date of birth and signature, and at least one must include an address.

Disclosure

When you are disclosing the material risks of a mortgage to a client (borrower and/or, investor/lender **and mortgage default insurer**), describe the measures you have taken to detect mortgage fraud.

Private Investing and Lending

- When ILA/ILR is required for the borrower, ensure the lawyer speaks fluently the same language as the borrower.”

Appraisals

- The appraisal is not older than **4** months.

After a Mortgage Closes

- Must inform the lender **and mortgage default insurer** in writing if they have reason to doubt the mortgage is lawful, the borrower’s legal authority to mortgage the property, or the accuracy of information on the borrower’s application.