

WAC 460-33A-095 Fiduciary duty—Mortgage broker-dealers.

A mortgage broker-dealer owes the duties of a fiduciary to investors in mortgage paper securities. For the purposes of this section, examples of these duties include, but are not limited to, the following:

(1) A mortgage broker-dealer must act in the best interests of and in the utmost good faith toward the investors in mortgage paper securities;

(2) In the event a conflict arises in connection with a mortgage broker-dealer acting as an agent for both mortgage borrowers and investors in mortgage paper securities, every mortgage broker-dealer shall resolve the conflict in favor of the investors in mortgage paper securities;

(3) A mortgage broker-dealer shall disclose any potential and actual conflicts of interest it may have in mortgage paper securities transactions to the prospective investors in mortgage paper securities;

(4) A mortgage broker-dealer must comply with the material terms of agreements with investors in mortgage paper securities, including servicing and participation agreements;

(5) A mortgage broker-dealer must use reasonable care in performing its duties; and

(6) A mortgage broker-dealer has a duty to allow reasonable access to each investor to pertinent records concerning loans in which the investor has invested and property in which the investor has acquired an interest through foreclosure.

[Statutory Authority: RCW 21.20.060, [21.20].070, [21.20].090, [21.20].100, [21.20].180, [21.20].210, [21.20].250, [21.20].270, and [21.20].450. WSR 12-11-087, § 460-33A-095, filed 5/17/12, effective 6/17/12. Statutory Authority: RCW 21.20.450. WSR 01-23-002, § 460-33A-095, filed 11/7/01, effective 12/8/01.]