

## VOLUNTARY COMPLIANCE UNDERTAKING

This Voluntary Compliance Undertaking is offered by Aurora Loan Services Inc. (ALS) to conclude a review conducted by the U.S. Department of Housing and Urban Development's (HUD) RESPA/Interstate Land Sales Division of certain of ALS's practices regarding the payment of property taxes from mortgagors' escrow accounts.

### BACKGROUND

HUD initiated a review of ALS, a servicer of federally related mortgage loans, because of complaints HUD had received regarding ALS's late payment of taxes from mortgagor escrow accounts. The purpose of the HUD review was to determine the cause and extent of ALS's late payments. ALS's explanation of the problem was that backlogs in its Tax Department had contributed to late tax payments. Information provided by ALS indicated that it paid penalties for numerous late tax payments during 1998 and the first half of 1999. According to ALS, the problem resulted from a rapid expansion of its loan servicing portfolio and from its acquisition of loans without tax service contracts.

ALS has advised HUD that, as of the date of this Voluntary Compliance Undertaking, ALS has resolved all of its identified problems with late property tax payments and made all payments due, including all payments involving properties located within homeowner areas.<sup>1</sup> Consistent with ALS's policy and practice of absorbing charges resulting from late or incorrect tax payments, all late charges, penalties, and interest due in connection with the late property tax payments were absorbed by ALS, even in the homeowner jurisdictions.

ALS has addressed the problem by: (1) temporarily limiting bulk servicing acquisitions by ALS until systems and processes are under control, with acquisitions to be resumed on a controlled basis thereafter; (2) reorganizing its Escrow Administration group; (3) hiring new senior management who have significant mortgage banking experience; (4) increasing the staffing of its Tax Department; (5) providing additional, specialized in-house training for the Tax Department; and (6) undertaking a special project to cure the backlog of tax payments and place each loan under a tax service contract. In addition, ALS has made substantial capital investment to assure that it addresses the fundamental causes of the problems on a going-forward basis, by retaining the consulting group of ALS's servicing bureau to evaluate ALS's servicing system comprehensively and recommend improvements to maximize the operation of the system.

To prevent a recurrence of such circumstances and ensure the timely payment of taxes, ALS has created specialized system reports, to track unpaid taxes, enhance ALS's processes for addressing unpaid taxes expeditiously, and ensure that all acquired loans are under a tax service contract or will be placed under a contract as of or shortly following the servicing transfer date.

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<sup>1</sup> A homeowner area is one where the local taxing authority provides tax information only to the homeowner, who, in turn, must provide the information to ALS. The tax payment cannot be made until the homeowner provides this information to ALS.

## TERMS OF THE VOLUNTARY COMPLIANCE UNDERTAKING

ALS has advised HUD that it has examined and will continue to examine its practices relating to the payment of taxes from mortgagor escrow accounts and that it has taken and will continue to take actions to avoid processing errors relating to payments from mortgagor escrow accounts. In consideration of the foregoing, HUD and ALS desire to reach a mutually satisfactory resolution of HUD's review. ALS therefore voluntarily agrees as follows:

1. ALS acknowledges and agrees to fulfill its obligation as a loan servicer, under Section 6(g) of RESPA, 12 U.S.C. § 2605(g), and HUD regulations set forth at 24 C.F.R. § 3500.21(g), to make payments from mortgagors' escrow accounts for taxes, insurance premiums, and other charges with respect to the property, in a timely manner as such payments become due. ALS agrees that it will continue to review its payment practices routinely to detect and address any potential deficiencies in its payment practices.

2. ALS agrees that it will continue to pay all penalties, late payment charges, and interest due in connection with taxes and other charges related to taxes that are not paid from mortgagors' escrow accounts in a timely manner, except when the failure to make such payments in a timely manner is the fault of the mortgagor.

3. ALS acknowledges and agrees to fulfill its obligation as a loan servicer, under Section 6(e) of RESPA, 12 U.S.C. § 2605(e), and HUD regulations set forth at 24 C.F.R. § 3500.21(e), to timely acknowledge and respond to "qualified written requests," defined at 12 U.S.C. § 2605(e)(1)(B) and 24 C.F.R. § 3500.21(e)(2)(i), submitted by borrowers and borrowers' agents for information related to the servicing of a mortgage loan, and to make timely corrections to borrowers' accounts in response to qualified written requests, as appropriate. ALS therefore agrees that, for the period of the fourth quarter of 1999, and the first, second and third quarters of 2000, and within 40 days of the end of each quarter, it shall report to HUD its handling of qualified written requests concerning ALS's late payment of taxes from mortgagor escrow accounts. ALS's reports shall contain the following information:

- (a) The date of ALS's receipt of each complaint received within the reporting period;
- (b) A description by category of the nature of each complaint received within the reporting period;
- (c) The date of ALS's written explanation or clarification to the consumer, provided an explanation or clarification was issued within the reporting period;
- (d) A description of the nature, or a copy, of ALS's explanation or clarification, provided that ALS has provided the explanation or clarification to the consumer within the reporting period; and
- (e) A consolidated listing of all complaints for which ALS has not provided to the consumer an explanation or clarification during the reporting period ("pending

complaints”). Each report after the first report shall first list the pending complaints from the previous report and shall provide the date and description of ALS’s written explanation or clarification for each pending complaint, or indicate why such explanation or clarification has not been provided to the consumer.

4. Following the conclusion of ALS’s quarterly reporting to HUD as addressed in ¶ 3, above, ALS shall submit semiannual reports to HUD for the combined period of the fourth quarter of 2000 and first quarter of 2001, and the combined period of the second and third quarters of the year 2001, within 40 days of the end of each reporting period. ALS’s semiannual reports shall contain the same information to be provided in its quarterly reports to HUD. See ¶ 3 (a) – (e), above.

5. ALS will comply with, and will conduct regular internal reviews of, its escrow department operations as outlined in its Policy Statement of the Quality Control Plan, which ALS submitted to HUD in connection with HUD’s review. The Quality Control Plan will be amended to include a requirement for verification that checks issued for the payment of property taxes have been cashed by the taxing authority. In addition, ALS in the future will amend its Quality Control Plan as needed, and will submit to HUD copies of its revised quality control requirements related to the payment of property taxes, as an addenda to the reports to be provided to HUD pursuant to ¶3 and ¶4, above.

6. ALS agrees to pay HUD an administrative fee in the amount of \$10,000 to defer HUD’s expenses incurred in connection with this matter.

7. In the event that ALS materially violates the terms of this Voluntary Compliance Undertaking with respect to making timely payments from mortgagors’ escrow accounts, responding to qualified written requests, or providing the reports described in ¶ 3 and ¶ 4, above, ALS agrees that pursuant to 24 C.F.R. § 3800.60, HUD may impose a monetary penalty, not to exceed \$20,000, for the violation of the Undertaking itself. In determining a material violation, HUD will take into consideration the size of ALS’s portfolio. ALS’s late payment of taxes shall not constitute a violation of the terms of this Voluntary Compliance Undertaking in the following circumstances: (a) non-escrowed loans or non-escrowed tax items (special and supplemental taxes); or (b) the homeowner in a “homeowner area” failed to provide timely tax information to ALS. Any disagreement between HUD and ALS as to whether ALS has violated the terms of this Voluntary Compliance Undertaking shall be resolved by an Administrative Law Judge, in accordance with the procedures set forth in 24 C.F.R. Part 26.

8. Contingent upon full compliance by ALS with this Voluntary Compliance Undertaking, the provisions set forth in this Undertaking constitute the complete resolution of HUD’s inquiry into ALS’s practices for the payment of taxes from mortgagors’ escrow accounts and related consumer inquiries received by HUD before the effective date of this Undertaking.

9. This Voluntary Compliance Undertaking does not afford any person other than ALS and HUD any rights or remedies concerning the subject matter of this Undertaking, but does not limit the rights or remedies of any such person.

10. ALS will, in submitting each of the reports provided to HUD pursuant to ¶ 3 and ¶ 4, above, request that HUD treat the information required by ¶ 3 and ¶ 4 as confidential and proprietary information that, subject to the Freedom of Information Act and other applicable law, should not be disclosed.

This Voluntary Compliance Undertaking shall become effective upon the 26<sup>th</sup> day of October, 1999.

**AURORA LOAN SERVICES INC.**

Dated: October 25, 1999

By: *Rick W. Skogg*

Name: Rick W. Skogg

Title: President

ACKNOWLEDGED AND AGREED TO BY:

**U.S. DEPARTMENT OF HOUSING  
AND URBAN DEVELOPMENT**

Dated: 10/26/99

By: *Rebecca J. Holtz*

Name: Rebecca Holtz

Title: Acting Director, Office of Consumer and  
Regulatory Affairs