

ACI – Mortgage Servicing Compliance

ECOATILA/RESPA

How to Get Your Arms Around These Mountains

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The Burdens of In-House Legal/Compliance

- Burden 1 – Are YOU going to be personally liable for failures?
- Burden 2 – The enormity of what these regulations require!
- Burden 3 – Achieving “buy in” from business units

Strategy for Action

- Company policy makers need to be educated
- Formal **Policies and Procedures** need to be created
 - Clear language
 - Details
 - Do's and Don'ts

Training and Re-training

- Policies need to become the focal point of education
- Each policy needs to come with a “mantra”
 - Set of clear goals that every team member can easily learn and live by
- Companies need to test their people and retrain
- Training needs constant repetition

Policies and Procedures

- This is the crux of whether you will be in compliance
- CFPB's 1000+ pages of examination guidelines is the starting point for determining whether your policies and procedures will be effective

Internal Testing

- Policies – themselves – need to be tested
- Identify weak areas
- Fix Weaknesses
- Train
- Document Everything

Internal testing is the key to keeping our regulators happy!

What's The Latest – and what are YOU going to do about it?

ECOA Developments

Basis Points for Fair Lending/Servicing

- Disparate Treatment
- Disparate Impact

Will Disparate Impact be rejected this term by the U.S. Supreme Court?

ECOA

Servicing is a labor and people intensive side of the business

- Opens the door for prejudices and unwanted statements in dealing with customers
- Policies and procedures surrounding loss mitigation open the door for disparate treatment

ECOA

■ Protected Classes

- Race
- Color
- National Origin
- Religion
- Sex
- Marital Status/Domestic Partner Status
- Age
- Public Assistance
- Maternity

ECOA Examination Pointers

- Special Loss Mitigation processes or products become a focal point under ECOA
 - Debt cancellation
 - Debt suspension
 - Other Products
- Are these products targeted to particular groups?

Servicing/Marketing

- Think – targeted marketing of any loan product can be a fair lending issue
- Targeted marketing of servicing retention/loss mitigation/other products can give rise to these same claims

ECOA – Putting Policy into Practice

- What internal training provide to ensure that staff will not step on protected classifications?
- How is this training put to the test?
- What is being done with the results?

ECOA Hot Points

- Staff must stay away from questions about family
 - Marital Status
 - Children
 - Domestic Issues
- Staff must account and give credit for
 - VA benefits
 - SSI
 - Welfare benefits
 - Pension/Retirement Benefits
 - Child Support/Alimony

The Trap

- **Discretion** by servicing staff will lead to fair lending issues
- Prevention = Clear Policies and Controls
 - Documentation of exceptions
 - Testing to determine whether all classifications are receiving fair treatment

RESPA

- What to do about loan modifications?
- No DUTY to offer a specific form of loss mitigation
- What are you doing to document why loan modifications are offered to some but not to others?

RESPA – The Trap

- Problem with Loan Modifications = **Discretion**
- Prevention of litigation
 - Clear Policies
 - Training
 - Documentation to support decisions

RESPA/TILA – More Traps

- Qualified Written Requests
- Notices of Error
- Requests for Information
- Payoff Requests
- Loss Mitigation Procedures
- Early Intervention Requirements

RESPA/TILA

- Examination focus:
 - Are you internally testing for compliance with timing issues
 - Staffing levels
 - QWR - responses
 - Billing error procedures
 - Effectiveness of phone systems
 - Effectiveness and thoroughness of systems for logging/tracking/handling of consumer inquiries and complaints
 - Management follow up

Strategy

- Small Chunks
- Create Accountability
- Training
- Internal testing

Compliance Management System

- Contrary to belief of some vendors – this cannot be outsourced
- Oversight & Control = Owners/Officers/Executive Team
- Owners/Officers/Executive Team need to be educated and tested
 - They need real reporting on success/failure of internal testing

CMS

- Minutes of discussions/action
- Reports of testing
- Oversight of compliance controls
- Report to Board/Ownership

Consumer Protection is the responsibility of the management. Oversight and Control is a primary function.

CMS

- Success rises or falls on ability to demonstrate:
 - Management oversight
 - Clear Policies & Procedures
 - Internal Testing/Corrective Action
 - Training
 - Documentation of **EVERYTHING**

Thank You!

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