

Regulatory Update:

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Things of Interest

- HMDA
- Non-Traditional Mortgage Products
- RESPA
 - Reform
 - Enforcement
- Information Security/Privacy
- State and Federal Predatory Lending Developments
- FACT Act – Prescreening
- Federal Advertising



HMDA

- HMDA
 - Pricing Data now reported
 - Anticipated Criticism by Industry Critics
 - Industry Prepared appropriate Message
 - HMDA Data used by critics to show disparities
 - Strong Message Sent that HMDA data not Valid for such analysis
 - Must Still be Vigilant about HMDA Data, its meaning and its use



Non-Traditional Loan Products

General Concerns that Products are not Consumer Centric

- Interest Only, Balloons, Option Arms, 40 year loans, stated income
- Industry Critics Increasing attention to these Products
- Interagency Proposal Issued



Non-Traditional Loan Products

- Inter-Agency Guidance on Non-traditional Loans
- Interest Only and Option Arms
- Reasonable Qualifying Guidelines
- Disclosures
- Counseling
- Track Performance
- Special Servicing



RESPA Reform

- HUD Considering Reform Again
- Asking Industry and Consumer Groups
- MBA Is Taking Steps to Support Efforts

- Where is it headed?
 - Enhanced GFE
 - Section 8 Relief (hopefully)
 - Probably Stalled, so who knows



RESPA Enforcement

- Coldwell Banker and Prudential
 - Real Estate Company encouraging employees to refer business to mortgage company
 - Raffling off Mercedes Benz
 - Own Employees
 - Only those who referred business to mortgage company eligible
 - Giving Higher Commissions to those who referred business to certain title company



RESPA Enforcement

- East-West Mortgage
 - Paying for Ball Game tickets
 - Providing Gift Certificates for Restaurants
- Where does that leave us?
 - Less Certainty about what is permitted
 - More enforcement on “referral fee” payments
 - We know that HUD has lowered the threshold as to what is “inappropriate”



Information Security/Privacy

- Recent Enforcement - FTC
 - Superior Mortgage
 - Not Following Privacy Policy
 - E-mail Not Encrypted
 - ABN-AMRO
 - Enforcement Themes
 - Misrep – Not following own policy
 - Not checking Vendors
 - INFO SECURITY IS EVERYONE'S OBLIGATION



Information Security/Privacy

- Legislation
 - 22 states with Laws now in effect
 - Trends we're seeing
 - Applying to unencrypted info
 - Quick Notification
 - 9 states have “risk of harm” threshold
 - NY is stricter standard
 - Includes encrypted info



Information Security/Privacy

- State Legislation
 - Trends we're seeing
 - Applying to unencrypted info
 - Quick Notification
 - 9 states have “risk of harm” threshold
 - What does that mean?
 - NY is stricter standard
 - Includes encrypted info
 - Must notify certain agencies



State and Federal Developments

- Trend toward imposing "Predatory Lending" consumer protections on non-covered loans.
- **MASSACHUSETTS** - Rules on Determination and Documentation of Borrower's Interest (209 CMR 53.00)
- **ILLINOIS** - Amendments to the Residential Real Property Disclosure Act, 765 ILCS 77/70 (HB 4050 Enrolled; Public Act 94-280 of the 94th General Assembly (2005))
- **INDIANA** - Amendments to Home Loan Practices Act, IN Code 24-9-5-1, et seq. (2005 IN Acts 141-2005)
- **UTAH** - Amendments to Consumer Credit Code, UT Code 70C-3-101(b) (2005 UT Laws Chap. 162)



State and Federal Developments

- Enactment of Predatory Lending Laws in these states:
 - NEW HAMPSHIRE - Amendments to Mortgage Broker Law, NH Stat. Ann. 97-A:1 and 398-A:1, et seq. (2004 NH Laws 140)
 - WISCONSIN - Responsible High Cost Mortgage Lending Act, Wis. Stat. Ann. 428.202, et seq. (Eff. 1/1/2005)
 - Enactment of Mortgage Fraud Act in Georgia, GA Code Ann. 16-8-100, et seq.



Federal Guidelines for Responsible Lending

- Appraisals and Appraiser Independence
- Inappropriate Credit Products and Unfair Loan Terms
- Avoidance of Particular
 - Loan Terms
 - Conditions
 - Features



Federal Guidelines for Responsible Lending

- Prudent Consideration of Certain
 - Loan Terms
 - Conditions
 - Features
- Avoidance of Consumer Misunderstanding
- Monitoring
- Corrective Action

FTC Activity

- FTC Issues Final Rules on –
 - Prescreening
 - Disposal of Consumer Report Information and Records
- FTC Establishes Online Identity Theft Resource Center



Federal Advertising

- Junk Fax Prevention Act of 2005
- Revised Fee Structure for “Do Not Call”



Risk Themes?

- Increasing Scrutiny on the Industry
- Watch for
 - Prescreening (Solicitation??)
 - Increased RESPA Enforcement (Section 8)
 - Scrutiny on non-traditional products
 - More state and local predatory lending laws
 - Expectation that industry should educate/inform consumers
 - Securing Information



Risk Themes?

- Watch for
 - Expectation that industry should educate/inform consumers
 - Securing Information
 - Expectation that brokers and lenders act **RESPONSIBLY** and do the right thing for the consumer in all instances at all times



Thank You!!

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