

# Legal Issues in Mortgage Technology

New Challenges, New Technologies



## Panelists



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- **Objective Origination Requirements**
- **Subjective Origination Requirements**
- **Servicing Requirements**
- **Due Diligence Requirements**
- **Performance and Portfolio Oversight Requirements**

## • **Objective Origination Requirements**

### • **Triggers and Thresholds**

- HOEPA changes
- Differing definitions – APR, “Points and Fees”, etc.
- Multiple layers – “Rate Spread Loans”, “Covered Loans”, etc.

### • **“Predatory” Loan Terms**

### • **Affordability / Ability to Repay**

- Qualification – “fully indexed”, maximum rate, PITI, full amortization, etc.
- Predict the future?

### • **Disclosure Requirements**

### • **Licensing Requirements**

## • Subjective Origination Requirements

### • Triggers and Thresholds

- “Bona Fide” discounts
- Base rate phase-outs

### • “Predatory” Loan Terms

### • Affordability / Ability to Repay → Duty of Care / Suitability

- “Appropriate” – economic vs. non-economic benefits
- Steering – evaluation of dis-similar loan types

### • Disclosure Requirements

### • Licensing Requirements

- **Servicing Requirements**

- **Information reporting**

- Investor Reporting
- Regulatory Reporting

- **Evolving Legislative / Regulatory Controls and Requirements**

- Must do's – timeliness, disclosure, etc.
- Can't do's – fee limitations, foreclosure timing restrictions, escrow limits, etc.

- **Modification / Workout Support**

- **Debt Collections Requirements**

- **Performance and Portfolio Oversight**

- **Performance Monitoring**

- By Product Type, Features, Risk Elements, etc.
- By Source – Internal Channel, Third Party, etc.

- **Stress Testing**

- **Due Diligence Requirements**

- **Changing Investor / Underwriter Concerns and Requirements**

- “High Cost” requirements vs. Underwriting adherence
- State Requirements as well as Federal
- Pure automation vs. Human hands

- **After-action monitoring capabilities**

- Data input vs. Scan and Capture
- Electronic interface with Originator’s systems

- **Modification / Workout Support**