

2012
Compliance Supervisory Perspectives
SEMINAR



Residential Real Estate Lending

*Key Highlights of Residential Compliance
Regulations and Common Problem Areas*

Agenda

- Key Considerations in Assessing Risk for Residential Real Estate (RRE) Lending
- Overview of Related Compliance Regulations
- Common Problems in RRE Lending
- Tools and Resources

Identify RRE Loan Products

- Create an Inventory:
 - Seek input from business lines
 - Review your website
 - Review rate sheets
 - Review loan trial (volume/trends)
 - Review policies and procedures
 - Review advertising and marketing materials
 - Identify product features (ARMs, balloons, etc.)
- Inquire about New Product Development
- Inquire about Products Discontinued:
 - Delete or archive references; retain documents related to products no longer offered

Understand Product Features

- Term Options:
 - 1 year, 3 year, 5 year, 15 year, etc.
- Amortization Options
- Balloon Feature?
 - If so, identify if the loan is <=3 year, <=5 year, and >5 year.
- Fixed/Adjustable
- Adjustable Features:
 - adjustment period
 - discount/premium rate
- Escrow
- HPML
- HOEPA
- Jumbo

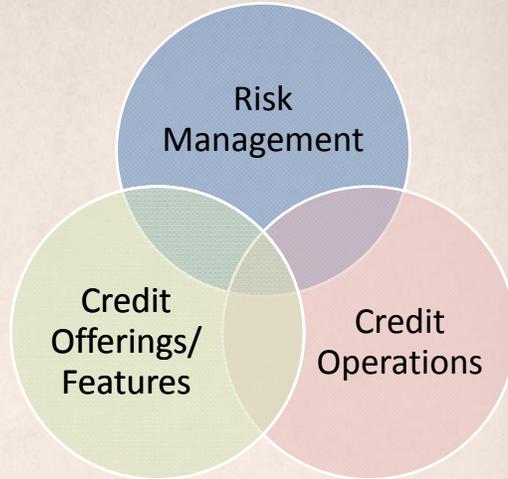
Assess Credit Operations

- Level of staff expertise
- Centralized vs. decentralized processes
- Third party arrangements and outsourcing
- Adequacy of bank policies, procedures, and controls
- Differing processes for in-house vs. secondary market lending
- Channels/marketing
- Loan operating systems and disclosure platforms
- Compensation and pricing
- Delivery of adverse action notices
- Loan Servicing

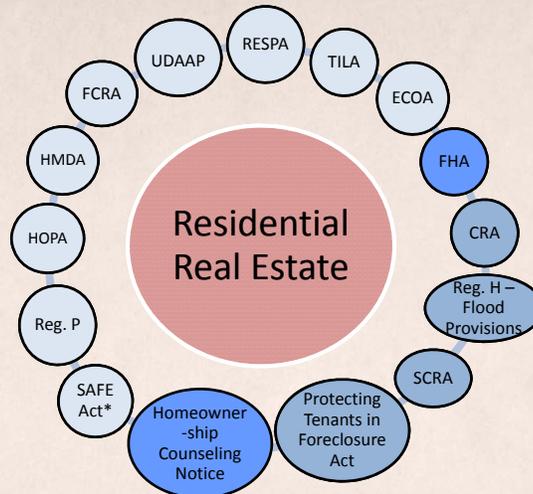
Annual escrows
Customer inquiries
Complaints
Flood insurance monitoring/renewal
ARM payment adjustments/disclosures

Risk Management Practices

- *Detective*
- *Preventive*
- *Corrective*



Related Acts and Regulations



* Reviewed by Safety and Soundness Examiners

RESPA



What are we looking at?

- How the bank defines an application
- Special information booklet procedures
- Timeliness and accuracy of the Good Faith Estimate (GFE)
- Procedures and examples of changed circumstances/ revised GFEs
- Completion of the HUD1:
 - o policies and procedures for identifying and correcting tolerance violations
- Initial and annual escrow account disclosures
- Section 8 compliance – e.g., payments to brokers
- Affiliated business agreement disclosures, as applicable
- Notification of sale or transfer of mortgage

RESPA (Cont.)



Common problem areas:

GFE/HUD

- Improper disclosure of origination fees and settlement services (Blocks 1 and 3) and title fees (Blocks 4 and 5) on the GFE
- Omitting a written list of service providers – e.g. title insurance company
- Failure to customize a shopping list of service providers by market
- Adjusting fees on the revised GFE unrelated to a changed circumstance
- Improper categorization of fees on the HUD comparison table – e.g. based on shopping list selections
- Inaccurate disclosure of loan terms on the GFE/HUD

Escrow

- Incorrect calculations on the initial/annual escrow account disclosures
- Improperly handling of refunds due to escrow account overages

Regulation H – Flood Provisions

What are we looking at?

At time of loan origination:

- Proper and timely completion of the SFHDF
- Notice of SFHA (if applicable)/record retention
- Flood insurance requirements:
 - Proper evidence of insurance at time of loan consummation
 - Adequate flood insurance coverage
 - Escrow requirements, if applicable

After loan origination:

- Monitoring procedures for ensuring adequate flood insurance remains in place
- Policies and procedures regarding forced placement of flood insurance



Regulation H – Flood Provisions (Cont.)

Common Problem Areas:

- Improper calculation of coverage and insurance policies for loans with multiple structures
- Improper coverage for all loans secured by the property, including cross-collateralized transactions
- Closing without coverage in place, or relying on a blanket policy
- Weak force-placement procedures
- Inadequate training; knowledge gaps regarding regulatory requirements



Regulation Z



What are we looking at?

- MDIA requirements
(loans subject to RESPA/consumer's dwelling)
- Section 35: HPML (Higher Priced Mortgage Loans)
- Section 32: HOEPA (aka High Cost Mortgage Loans)
- Reverse mortgages
- Rescission
- Early and final TIL disclosures - accuracy and timing

Regulation Z



What are we looking at?

- HELOC disclosures:
 - o Initial disclosures
 - o Periodic statement disclosures
 - o Statement of billing rights and change in terms notice
 - o Policies/procedures for freezing or terminating HELOC accounts
- ARM loans – initial disclosures and payment change notifications for seasoned loans
- Loan officer compensation rules
- Appraiser independence
- Advertising

Regulation Z (Cont.)



Common Problem Areas:

- ARM disclosures – program disclosures/variable rate adjustments
- Errors on the HELOC disclosures
- Construction loans – omission of inspection fees in prepaid finance charge calculations
- Mobile home lending – HPML requirements, rescission

Other Common Missteps...

- The bank changes its loan operating system to a different vendor, or the vendor sends out updates:
 - Test, test, test!
 - Simply running the update may not always result in the intended revisions
 - Read the release notes to determine if any other settings should be adjusted

Other Common Missteps...

- The title company performs loan closing, but completes the HUD1 incorrectly:
 - Implement secondary review processes and prohibit loan closing without a secondary review
 - Provide clear closing instructions

Other Common Missteps...

- The bank sends early disclosures via e-mail to expedite adherence to MDIA timing requirements but fails to comply with e-sign requirements:
 - Ensure that loan officers and staff are familiar with the regulatory requirements and your bank's policies and procedures

Commonly Asked Questions...

- I provided a new GFE because of a changed circumstance. Does that trigger a waiting period for MDIA?
- During an audit/examination, a tolerance violation was identified. What are the requirements for reimbursement?
- I don't use the credit score on the credit report. Do I have to give a risk based pricing notice?
- A GFE was issued late (or not at all). Am I required to reimburse the entire amount?

Information, Resources, Tools, etc.

- Institution's Examination Reports
- Advisory Visits (particularly with HMDA)
- CA Contact
- Quarterly Compliance Calls
- Fed Connections
- Compliance Outlook
- Industry Websites

QUESTIONS?