Eminent Domain Fade? Thoughts on GSE Capping Volumes; An Informal List of Bank Exams - Holy Smokes!

By: Rob Chrisman | Tue, Aug 28 2012, 11:03 AM

There's an old saying that there are no Republican folks songs. But now, at least, there are Yiddish curses for Republican Jews: link

Continuing education for me was continuing 10th grade when I should have been in the 11th. But for loan officers, it is something that needs to be done and monitored. The NMLS **sent a reminder out to loan officers** who have not yet completed their continuing education (CE) for 2012, reminding them of the 8 hour annual requirement. In addition to meeting the minimum federal requirements, a number of states also have state-specific education requirements that must be met. For details see State CE Requirement Chart. "A majority of state regulators will prevent an MLO from submitting an application for licensure renewal if they have not completed CE. Since it may take as long as 7 days for a course provider to report a course completion into NMLS, MLOs are strongly advised not to wait until a state agency's deadline to try to complete CE or they may be prevented from submitting for renewal on time."

Speaking of state-specific items, 110 year-old Herring Bank is seeking experienced Mortgage Loan Originators in TX, CO, and OK. "We have an experienced operational staff with closing turn-times less than 30 days. Herring Bank offers competitive rates on FHA, VA and Conventional loan programs, and a top compensation package with full benefits." Herring Bank provides a full range of commercial and consumer banking products, as well as investment and trust services. While the bank is primarily owned by the family of its founder, Col. C.T. Herring, the bank has directors and owners in communities that it serves." For more information on the bank, visit herringbank.com and for the mortgage company, visit herringbankmortgage.com. Confidential inquiries and resumes should be sent to Cheryl Brown, SVP and Division Director, at cbrown@herringbank .com for immediate consideration.

And while we're on jobs, **has the current regulatory and compliance reign resulted in banks firing thousands of workers nationally because of the rules?** Sure it has: "The regulatory rules forbid the employment of anyone convicted of a crime involving dishonesty, breach of trust or money laundering. Before the guidelines were changed, banks widely interpreted the rules to exclude minor traffic offenses and some other misdemeanor arrests." Not any more.

Is the possibility of the use of **eminent domain** fading away? Many hope so and there is reason to believe that it will. Here is the latest.

Mortgage bankers continue to ruminate on the potential move by the agencies to limit sales volume based on net worth: "I believe that F and F capping volume for newly approved mortgage banks using capital levels and grandfathering in older ones will increase counterparty risk. It would stand to reason that a grandfathered mortgage bank will put the pedal to the medal and take advantage of their newly anointed quasi-monopoly status. Given it now takes years to become an approved seller-servicer by the agencies I believe counterparty risk will go up for the agencies in the mid-term. Also, the issue of change of control comes into play. If a mortgage bank's ownership changes by 51%, will it be considered a new mortgage bank for cap purposes? This can get really messy. What if the change of control is an economic change of control via non-voting stock and not a control change of control (via voting stock)? How will the agencies address preferred stock issuance, options and warrant issuance, convertible securities, etc., all structures leading to fully diluted ownership change potential? I believe the best approach is to have a phased in schedule over 2 years which is applicable to everybody. Otherwise competition will be reduced (who will start new companies?), prices to borrowers will go up (as companies merge and go bust, fewer will be grandfathered), and thus counterparty risk increases and becomes concentrated. This sounds like the prior too-big-too-fail solutions which lead to really-too-big-fail institutions - it's just another way to create taxi medallions--instead we have mortgage medallions." Signed: "Logically Anonymous, Resident of Mortgagestan, a newly independent 'country' sandwiched between Riskistan and Bailoutistan."

"The combination of low interest rates and government programs has created a booming refinance market, lowering interest rates for many borrowers. The Treasury Department's Home Affordable Refinance Program (**HARP**) is succeeding in allowing an increasing number of homeowners with little or negative equity to refinance their homes. In contrast to booming refinancing at lower interest rates, mortgage principal reductions outside of foreclosure and short sales remain elusive, however, as evidenced by recent disagreement on principal reductions between the FHFA and Treasury Department. The result will mean **many homeowners will remain underwater on their mortgage loans for many years, limiting the recovery in the housing market**, in our opinion. As a result, we remain cautious on the sustainability of the rally in homebuilder stocks and believe that home equity lending is in a long-term secular decline." So opined the research group within **Keefe, Bruyette & Woods**.

Anyone working at a bank with total consolidated assets between $10 and $50 billion took note of the FDIC's announcement that **it is considering changes to the implementation timeline for the annual capital-adequacy stress tests** required by section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The changes under consideration would delay implementation until

September 2013 for covered institutions. Remember that under a proposed rule approved by the FDIC Board of Directors on January 17, 2012, financial institutions with more than $10 billion in assets would have to conduct annual capital-adequacy stress tests. As proposed, the stress testing requirements would become effective immediately upon the issuance of a final rule. The proposed rule is still under consideration at this time, and the delay would help ensure that all covered institutions have sufficient time to develop sound stress testing programs.

So, you want to start a bank? Well, that's fine - it'll be the talk of the FDIC since none were begun de novo in all of 2011. But you'd better be prepared for the exams - there are plenty of them. I imagine I am leaving some off, but you can count on Safety and Soundness which looks at your new bank for Capital Adequacy, Asset Quality, Management Ability, Earnings Sufficiency, Liquidity (in case you don't make it and the FDIC takes over and sells it), and Sensitivity to Market Risk. That's known as the CAMELS rating and you'll live and die by it. IT Exams include Vendor Management, Information Security, Identity Theft, Physical and Logical Security Controls of your IT Network. BSA Exams include the 4 pillars of your BSA program: Internal Controls, Independent Testing, Designated Officer(s) Responsible, and Training. Practices must coincide with policies, procedures, processes, and be based on risk assessments that are adequate to identify the risk. Your BSA/AML program also includes "Know Your Customer," complying with the Office of Foreign Assets Control, a detailed Customer Identification Program, and the identification of suspicious or unusual activity in all delivery channels. This all happens no less than annually. Think it's easy? Google on BSA Enforcement Actions for some light reading that should keep you up at night. The IT and BSA/AML exams are typically rolled into Safety and Soundness on an annual basis. If any of you CAMELS rating components are a 3 or below (on a 1-5 scale), you should expect to see your regulators semi-annually and be reporting to them quarterly.

Last, but not least for banks, are the Consumer Affairs Exams which are comprised of Regulatory Compliance (all of the ever-changing consumer protection laws), CRA (meeting the credit needs of your community), Fair Lending (do you have programs, filters, personnel, or advertising that discriminates against any of the protected classes?), eBanking (is everything compliant with eBanking law on your electronic delivery channels?), and Website Compliance (same thing - but how many websites will your new bank have and how do you control mortgage originators who need their own, individual websites? A mid-sized bank often has more than 50!). There is Vendor Management Compliance Risk - thought you were done with that one in Safety and Soundness? Sorry. How much risk do your vendors pose to your consumers and to your bank? You'll have to monitor their financials and SSAE16 reports if they run any type of data center. Consumer Complaints (what are your customers complaining about, both internally and externally? How are you capturing and analyzing that information? How are you adding and changing procedures to address the complaints? Did any of the complaints indicate the customer felt like the bank discriminated against them? This would hit your Fair Lending rating. Did anyone in the community feel that the bank is failing to meet the credit needs of the community? This hits your CRA rating (the only rating that is made public). A hit to Fair Lending automatically takes CRA (the public rating) to a "Needs Improvement" (at best). With a de novo (new) bank, they look harder and sooner to make sure you're getting off on the right foot.

Turning to our economy, last week we learned that existing home sales and new home sales posted sizable increases in July as inventories of existing homes continued to trend downward, jobless claims edged higher with the four-week moving average rising to a 368,000 pace reminding us of the sluggish pace of labor market improvement, but that durable goods orders posted another sizable increase in July. **It appears that the housing market recovery remains intact** although the story remained tied to regional differences in the level of foreclosure activity. Existing home sales fell in the West, which continues to struggle with negative equity and larger inventories of foreclosed homes. Sales of existing homes picked up in the South, Midwest and Northeast, with inventories of existing homes nationwide continuing to trend downward. Foreclosed homes continued to make up a smaller share of overall existing home sales than in the previous month, which is helping to support regional price appreciation. **And certainly builders are grabbing up raw land in desirable areas**.

For the markets, yesterday was a slow summer Monday. Supply from originators was average and soaked up by the Fed and the usual suspects. With no data to move the markets, the 10-yr closed at a yield of 1.65% and most current-coupon MBS prices improved by about .125 by the end of the day. We have a little more U.S. news today, with the S&P Case Shiller home price index for June (+0.4 vs. +0.9 prior), August's Consumer Confidence (66.0 expected), and a $35 billion 2-yr. note auction. The markets are usually consumed with something in the future, and this week it is Chairman Bernanke's Jackson Hole speech on Friday. (ECB President Draghi will not be attending due to a high workload.) Analysts are hoping for more information on more economic stimulus here in the States. **In the early going rates are nearly unchanged with the 10-yr at 1.63% and MBS prices better by a few "ticks" (32nds).**

Senior Wedding
Jacob, age 92, and Rebecca, age 89, living in Miami, are all excited about their decision to get married. They go for a stroll to discuss the wedding, and on the way they pass a drugstore, Jacob suggests they go in.
Jacob addresses the man behind the counter: "Are you the owner?"

The pharmacist answers, "Yes."
Jacob: "We're about to get married. Do you sell heart medication?"
Pharmacist: "Of course, we do."
Jacob: "How about medicine for circulation?"
Pharmacist: "All kinds."
Jacob: "Medicine for rheumatism?"
Pharmacist: "Definitely."
Jacob: "How about suppositories?"
Pharmacist: "You bet!"
Jacob: "Medicine for memory problems, arthritis and Alzheimer's?"
Pharmacist: "Yes, a large variety - the 'works'."
Jacob: "What about vitamins, sleeping pills, Grotto, antidotes for Parkinson's disease?"
Pharmacist: "Absolutely."
Jacob: "Everything for heartburn and indigestion?"
Pharmacist: "We sure do."
Jacob: "You sell wheelchairs and walkers and canes?"
Pharmacist: "All speeds and sizes."
Jacob: "Adult diapers?"
Pharmacist: "Sure."
Jacob: "We'd like to use this store as our Bridal Registry."

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