Stearns' Anti-steering Form for Brokers; FHA and Condos; Mass of Servicing Rules

By: Rob Chrisman | Mon, Sep 24 2012, 11:31 AM

Welcome to the first business day since the autumn equinox. This is the day when the tilt of the earth's rotational axis is perfectly perpendicular to the sun, meaning that the sun is shining directly at the earth's equator while the earth rotates. Twice a year, on this day, everywhere on earth the amount of daytime is equally as long as the night. And it had nothing to do with the housing crisis.

So did investors owning more than 4 rental properties cause the downfall of the housing market? Most will say "no" and in fact LO's have numerous stories of "professional" investors who were/are very good credit risks and know how to manage single family rentals. And given their return on cash in the bank, most investors want to own houses. At the other extreme, large private equity players are behind Waypoint Real Estate Group LLC and Colony American Homes, both of which are actively buying up thousands of foreclosed homes and then renting them out. Waypoint already owns 2,200 homes so far (on its way to a goal of 11,000) and Colony has 3,600 homes (going to 10,000).

And lenders continue to expand and look for talent. I have been retained by a Northern California-based retail mortgage bank, with offices in multiple states, that is seeking a Processing Manager. The ideal candidate should be knowledgeable in all aspects of conventional, FHA & VA guides as well as DU & LP. Duties will include training and guidance to all processors throughout the company. The person must have good communication skills, and prepared to work for a retail lender with an estimated 2012 volume of $2 billion. Interested candidates should send their confidential resume to me at rchrisman@robchrisman .com.

And a different large California mortgage banker is seeking a Regional VP of Retail Sales to oversee the expansion of its corporate retail sales division and regional branch offices in the San Diego area. The company is committed to its steady expansion - I will attest to that. "Reaching out to consumers nationwide the company has grown to be an industry leader in both the purchase and refinance markets for FHA, VA, Conventional, HARP2 & Jumbo Loans." The company is originating approximately $300 million a month. With confidentiality in mind, interested parties should send their resume to me at rchrisman@robchrisman .com.

And I may see some BofA folks applying. Mortgage lenders are watching their costs go up every day as they add compliance, vendor management, legal, and risk management staff. But cost-cutting is still occurring, perhaps most notably at Bank of America. **By the end of this year 16,000 jobs will be eliminated, bringing BofA's payroll down to 260,000 employees** per a story in the WSJ. And it isn't alone, as Citi, Goldman Sachs, Morgan Stanley and many financial firms in Europe are trimming employee overhead. And BofA has indeed been taking care of business, closing 163 branches and opening up only 6, settling some major lawsuits related to its mortgage troubles, selling at least 46 non-core assets since February 2010, and peeling off large blocks of servicing to waiting buyers like **Nationstar** (dubbed by many as "Wells Fargo Lite" given their recent hiring of Wells' employees.) And apparently the market likes it: BofA's stock is up 65% this year.

Europe: check. QE 3: check. But wait - there is nothing like a looming cliff to focus one's attention. Here's a little more of an in-depth piece on the current situation - in the top right of www.stratmorgroup .com.

The Federal Register is the "daily journal of the United States Government." **Last week the CFPB published the servicing rules that could impact every loan servicer in the U.S.** The rules, far too lengthy and complex for this simple commentary, involve documentation, transfers, force-placed insurance, loss mitigation, and on and on and on. Any company who relies on their in-house staff to service loans (versus hiring a subservicer) had better make sure they know what is happening out there. But here is **the link to the Federal Register with the proposed servicing rules**, care of Dodd Frank. There are a total of nine new categories of proposed requirements. Three arise out of provisions added by the Dodd-Frank Act to the Truth in Lending Act ("TILA"), and, therefore, are proposed to reside in TILA's implementing regulation, Regulation Z, 12 C.F.R. Part 1026 ("Reg. Z"). The remaining six arise from Dodd-Frank amendments to the Real Estate Settlement Procedures Act ("RESPA"); those six are proposed to reside in RESPA's implementing regulation, Regulation X, 12 C.F.R. Part 1024 ("Reg. X"). Comments are due by October 9, and at this point the CFPB appears to intend to finalize all of the Proposed Rules by January 21, 2013. Gulp.

Speaking of the **CFPB, it has formed a Community Bank Advisory Council** that will provide the agency with feedback on policy development, research and rulemaking. The Council will hold its first public meeting on October 10th.

Remember the **mortgage task force** formed by President Barack Obama to probe misconduct that contributed to the financial crisis? It will soon take legal action, per Co-chair New York Attorney General Eric Schneiderman. He would not say whether cases would be brought against individuals or financial institutions or whether criminal charges would be filed. But he said his office would take action and that he expected his federal counterparts on the task force to do so as well. (And folks wonder why residential lenders are stowing away those profits... more and more go to pay legal fees for this type of thing, with the costs eventually borne by future borrowers, of course.) The Residential Mortgage-Backed Securities Working Group was formed in January to probe the pooling and sale of risky mortgages in the run-up to the 2008 financial crisis. Obama said he was creating the group to "hold accountable those who broke the law" and "help turn the page on an era of recklessness." **The task force includes** the Justice Department (DOJ), the Securities and Exchange Commission (SEC), the Department of Housing and Urban Development (HUD), and the Internal Revenue Service (IRS). Talk about a phone call you wouldn't want to receive on a Friday afternoon!

I am asked often enough about **the latest on FHA and condos**, that this bears a repeat. Go here and click on the "12-18" letter. Most view the rules as making it easier for large numbers of condo associations to seek certification by FHA. The certification process is intended to provide the FHA with important information on the development's legal, physical and financial status, thus making it easier to approve the project and thus the FHA financing of individual loans.

The vendor, investor, agency, and lender updates have been a deluge in September. As always, it is best to read the actual bulletin, and "good luck" if you're looking for less documentation, lower net worth, or easier processing.

Effective today Stearns Lending will require a newly created Anti-Steering Loan Options Disclosure form be completed on all Lender Paid Wholesale channel loan submissions. The current form as well as versions generated from third party applications such as Calyx Point and Encompass will no longer be accepted. A copy of the new anti-steering form is available on the Stearns Wholesale Website in an editable PDF format. "The newly created Anti-Steering Loan Options Disclosure must be completed as follows: The form must be completed in its entirety. There may be no blank fields. "Not Applicable" or "N/A" is not an option. The form must be signed and dated by the broker loan originator and all borrowers that will appear on the promissory note. The form must be completed as early in the loan process as possible -- as soon as the originator has sufficient information to complete the disclosure. In no case may it be dated later than one day prior to document signing. The form must indicate if the transaction is a fixed or a variable rate. If a transaction starts off as a fixed rate and later changes to a variable rate, then a new anti-steering form must be obtained. Conversely, if a transaction changes from variable to fixed, a new anti-steering from must be obtained. All three options must be completed - (1) loan with the lowest interest rate, (2) loan with the lowest interest rate without negative amortization, prepayment penalty, interest only etc. and (3) Loan with the lowest dollar amount for origination points or fees and discount points. Using the same rate and fees for all three options, though previously permitted, is no longer acceptable. In other words, it is very unlikely that the borrower will qualify for only one loan option. The form must be accurate. That is, the loan Option 1 (lowest interest rate) must actually reflect the lowest interest rate. Loan Option 3 (lowest points and fees) must actually reflect the loan option with the lowest points and fees. Electronic signatures are not permitted."

Real estate brokerage and technology provider ZipRealty has entered into a strategic alliance with Charlotte-based New American Mortgage. ZipRealty company-owned offices in 20 markets across the US will now be staffed by New American Mortgage loan officers, who will provide mortgage counsel directly to homebuyers.

FEMA has announced that disaster aid is available in numerous counties throughout Mississippi and Louisiana for those affected by Hurricane Isaac. For the most recent list of eligible counties, see FEMA's blog at http://blog.fema.gov/, updated constantly.

Freddie Mac has expanded its policy on condo project reviews to state that established project reviews no longer require recorded declarations, by-laws, and amendments. The guidelines on mixed-use projects have been relaxed as well.

The Freddie Mac Alt 95 program has been suspended with immediate effect. The Alt program's value lay primarily in its flexibility regarding the source of funds for down payments, closing costs, and prepaid expenses, but as most Freddie loan programs now make similar allowances, Alt has been deemed superfluous.

Fannie Mae has expanded the offerings of KnowYourOptions.com, which provides homeowners facing foreclosure with educational resources. The site now includes information on renting, buying, and refinancing a home in addition to the existing foreclosure prevention information. The Loan Lookup tool has also been integrated into the site, which will allow homeowners to see potential options for their foreclosure situation, receive recommendations on next steps, and make appointments with the Fannie Mae Mortgage Help Center.

Under Fannie's Special Relief Measures policy, servicers are allowed to suspend or reduce mortgage payments for up to 90 days within federally declared disaster areas. The policy also allows for loss mitigation flexibilities, including an additional three months of forbearance, loan modification, and other custom solutions. These are determined on a case-by-case basis once the impact of the disaster has been fully assessed by the servicer.

Fannie has revised the Special Investor Reporting requirements section of the Servicing Guide to include guidance on reporting foreclosures for modified loans with principal forbearance. When completing a Loan Activity Report, servicers should designate these loans accordingly. In addition, servicing responsibility for HomeSaver Advance notes has been transferred to three third-party servicers, who have notified all affected borrowers.

On to the markets! For overnight news we had some EU Banking Union disagreement/delay, a possible Greece funding shortfall, a drop in Chinese retailer and Manu confidence, some weak economic news from Germany, and Mideast tensions still rising. All of this tends to help our rates. The risk-free 10-yr T-note closed the week at 1.76%. **The link between Treasury and mortgage rates has been all over the chart in recent weeks**, although it is still correlated. In fact, Friday agency prices improved by over .250 relative to Treasuries due to the buying from the Fed, money managers, and banks. And "specified pools" are leading the way as lenders look for a little pick up by selling blocks of loans with certain loan amount, credit score, or LTV characteristics. As one trader wrote, "pools with no call protection will become harder to trade while generic bonds will simply be ignored."

Yes, overnight rates will be near 0% for years to come, and the Fed will be buying twice as many agency MBS as lenders produce for many months. But it still makes some sense to pay attention to the economic news, and we have a lot crammed into this week starting tomorrow. We'll have more news on housing (Case-Shiller and FHFA Housing Price Index) and Consumer Confidence tomorrow. Wednesday is more housing-related news (mortgage apps and New Home Sales), and Thursday will be Initial Jobless Claims, Durable Goods, GDP, and more housing news (Pending Home Sales). Friday finishes up with Personal Income and Spending, the University of Michigan numbers, Chicago PMI, and PCE Prices. **The 10-yr is down to 1.71% and MBS prices are better.**

Here's a quick one to start the week.
Men socialize by insulting each other, but they really don't mean it.
Women socialize by complimenting each other, but they really don't mean it either.

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