Could Congress let Mortgage Forgiveness Debt Relief Act Expire? ICON Residential sold; LO Compensation Comments Due

By: Rob Chrisman | Fri, Sep 28 2012, 10:17 AM

It is good having a roof over your head. But sometimes even well-known TV actresses find themselves without one. What would The Fonz do?

Maybe Erin should apply to the CFPB for a job, perhaps in the "public comment" section. (Okay, that was a stretch.) **But LO's are keenly interested in the comments on compensation** - and who wouldn't be interested in thousands of people determining how they will be paid? Industry comments regarding the Consumer Financial Protection Bureau's proposed rules governing loan originator compensation must be submitted by October 16. The proposal contains clarifying amendments to definitions set forth in the current TILA compensation restrictions. For example, the proposal aims to clarify that clerical employees of creditors and loan originators who do not "arrange, negotiate, or otherwise obtain an extension of credit for consumers" are not covered by the rule, while producing managers who meet the definition of a loan originator are subject to the compensation restrictions. Here is the place to comment on this and other proposals.

Given the **agency sales caps**, here's one industry observation: "To heck with Basel III, and its consequences of bringing more assets to the largest of banks. That will take years. The mortgage industry should be more focused on the unintended consequences playing out a little closer to home: **Fannie (and Freddie?) delivery caps will result in an increase or at least maintenance of risk concentration** as opposed to a disaggregation of it. Whether or not it is policy for all sellers and servicers, or just a few (we got our addendum letter this week, so anyone who thinks it is a myth is wrong), the trend under the heading 'counterparty risk' is an issue among others in our peer lending group. The chatter is, 'Any agency would much rather deal with 20 counterparties than 2,000' and it is reminiscent of a derivation of Warren Buffett's investment advice: "Put all your eggs into a few baskets and watch those baskets very carefully."

How well do you know your own real estate or mortgage company's ethics? There are two days left to participate in Innoveta Strategies' survey - which will result in a white paper on restoring trust in the financial services industry. Go here to participate. They thank you for your time and comments.

Regarding underwriting trends and appraisals, Michael Cleveland with **Stratis Financial** writes, "I really don't feel that the guidelines via Fannie and Freddie are such a big issue. The folks that qualify and are willing to provide the needed documentation can take advantage of the artificially low interest rates. **The main issue we see is the use of AMC's and the non-accountability of the appraisers themselves**. To open refinances up to those who do not qualify is no answer - it is back to the state of mind that 'homeownership is a right.' Well, it's not, it's a privilege! A privilege to those who operate their lives and finances correctly. Sure, if guidelines were scaled back I could double my income. It would also bring the industry back to the days were we had elementary school students producing mortgages and selling homes. To be successful in the current market place, you need to be smart, work hard and provide a value to your customers."

And another comment: "Given the current underwriting (auditing) environment, we're not seeing an increase of people getting declined. But we're seeing more and more 'ticked off' customers when I have to ask them what was that $200 deposit you made into your bank account a week ago? Especially when we're doing a rate and term refinance and they're NOT coming in with any money at closing. It's frustrating when I take a file to --------- Funding and the wife, who's NOT even on the loan, has to make sure her $500 W-2 matches the tax returns even when her husband makes $150k on a W-2. It's frustrating to customers when I have to ask to see what the terms of your 401k withdrawal procedures are. The typical answers I hear in Arizona are, 'Trust me, if I lose my job and I am $50k+ underwater I will NOT be pulling money from my 401k loan to keep this house afloat.' Or when I need to ask for a CPA to write a letter of explanation that the client, who's pulling money from his business account to pay down his mortgage, will not lose his business by doing that. How does the CPA know better than Joe, who owns Joe's Crab Shack? It's just more and more ridiculous BS that we're asking for. It's not that people aren't getting approved, it is all the work and hurdles getting them to the closing table."

In a little non-mortgage financial news, **the Postal Service is about to miss another multi-billion dollar payment**. Unfortunately it must rely on Congress to help fix it - and they're all out scrambling for their jobs. It can't even cut Saturday deliveries without a vote.

Here's something else that Congress probably won't act on: **the clock is ticking on the Mortgage Forgiveness Debt Relief Act - it expires on December 31**. The San Francisco Chronicle reports that "Before the housing downturn hit, 'forgiven debt' on home mortgages could be taxed as income. For instance, if your lender lopped $50,000 off what you owed (a type of loan modification called principal reduction), if you short-sold the property for $50,000 less than your mortgage or if your lender foreclosed on a property worth $50,000 less than you owed, the

$50,000 would be treated as income, adding up to a potential big bill for state and federal taxes. But with millions of struggling homeowners in such situations, both the Congress and the California Legislature passed bills to exempt forgiven home debt from taxes." Remember that it only applies to the mortgage you originally got to acquire the home or to a refi used to improve the home - no cash out. I guess that anyone thinking of short-selling their homes have a pretty good reason to act on that thought process sooner rather than later.

How about some M&A, investor and lender updates? These are from recent weeks, and will give you a flavor for what is going on out there.

US Bank has announced a new 7-day lock period for all new locks or float to locks taken on or after September 4, 2012 on closed loan files ready for purchase or delivery. Loans that haven't yet expired may be granted an 8-day extension using the original rate sheet 15-day price and expiration date. Loans that have already expired may be granted a 15-day relock where the pricing is the worse of the original rate sheet 15-day lock price or the 15-day price on the date of relock.

Stearns Lending spread the word to clients that, " As a result of the new FHFA mandated G Fee increase, any lock that may require an extension, may be subject to an additional 50bps cost (for 30yr, 25yr, and 20yr amortizations) and 25bps cost (for 15yr, and 10yr amortization terms) in addition to the current relock or extension charges. New locks or Relocks taken BEFORE October 1st AND extended on or after November 1st will be subject to Stearns current rate lock policy, extension policy plus any additional charges incurred."

As of September 7th, Stearns Lending has retired its DU Refi Plus High Balance and DU Refi Plus programs, effective for all amortization types. DU Refi Plus will remain available through the Agency Retained DU Refi Plus programs, which are less restrictive than the generic programs. Existing pipeline loans may be locked under the retired codes until September 21st. If not locked by this date, they must be changed to the applicable Agency Retained program.

New Jersey's Grand Bank announced today it has signed an agreement with Rushmore Loan Management Services, in which **Rushmore will purchase the business of Grand Bank's ICON Residential Lenders**. Terms of the transaction were not disclosed. We all know California's ICON as a national wholesale mortgage originator and servicer which sources loans through a nationwide network of over 1,400 mortgage brokers. The company is an approved Fannie Mae seller and servicer and Ginnie Mae issuer of mortgage-backed securities, and has a strong FHA and VA niche loan business. The closing of the transaction is subject to regulatory approvals as well as other customary closing conditions, and is expected to close in the fourth quarter of 2012 or the first quarter of 2013.

Kinecta has revised the qualifying rate for 5/1 Jumbo ARM loans. As of September 5th, the rate is either the fully indexed, fully amortizing rate or the note rate plus 2%, whichever is larger. The qualifying rates for 3/1, 7/1, and 10/1 Jumbo ARMs are not impacted.

West Coast wholesaler **Pinnacle Capital** has added guidance on conforming loans stating that leaseholds on Native American land are not eligible. Guidance on asset documentation requirements and the disaster policy for FHA loans has been updated as well. The 10-year warranty requirements for USDA loans have been changed to indicate that they must be purchased by a USDA-approved company, and the Jumbo loan limit for VA loans has been increased to $1.5 million for borrowers with FICO scores over 700. Superfund site guidance for conforming, FHA, USDA, and VA loans has been amended as well.

In the wake of Hurricane Isaac, **M&T Bank** is requiring that all properties located in the Louisiana and Mississippi counties indicated by FEMA be re-inspected, provided that their appraisals were completed before August 26, 2012. The inspection should include a photo of the exterior, a certification that the property is free from damage and in the same or better condition than it was when it was first appraised, and commentary on any conditions that may negatively affect its marketability.

Following the USDA's announcement that it would once again be issuing conditional commitments for refinance transactions, **Plaza** has resumed funding, purchasing, and accepting locks for Rural Housing refinances. Purchase transactions remain unaffected.

As part of its efforts to combat fraud, **MSI** has tightened its policy on verbal verification of employment for self-employed borrowers. The borrower's business should be verified at least five calendar days prior to the note date through a letter from the CPA or copy of the current business license in addition separate documentation from yellowpages.com, supersearch.com, or searchbug.com. Sources where business owners are permitted to add their own information will not be accepted.

MSI has updated its LP Relief Refinance policy to state that sellers who select Option Two for their appraisal must enter and resubmit the HVE value to LP as an estimated value, which ensures that the final finding discloses the correct LTV. The LP feedback certificate containing the HVE value should then be included in the loan file. Sellers should note that they no longer have the option of using the HVE value to calculate the LTV/TLTV if an appraisal has already been obtained; instead, they are required to use the appraised value, even if it is less favorable.

Sellers in Alabama, Florida, Louisiana, and Mississippi whose loans closed or were delivered to MSI after August 26th must document that the property hasn't been damaged by Hurricane Isaac as per MSI's disaster policy.

ACT Appraisal was added to MSI's list of acceptable AMCs and began receiving new order placement along with the rest of MSI's AMC roster as of August 24, 2012.

Rate-wise, Treasuries opened in New York Thursday morning slightly softer, with traders blaming talk of Chinese stimulus. We saw a little improvement after the weak numbers in the U.S., but never really went anywhere. (For housing, Pending Homes Sales declined 2.6% in August, but we're still nearly 11% above 2011's levels. In fact, the index shows 16 consecutive months of year-over-year increases, and that has translated into a higher number of closed sales.) Lock desks and hedgers were busy, as volumes picked up way above the recent daily averages. Still, the Fed is buying more than that every day. By the end of the day agency MBS prices were worse nearly .5, snapping a long winning streak and the 10-yr closed at 1.64%.

This morning we've had Personal Income for August (expected +.2%, it was +.1%) and Personal Consumption/Spending was +.5% (just as expected). Later we'll have the Chicago PMI for September (expected unchanged) and the University of Michigan survey for September. Early on, rates are little changed, **and the 10-yr is now at 1.62% and MBS prices better by about .125.**

An amateur group of Islamic film makers have posted a video on YouTube which mocks Christianity and Jesus Christ.
It is believed to be so offensive that St Peter's church in Shrewsbury, England has postponed their tea and cake morning until next Wednesday, and Dorothy Green from Margate has written in to the BBC.
When will the madness end?

View this Article: https://www.mortgagenewsdaily.com/opinion/09282012-icon-agency-sales-caps-moral