Courts and Compliance; FHA Condo Proposal; Lender Updates on FHA, Rural, and VA

By: Rob Chrisman | Wed, Sep 28 2016, 9:30 AM

What do attorneys and judges think of compliance? Here's a nice write up, but it is important that incentives match your company's compliance goals, and vice versa, that you verify what your employees report, and that you train your employees on company policy. If only it were that simple, right?

In legal news, **Royal Bank of Scotland Group Plc will pay $1.1 billion**, without admitting fault, to resolve claims that it sold toxic mortgage-backed securities to credit unions that later failed, the U.S. National Credit Union Administration (NCUA) said. The resolution comes as RBS prepares to settle a number of U.S. cases where it is accused of mis-selling mortgage-backed bonds and brings the U.S. regulator's recoveries against various banks to $4.3 billion over their sales of such securities before 2008. This settlement resolves lawsuits filed in federal courts in California and Kansas in the NCUA's role as the liquidating agent for Western Corporate Federal Credit Union and U.S. Central Federal Credit Union. The settlement comes on top of a prior deal in 2015 in which RBS agreed to pay $129.6 million to resolve a similar federal lawsuit the NCUA filed in New York.

Let's return to forward-looking news. The condo market is changing, and in response **the Federal Housing Administration (FHA) proposed new regulations governing the approval process for condominium developments.** The "FHA proposes to reinstate spot approvals in unapproved condominium developments and to require condo projects to recertify their approval status every three years rather than the current two-year requirement. But wait - there's more! The FHA is also seeking the public's comment on a proposal to create a range of thresholds required for FHA approval including the minimum owner-occupants in approved condo developments and limits on commercial/non-residential space. "Ultimately, FHA will have the ability to specify new owner-occupancy, commercial/non-residential, and single-unit thresholds within the proposed ranges through a notice, handbook or mortgagee letter...FHA's intent is to modify its condominium rules to ensure financial soundness and project viability, but in a manner that is more flexible where possible and responsive to the market."

Lenders know that FHA currently requires that approved condominium developments have a **minimum of 50 percent of the units occupied** by owners. While having too few owner-occupants can detract from the viability of a project, requiring too many can harm its marketability. Through this proposed rule, FHA is specifically inviting comment on this issue and is proposing to establish an allowable range between 25 and 75 percent. The range allows FHA to choose a specific percentage that is responsive to future market changes.

The agency currently requires that the **commercial/nonresidential space** within an approved condominium development not exceed 50 percent of the project's total floor area, and anticipates maintaining this as a requirement in the near term. As the FHA gains experience with this program, however, it may wish to modify this limitation and is therefore proposing to establish a range between 25 and 60 percent. "Mixed-use developments are a way to integrate housing, land-use, economic and workforce development, as well as transportation and infrastructure development."

And under certain circumstances, "FHA is proposing to insure mortgages for selected condominium units in developments that are **not currently approved**. An individual unit may be eligible for Single-Unit Approval if the Condominium Project is not on the list of FHA-approved Condominium Projects, or the unit is not in a project that has been subject to adverse determination for significant issues that affect the viability of the project, the individual unit is located in a completed project that has not yet been approved, the unit is not a manufactured housing condominium project or located in a two-to-four-unit project, etc.

(Read the full notice for more restrictions, and for more changes: the FHA's proposed rule.)

The National Association of Realtors praised sections of the rule, but remains concerned about the possibility of an overly high owner-occupancy threshold. NAR estimates that less than 10 percent of all condos are FHA certified - evidence that more needs to be done. NAR President Tom Salomone expressed disappointment that HUD chose to defer the owner-occupancy decision, but said Realtors will work with HUD directly and through comment to establish a data-driven threshold."

There are plenty of investor and lender specific FHA & VA, and USDA/rural changes announced in the last week or so. Here's a sampling.

HUD's existing Addendum A became obsolete with **FHA** Case Numbers issued beginning August 1, 2016. The new version of this form has been updated and to be used on and after the August 1, 2016 date From HUD's website: The form is attached to Mortgagee Letter 2016-06.

Effective immediately, **LHFS** is aligning with FHA and VA's guidelines regarding properties with outstanding PACE loans.

Servicers filing claims related to the **FHA** Claims Without Conveyance of Title (CWCOT) procedure can now file these CWCOT claims electronically through the FHA Connection (FHAC) system. New FHAC functionality now allows electronic submission of these claims, providing more efficient submission of CWCOT claims for servicers, and more efficient claims processing by FHA.

Sun West has made it easy and simple to originate 203k Rehab Loans.

Pacific Union Financial issued a reminder that the Electronic Appraisal Delivery (EAD) portal must be used for electronic transmission of appraisal data files and reports for all FHA loans with case numbers assigned on and after June 27, 2016. Please note that HUD updates do not support the uploading of appraisals by Sponsored Third-Party Originators as previously announced. In addition, FLOW does not accept XML files.

Effective immediately, **Ditech** is offering W92 USDA Fixed Rate Product, the Rural Development Streamlined Assist Option which provides borrowers with a simplified method of refinancing their current Rural Development loan.

Ditech reminded its clients that both the upfront guarantee fee and the annual fee for the Rural Development product will decrease effective October 1. This change applies to all purchase as well as refinance transactions. The Guarantee Fee is reducing from 2.75% to 1% and Guarantee Fee is reducing from 2.75% to 1%. The date of the conditional commitment (not the loan closing date) will determine the fee schedule for loan requests. USDA will not issue a conditional commitment for a loan submitted under the FY17 fee schedule until October 1.

USDA funding will not be available for approximately 2 weeks starting 10/1. **AmeriHome** will require the Conditional Commitment to be in the loan file, however, it may be subject to commitment authority availability.

Wells Fargo Funding will temporarily purchase eligible Guaranteed Rural Housing (GRH) Loans with contingent Conditional Commitments if all other conditions have been satisfied, according to USDA guidelines.

During the Rural Development lapse in funding, **Flagstar Bank** will continue to process, underwrite and fund loans submitted under the Guaranteed Rural Housing, Doc. #5830 program and GRH Streamlined-Assist, Doc. #5831 program. In addition, Effective immediately, Flagstar announce improvements to the Fannie Mae Multiple Property, Doc. #5351 program. Loan to value (LTV) requirements will now be aligned with standard eligibility guidelines.

Turning to the capital markets, in a report by Charles Williams, passed along by Matt Scully, in Bloomberg, **stringent underwriting guidelines and a tighter lending paradigm are benefiting non-prime mortgage credit quality.** The write-up takes a look at work done by Moody's analysts Peter McNally and Sonny Weng. "Lenders typically consider several new factors including cash reserve requirements, restrictions on mortgage and non-mortgage credit derogatories, down payment requirements, minimum residual incomes. Criteria adds to already tighter lending paradigm driven by regulatory developments such as CFPB's ability-to-repay (ATR) rules and the TILA-RESPA integrated disclosure (TRID) rules.

"Recent non-prime lending programs including New Penn's Home Key and several from Caliber, have borrower FICO scores (minimums ranging between 580-660) that resemble those of typical pre-crisis Alt-A programs. Recent non-prime deals from Angel Oak and Deephaven (with average scores in high 600s) reflect similar trend. In all cases, though, an examination of the programs' additional underwriting criteria presents a picture of the quality of their loans relative to those backing pre-crisis subprime and Alt-A transactions. Non-prime programs targeting low-FICO borrowers can strengthen loan quality by limiting risk layering to reduce defaults relative to pre-crisis loans with similar FICOs. Risk-layering is the practice of combining multiple risky attributes in a single loan."

Keeping on with the capital markets, we had a rally on the 10-year Monday. There was some minor intra-day volatility due to the Trump/Clinton debate, continued jitters around Deutsche Bank, and the $34 billion 5-year auction. The 10-year note price improved .250 and it closed with a yield of 1.56%. Agency MBS prices and the 5-year T-Note improved a few ticks (32nds).

This morning we've had the MBA's application survey from last week showing that apps were -.7% (refis are 63% of new apps). We've also had August Durable Goods (flat). Later today, among a gaggle of other Fed-related speakers, we'll have Fed Chair Yellen appearing before the House Financial Services Committee starting at 10AM ET to speak on supervision and regulation. The U.S. Treasury will conduct two more auctions starting with $13 billion of reopened 2-year notes and $28 billion in 7-year notes. **The 10-year is at 1.56% and agency MBS prices a tad better.**

Jobs and Announcements

In job news, **Jordan Capital Finance (JCF) is seeking an Assistant Controller in its Chicago (Northbrook) office.** The candidate will support the human resource service needs of the business. Compensation is negotiable in the $75-100K range with an annual bonus opportunity. Responsibilities include preparing Offer Letters and assisting employees with on-boarding requirements, coordinating payroll administration activities with employees, Insperity and the Company's controller, including new hires, terminations, benefit programs, & pay adjustments, and completing the monthly close process in a timely fashion, including journal entries and accruals. "JCF, a top 5 lender in its industry, provides private money financing for investors who buy, renovate, sell, and rent residential real estate through lines of credit up to $7.5M in 40+ states. JCF, funded by Garrison Partners, a $5 billion New York private equity firm, is on an aggressive growth path." Resumes and inquiries should be directed to Magdalena Pyclick.

For appraisal-related jobs, **Direct Valuation Solutions (DVS)**, a SaaS platform that facilitates lenders and their panel appraisers working together (from assignment, tracking, delivery and payment) and DVS' sister company, **DVS-AMC**, (a leading service and quality focused non-traditional cost plus model Appraisal Management Company), are looking for a few great people to fill the following positions. **Regional Account Executives throughout the Western US** to support its Regional Sales Managers. The ideal candidate will have Real Estate related (appraisal, title, MI, credit, etc.) experience in supporting sales and operations with existing client interaction and support to strengthen and establish relationships with existing clients. **Customer Service Representatives in the Sacramento area** to effectively resolve customer issues in a timely manner. **Staff Reviewers** for the DVS appraisal quality assurance team, and able to work remotely in the Western US. The candidate will have appraisal review or field experience and the desire to be part of a team focused on exceeding client expectations. Please send a cover letter and resume to President & CEO Mike Ousley.

Envoy Mortgage continues to shatter its production goals as it adds branches and Retail talent across the US, and expands its leadership team in key positions to focus on a strong Q4 and substantial 2017 growth. Over the past 24 months, Envoy has nearly doubled its number of branches and doubled the amount in production. Pat Walden CEO of Envoy stated, "Envoy continues to grow and excel in the mortgage industry. We believe that customer acquisition in the future will be heavily influenced by demographic shifts which we are just now beginning to experience. We are very excited to build the Envoy team and look forward to their expertise and leadership as we continue to position Envoy for the future." Envoy is rolling out several major strategic initiatives that will further drive brand awareness, increase volume, build market share, bolster portfolio value, and significantly enhance recruiting efforts. Inquiries can be directed to Thu-Lynn (TL) Nguyen.

And on the operations side of things, **Carrington Mortgage** is expanding its footprint and operational growth with its state of the art Regional Operations/Sales Center in Brentwood, Tennessee. **Carrington is hosting an Open House/Job Fair on Tuesday, October 4th** starting at 5:30PM at 105 Continental Place. "Come meet with senior leaders and hiring managers and learn why we are a TOP 50 Employer of Choice! Refreshments will be served. Carrington Mortgage Services is a fully integrated mortgage company with mortgage lending and servicing operations and an affiliated real estate brokerage. We are part of Carrington Holding Company, LLC, which owns and operates multiple businesses that cover virtually every aspect of single family residential real estate transactions. Carrington has been named as a Top Mortgage Lender by Scotsman Guide Magazine, and is on the Mortgage Executive 50 Best Companies to work for 2016" Please contact Carlos Fernandez (949-517-7204) for information.

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