Legal News; CFPB Reform Update; Fannie, Freddie, Conforming Lender Changes

By: Rob Chrisman | Wed, Mar 22 2017, 5:36 PM

“Dance like no one is watching. E-mail like one day it may be read aloud in a deposition.” Here's some pithier legal news. The Department of Justice is taking **PHH's side in the lawsuit** over the structure of the CFPB. This is an amicus brief, and the judges may pay close attention, however the DC District Court of appeals is a liberal stronghold and will probably side with the CFBP. Many believe that the CFPB, however, would need DOJ on its side if it goes to SCOTUS.

Former U.S. solicitor general and current Gibson Dunn partner Ted Olson is not a fan of the **CFPB**. Olson was on Capitol Hill yesterday, where he testified at the House Financial Services Committee about the CFPB. "The CFPB's structure is the product of aggregating some of the most democratically unaccountable and power-centralizing features of the federal government's administrative state. The president is prevented from removing the head of the bureau except for very limited circumstances. And therefore, the president was stripped of the power to faithfully execute the laws in these circumstances."

For those playing along at home, Olson represented PHH before the D.C. Circuit when it ruled in October to erase a **$109 million penalty** imposed by the CFPB, finding the agency's structure unconstitutional. The full D.C. Circuit has agreed to rehear the dispute in May, giving Olson a chance to work out some of his material yesterday during his testimony.

The odds of **eliminating or repealing** all 2,300 pages of the Dodd-Frank Act (DFA) are slim at best. Financial service companies have 400 new rules and mandates which average somewhere around 20 to 25 pages each. Just imagine the billions of dollars' companies have spent in time reading the rules, training staff, installing software, using vendors, etc., etc.

But **community bankers** have been paying close attention to President Trump who signed an executive order that starts the ball rolling toward the anticipated loosening of the restrictions around DFA. Even Janet Yellen tells us that community banks have been crushed under the weight of the increased regulatory burden. Greater capital requirements and more regulatory burden have put small and mid-sized financial institutions under pressure to sharply enhance policies and procedures. This has increased internal paperwork, likely reduced performance and weighed more heavily on the smallest banks.

By signing the **executive order**, President Trump has directed the Treasury Secretary Mnuchin to begin by reviewing Dodd-Frank, and drafting a report within the next 120 days. That report will identify the parts of the regulation that conflict with the Administration's principles. Changes to it, especially in relation to community banks, are very likely to happen. So, what changes are expected? Industry insiders expect that the CFPB could see some significant modifications to its structure. Regional and community banks are expected to see some relief from the capital demands of the current regulation. The market predicts a decreased regulatory burden will allow reallocation of some of the regulatory budgets to cost-saving or revenue-generating areas.

Steve Brown with PCBB observes, "For its part, the ICBA is advocating for regulators to change the current rules under the Home Mortgage Disclosure Act (HMDA) which dramatically increased the amount of data banks must report. Banks must also collect and report information to the government about each small business loan application. Where this will end up is still uncertain, but there are plenty of advocates out there working to convince the pro-business administration to revise these and other issues with DFA."

Agency updates

Of course, we've been talking about reforming/changing Freddie and Fannie for years. Moody's reports that reforming the government-sponsored enterprises could have wide-reaching implications for a range of sectors and entities. A potential reform of the U.S. housing finance that is centered around Fannie Mae and Freddie Mac is possible but not likely imminent. Check out, "Reform of Fannie Mae and Freddie Mac Has Potential to Reshape US Mortgage Markets" from Moody's Investors Service.

As a reminder, the Fannie Mae March activity reporting cycle is open with March Loan Activity Reports (LARs) due by March 22, **regardless** of whether you received borrower payment. Removal transactions must be reported to Fannie Mae within one day of processing in your system. Please contact your Fannie Mae representative or investor reporting analyst with any questions, and check out Fannie Mae's Changes to Investor Reporting page for more information.

Loans originated by delegated correspondents participating in Fannie Mae Day 1 Certainty are eligible for purchase by Flagstar. Customers must provide each third-party vendor report used in conjunction with the DU validation services when delivering the loan file. This will streamline the pre-purchase review process and eliminate the need to provide additional supporting documents where validation is used.

Fannie Mae's new Quarterly Compass highlights the latest news and timelines in Q1 2017 and beyond. This edition provides three pages of newsworthy updates on policy changes, technology releases and milestones, and training courses. Special features include articles on Day 1 Certainty™ and Simplifying Servicing™.

Wells Fargo Funding posted an observation stating an increase in the number of noncompliant Notes and riders used to originate conventional ARM Loans (Conforming and Non-Conforming). Origination platforms and/or document preparation services may offer multiple versions of standard documents; some meet the GSEs' requirements and others do not. Conventional Conforming or Non-Conforming ARM Loans with Note dates on and after October 1, 2016, must use the June 2016 versions of Fannie Mae/Freddie Mac Notes and riders. If outdated forms are used, they cannot be corrected; a new Note and/or rider must be obtained.

Ditech announced an expansion of the Fannie Mae HomeReady product offering to HomeReady 7/1 and 10/1 ARM products and High Balance Fixed Rate products.

Ditech is now offering 10-30-year loan terms in annual increments on the following: Fannie Mae Eligible High Balance Fixed Rate, Fannie Mae Eligible Texas Equity Fixed Rate, HomeReady Fixed Rate, Freddie Mac Eligible Super Conforming Fixed Rate and Freddie Mac Eligible Texas Equity Fixed Rate.

Fannie Mae has issued a Selling Notice regarding future changes to the use of Mortgage Electronic Registration System (MERS) for properties in the state of Maine. Please view the Selling Notice for details.

In case you didn't know, approximately 500 credit eligibility edits that were moved upfront in Loan Delivery in Q4 2016 switched to **"Fatal" severity** effective March 13. And, 450 of these same edits will also turned "Fatal" in EarlyCheck during the weekend of March 11. These changes allow Fannie Mae lenders to resolve errors before loan delivery, providing greater certainty about loan eligibility earlier in the process. Learn more in the Loan Delivery Release Notes and EarlyCheck Release Notes.

In a PennyMac recent announcement, PennyMac outlines its alignment with Freddie Mac's updates to income and assets.

Freddie Mac has announced that effective for **all loans** with settlement dates on or after July 6, 2017, the number of years of required tax returns for a self-employed borrower will be based on the number of years the business has been in existence. M&T will require this guidance to be followed. Because this change is adopted based on settlement dates, pipeline loans must be compliant much earlier.

Ally Home Loans has broadened its product suite with the addition of the HomeReady mortgage loan product.

The capital markets are where the capital is!

Bond prices improved again on Tuesday although the stock market's decline grabbed the headlines. In fact, given a lack of market-moving news, the bond market's rally was attributed to declining equity markets and oil prices - although as we all know stock and bond markets move neither in tandem or in opposite directions. The 10-year yield touched a low of 2.42% in the early afternoon before pulling back modestly into the close.

ThomsonReuters reported that, "MBS volumes were heavy from the get go with sizeable real money buying...Retail flows were biased to much better buying on net, per Tradeweb data, early in the session with supply light and easily absorbed by all of the buying in 30-year 3.5% and 4%." The 10-year note price improved nearly .375 (2.43%) while 5-year notes and agency MBS prices rallied .125-.250 depending on coupon and type.

Jobs and Announcements

Arvest Bank, a privately held regional bank is seeking a Secondary Marketing Manager for its mortgage division. Arvest Bank is a $2 billion a year retail originator with a significant interest in mortgage servicing. They are a direct seller to Fannie, Freddie, and issue Ginnie Mae MBS. As a bank, portfolio lending is also part of the production mix. This position oversees all secondary market/capital market activities for the mortgage division and is in Tulsa, Oklahoma. Serious inquiries only; please contact or send resumes President & CEO of Arvest Bank's Mortgage Division Steven Plaisance.

Sierra Pacific Mortgage is looking to expand its Wholesale and Correspondent Lending Divisions by aggressively seeking talented account executives nationwide. The 30-year old lender recently experienced a record year as well as significant growth with their QM and Non-QM Products. Sierra Pacific focuses on providing customers a variety of loan options. It's a national approved Fannie Mae/Ginnie Mae Issuer; approved by HUD; an FHA approved lending institution; approved for VA; and approved by USDA. If you are interested in joining the wholesale and/or correspondent sales team or becoming an approved seller, please contact Sierra Pacific today.

In retail job news, Gulf Coast Bank and Trust continues its strategic growth in existing markets. Currently management is seeking experienced loan officers in Orlando, Sarasota and Tampa/St. Petersburg. "Gulf Coast Bank offers an array of mortgage products designed to suit today's borrower, including, those for jumbos, single close construction, renovation, doctor loans and non-warrantable condos. Gulf Coast Bank offers marketing, training and CRM support and is committed to closing your loans. With a seasoned staff the process moves from application to closing efficiently. To learn more about what Gulf Coast Bank can offer, contact Sonny Drouilhet (504-599-5733)."

Congrats to David Williams who is Inlanta Mortgage's new Regional Vice President of Business Development. David comes to Inlanta Mortgage with over 30 years in the mortgage business and he has been recognized as one of the "Top 100 Most Influential Mortgage Executives in America" in 2013, 2014, and 2015 by Mortgage Executive Magazine. By the way, Inlanta is looking for branch managers and loan officers who want to grow their business, especially in Colorado and Texas, contact David (303-947-1960) or to learn about opportunities.

One of the most frustrating things loan originators face is when they lose a potential deal for as little as 1/8 of a point in rate. REMN Wholesale understands this and as a part of their mission to be the ultimate wholesale partner, they're producing a Livestream course designed to help originators convince prospective borrowers otherwise bent on excessive rate shopping. The online course will be taught by Ron Vaimberg, one of the industry leaders in showing originators how to develop relationships with home buyers that add value and stop them from treating working with a lender based on rate alone. The interactive event will take place on Thursday, March 23, and participants will receive an nmpU Sales Mastery certificate upon the completion of the Livestream. Registration for the course and more information can be found online at www.ronvaimberg.com/winthebusiness. Interested participants are encouraged to watch from their conference room or other shared office space to save costs and use the code "NMPU" for an additional $100 off checkout.

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