

Taming the Mortgage Compliance Beast

By Lionel Urban

It has been said that the mortgage industry is a constant battle of growth, cutbacks, and change. We got it all in 2009. Record low rates, tightening margins, and a sea of regulatory compliance changes. Over the last 25 years it has been common to have one new form of regulatory

change every couple of years. 2009 blew that pace away with four new requirements that have substantially changed a lender's responsibilities, and in 2010 three more are already queued up. To add to the challenge, existing compliance responsibilities are being enforced more than ever by state and federal government, as well as secondary market investors.

With proper planning, training, monitoring, and tools Credit Unions can tame the mortgage compliance beast and grow their market share.

Planning starts with a good summary of all requirements and identifying the impact on each employee's role. Training should be completed on a regular basis, include a review of all expectations, and identify the pain associated with non-compliance. Most of the new requirements apply to loan originators and that's where the biggest impact can be made. Effective training should assume originators need to cover all aspects of compliance and test/certify originators upon completion. Most importantly there should be clearly identified procedures, simplified support systems, and thorough monitoring of all requirements.

In 2009 mortgage compliance changes included the Mortgage Disclosure Improvement Act (MDIA) which identifies steps and specific time frames for disclosing and re-disclosing prior to loan consummation. The Home Valuation

Code of Conduct (HVCC) sets guidelines for the appraiser selection and appraisal ordering process. Higher Priced Mortgage Loans (HPML) guidelines set a much lower threshold for loan terms that require a lender to issue additional disclosures prior to loan consummation. The Fair and Accurate Credit Transactions Act (FACTA) amendments known as 'Red Flag Rules' require lenders to implement specific procedures to detect, prevent, and mitigate identity theft.

2010 already holds even bigger changes, including the newly formatted Good Faith Estimate and HUD-1A. On the surface it appears simple. However, these new requirements hold the lender accountable for accurate lender and third party service provider fee estimates. Compliance with the Secure and Fair Enforcement (SAFE) Act will require lenders, their originators, and in certain circumstances their staff to register with the National Mortgage Licensing

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System (NMLS). Additionally, the SAFE Act sets forth uniformity for originator accountability, training, and information sharing. Additionally, well thought out initiatives by the American Association of Residential Mortgage Regulators (AARMR) include establishing a standardized reporting method that allows state regulators and auditors being set to single out high risk lenders and identify specific transactions for anti-predatory / high cost legislation, Truth in Lending Act (TILA), Real Estate Settlement Procedures Act (RESPA), and State Consumer law violations.

Non-compliance can be costly. The liability associated with non-compliance can result in expensive fines, withdrawn HUD or secondary market investor approvals, and borrower recourse or litigation expense. The good news is that, even with today's environment of rapid change, mortgage compliance can be properly managed. However, credit unions must be prepared to allot the appropriate time and resources.

Technology is the secret weapon. Today enterprise technology systems are very affordable and can be implemented in less than sixty days to simplify employee compliance and management monitoring. Web based systems give credit unions access to much more sophisticated solutions with greatly reduced administrative and IT support requirements. Integrated features and services that credit unions should consider include system-based workflow rules, automated compliance checks, and detailed, centralized management reporting.

Loan systems today have the ability to productively manage workflow in a variety of ways. First, credit unions should expect 'hard stops' that ensure that originators and staff gather the right data and perform the correct activities at the appropriate times. Data checks should be integrated at all steps and be simple to use. They should prohibit issuing disclosures when key information is missing or not accurate and ensure that credit reporting interfaces and other electronic interfaces are only available when the appropriate information is gathered for government reporting. Other key workflow checks should include limiting the ability to close a loan when disclosures have not been completed correctly or in a timely manner. Most importantly, access control levels should identify the security rights and responsibilities of each employee to ensure data integrity and security is never compromised.

Integrated fraud and compliance checks

With today's vendor solutions credit unions should consider real-time validations to identify fraudulent borrower activity and prohibit lender actions that are not in compliance with state, federal, and HUD or investor guidelines. These checks should be completed as part of the origination, processing, and closing processes and have the ability to catch non-compliance before it becomes a violation. This can include validating allowable fees, disclosure or re-disclosure for specific data or calculation tolerances, anti-predatory / high cost monitoring, and Truth in Lending audits. By

integrating these checks within its workflow, a lender's staff is required to complete pre-closing audits and ensures the appropriate corrective steps are completed prior to funding a loan that is not in compliance.

Summarized reporting is the final piece of the puzzle that ensures lender compliance. Real time reporting identifies loans that require disclosures, and shows whether or not disclosures were prepared and if re-disclosure is now necessary. With the new MDIA requirements lenders must be prepared to monitor APR changes and re-disclosure with a change of 1/8 percent even without a change to the loan program or fees. This can occur when mortgage insurance is adjusted or when even a moderate change of the ARM index takes place. Often times these may be events outside of an originator's or processor's control and typically they are the ones responsible for issuing such disclosures. With proper reporting both employees and management are notified of non-compliance issues so the appropriate steps can be taken to become compliant.

Combined with other elements of an enterprise system, real-time reporting often triggers these remedying steps automatically, which underscores two main benefit of enterprise systems: centralized control and workflow automation.

To simplify the implementation of these types of systems credit unions can expect workflow requirements, compliance checks and reporting to be pre-configured and managed by their technology vendor. This saves countless hours of system administration and ensures the credit union is implementing best business practices immediately.

Managing the new and existing compliance requirements may seem complex. However, credit unions that master this change have significant growth opportunity. With the changing landscape independent brokers and mortgage banks must deal with similar compliance issues, but they also face even larger business hurdles, including availability of warehouse lines and capital, no portfolio lending opportunities, and a customer base that is becoming more sophisticated. This unique opportunity provides credit unions with the ability for substantial member and asset growth.

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