

# National Mortgage News

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## Special Report: Managing E-Docs

### The Onus of Regulatory Compliance Sometimes Falls to the Tech Vendor

WHILE MUCH HAS BEEN MADE ABOUT THE changes that need to happen to various loan documents and lender workflows, not much attention has been paid to the fact that vendors are doing most of the heavy lifting to ensure that their lender clients are ready for any and all new regulations.

Realizing that new regulation was and still is inevitable, LOS vendor Ellie Mae acquired doc prep vendor Online Documents in the fall of 2008. While vendors like Ellie Mae and others worked overtime to make sure they were keeping their clients in compliance, Ellie Mae's chief strategy officer Jonathan Corr worries that HUD's moratorium on enforcement around the new RESPA rule has caused some lenders to push off compliance on their end and not use the technology to the fullest.

"The moratorium is giving too many people false comfort," said Corr. "It's about leniency if you're making good faith efforts. However, if you're not showing good faith there is no free lunch. Further, HUD isn't the only one enforcing RESPA. I've heard talks of class action attorneys watching what's going on. This thing is in effect now and I don't think that message is out there.

"That being said, it's about more than just new forms. There's a whole set of rules, tolerances, calculations, timing, disclosure and redisclosure that is different. Some vendors have done the work and others are playing catch up. There is some scrambling going on," added Corr. "I think everyone has a new GFE and HUD-1 in their software. However, some software companies have left the heavy lifting to the originator. That approach just isn't going to work."

LOS companies aside, doc prep vendors like DocMagic also worked and continue to work very hard to keep their clients compliant. "Even three or four months before Jan. 1 our clients were calling," said Melanie Feliciano, assistant



**Dan Welbaum** believes strongly that new regulation has caused "seismic changes."

general counsel at DocMagic. "In general, 2009 was a year where there were so many changes to address. We sent out our core changes in early December so customers could see the screen and do some testing.

"On our end, we've added a new category of charges to our docs to keep lenders compliant. Customers basically select what category that fee falls into. Then they will need to designate if that fee is a seller responsibility. That will impact the new GFE. On top of that, we've implemented audits so they can comply with the tolerances and time thresholds."

So, how have LOS and doc prep vendors done overall in readying their clients for compliance? "RESPA compliance overall has had mixed success right now," answered James Brodsky, a founding member of Weiner Brodsky Sidman Kider PC, a Washington-based law firm with a national practice focused on compliance, regulatory, transactional and litigation matters related to financial services and transportation concerns. "The key to success for originators is a serious and sustained effort to understand the rules in real time. Those that have succeeded have invested heavily and have invested heavily during a time of scarce resource. Those that have not taken that time are late to the party just as the regulation changes were late to the party.

"This requires a serious coordination of human and technological resources," noted Brodsky. "These regulations are so complex. You need to put in warnings and controls that require serious technology to complement the human skill set. In my opinion, huge technology investment is required."

Being a Web-based application makes it easier for vendors to deploy changes like regulatory compliance, for example, so lenders are up on the new rules whether they like it or not. "Our customers are interested in being compliant right away," noted Stephanie Durlinger, Senior Vice President of Customer Services at Web-based LOS PCLender.com. "When we put out new documentation it's integrated within the system so lenders really don't have a choice. Our lenders were happy to be compliant effective Jan. 1. One of our main benefits is to provide lenders these services without them having to do any heavy lifting.

"Not only are we Software as a Service-based, but from a service perspective we want to redefine what an LOS is capable of. How? Beginning in the second half of November we did our releases and training. By the time Jan. 1 came around our clients knew how their operation would change. That was not the case with more traditional LOS offerings."

To put the entire issue of automating compliance into perspective, Dan Welbaum, chief marketing officer at point-of-sale vendor Mortgagebot said, "It's been a very trying time for the mortgage industry. There have been seismic changes. The elephant in the room or the 800-pound gorilla is compliance. Lenders want to be efficient and thrive in this time period. Pricing has been impacted by these changes. Vendors have worked hard to get their systems ready ahead of time. It's critical that these lenders be prepared at the point-of-sale across all channels for any and all regulatory changes. Instead of taking six bottles of Excedrin, lenders can depend on technology." ♦