

# Resuscitating **THE MARKET**

As lenders look to enhance transparency, they need to keep an eye on their brand, as well.

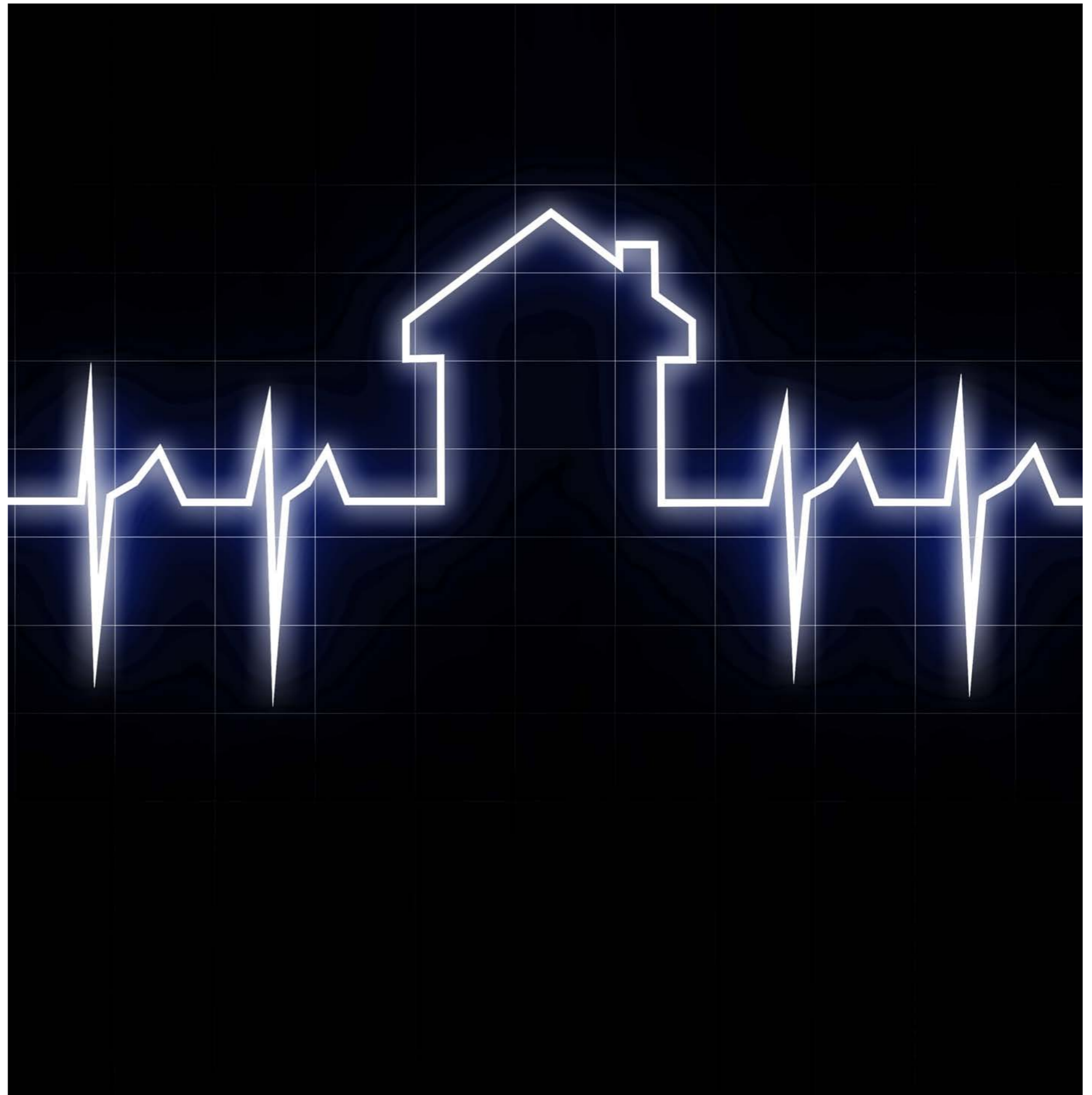


ransparency has become a watchword in the mortgage industry's efforts to satisfy regulatory scrutiny. As a smorgasbord of risky loan products has shrunk to the risk-averse conforming and government few, we have seen high-profile attempts to foster greater transparency and uniformity in the origination process.

Not everyone sees transparency as the answer to reinvigorating the mortgage industry and reducing regulatory pressure.

For one thing, many say regulatory pressure to make risky loans to under qualified borrowers in the name of promoting wider homeownership was what got the industry in trouble in the first place. The remedy, they say, is simply a return to prudent underwriting.

BY **SCOTT KERSNAR**



Nevertheless, HUD and the GSEs—the agencies that felt the brunt of political pressure to loosen standards—are now spearheading efforts to improve loan quality. Vendors are taking a cue from Fannie Mae's Loan Quality Initiative to increase transparency at all stages of the origination process. In May, for example, Equifax launched the Undisclosed Debt Monitoring as "the mortgage industry's first platform to monitor for and notify financial institutions of new accounts and borrower activity" during the "quiet period" between point of sale and closing. In June Fannie began requiring lenders to avoid buyback exposure by verifying upfront that borrowers have not incurred new debts or liabilities.

To further avoid future avalanches of bad loans, Fannie and Freddie—prodded by their new regulator, the Federal Housing Finance Agency—have jointly established the Uniform Mortgage Data Program. The program embraces common appraisal requirements that standardize "key appraisal data elements to enhance data quality and promote consistency," according to Fannie. Sponsoring electronic submission of appraisal data, the UMDP fosters "a uniform approach that facilitates lender adoption by having uniform datasets and file formats."

Is the FHA doing what it can to align its regulations with the GSEs as to UMDP and other GSE standards initiatives? "We have discussed the uniform appraisal with Fannie and Freddie, but have not made any decision," said Vicki Bott, HUD deputy assistant secretary for single-family housing. "We are attempting to align with them wherever it makes sense, so lenders can implement a uniform process."

Many mortgage professionals continue to have questions about gray areas in complying with the new RESPA changes. Bott said that the key to addressing such uncertainties is to "understand the spirit of any rule or regulation." She advised lenders to obey that spirit rather than looking for minimum ways to stay in compliance. "It's a consumer-protection question," she said. "Err on the side of giving more information to the consumer." Bott noted that most lenders began getting in compliance with the new RESPA rules long before the January 2010 deadline. She said HUD has been working closely with "key aggregators" to bring consistency to the way those aggregators address RESPA compliance.

Transparency in the mortgage world seems headed toward nothing short of life-of-loan compliance monitoring, requiring heavy reliance on technology. As SigniaDocs president Tim Anderson said, the common goal of regulators, the GSEs, MISMO and mortgage-industry compliance and technology experts "is to evaluate risk across all systems, components and parties to the process." That is easier said than done, he noted. "With the velocity of government regulations and oversight our industry is dealing with," Anderson said, "the debate on how to best manage the compliance onslaught is more daunting than ever. But in order to ensure any level of accuracy and consistency, all parties must first agree to use a common way and set of measurements to determine the base." Thus MISMO, now under the umbrella of MERS instead of the MBA, continues its efforts to develop technology-based standards.

At a slower pace, so does HUD. "I

think RESPA absolutely requires technology to make sure you are consistent," said Bott, "Otherwise you are dependent on dispersed personnel, such as loan officers and processors." On the other hand, she said, lenders get into trouble if they try to automate too many processes and don't introduce a human element "to insure that systems are not creating oddities that cause systemic misdisclosure to the consumer."

As suggested above, the disappearance of subprime and exotic loan products has created de facto transparency in mortgage origination. Everyone understands 30-year fixed conforming and government loans. To foster that kind of transparency once the current furor over risky loans dies down, in June 2010 the Fair Mortgage Collaborative was launched in Washington as a consumer protection and education nonprofit. FMC ([www.fair-mortgage.org](http://www.fair-mortgage.org)) certifies lenders after first conducting rigorous tests that include "an initial audit, a review of all loans originated or brokered, and random ongoing compliance audits." FMC members agree to adhere to a long list of consumer-protection practices, including agreeing to offer the "next best loan product for which they qualify" when borrowers are not eligible for a fixed-rate prime product. FMC-certified lenders are prohibited from doing no-doc and stated-income loans or loans with balloon payments of less than 10 years.

One of the first FMC-certified lenders was Seattle-based BECU, which partnered with Dexma and Fannie Mae a decade ago to form Prime Alliance, which handles mortgage lending on an ASP basis for credit unions. "We believe achieving Fair Mortgage Collaborative Certification has significant value for all credit unions, and as such, we encourage you to pursue it for your credit union," BECU told fellow CUs. FMC members agree to adhere to a long list of consumer-protection



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SIGNIADOCs

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At this writing the FMC site was poised to enable visitors to search for certified lenders by ZIP code, then click through to those lenders’ websites. As regulators become more aware of the site, it should gain credence rapidly. Having the FMC “Good Housekeeping Seal of Approval” may become one way for mortgage lenders to lessen the regulatory pressure they experience today.

Among tech vendors Minneapolis-based Dexma is one of the companies that can be expected to shine brightly under the light of Fannie’s LQI initiative. Recently merged into Prime Alliance Solutions, Dexma has long experience

with GSE requirements, dating back to Fannie’s use of its transaction director to manage electronic loan delivery. Anderson, a former Dexma executive, credits Prime Alliance with perfecting electronic loan delivery to Fannie Mae. In 2009 Dexma estimated over \$1 trillion in mortgage loans has been created through its platform.

BECU’s Joe Brancucci, who now serves as CEO of Prime Alliance Solutions, has said of the workflow BECU developed with Dexma and now shares with Prime Alliance, “We have fewer quality control issues than anyone else because Prime Alliance’s back-office process lets their mortgage specialists deliver an experience and interaction with the user rather than the process.” While that proprietary process is not transparent, said Dexma president

Steve Mase, it supports the brand equity that gives member credit unions confidence in Prime Alliance’s end-to-end mortgage-origination solution.

Mase argues that the call for greater transparency in mortgage lending really applies more to securitization than loan origination, specifically to Wall Street’s “hiding stuff in mortgage-backed securities during the subprime boom.” Now, he said, “We are seeing a shift by technology providers away from shoveling loans through the system.” He says the brand equity Dexma enjoys is more important than transparency. And while he commended the MISMO effort to promote automation and establish standards, Mase argued that “standards can be gamed to some advantage. Standards are only as good as the name that backs them.”

# MISSING SOMETHING?



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To assure itself that a service provider will keep it in compliance, he said “a lender is going to adopt a brand.”

Dexma’s new SaaS-based Imagility product supports transparency by recognizing more than 300 standard mortgage-industry documents and enabling all parties in a transaction to see and share all documents related to a loan in real time.

Given the specialized nature of regulatory compliance, the old issue arises of end-to-end solutions like Prime Alliance vs. various best-of-breed solutions, such as PCLender, which leverages integrations with selected partners like ComplianceEase, DocuTech and Mortgagebot to assure its lender customers that they are in compliance. For the sake of apples-to-apples comparison, Mountain America FCU is a credit union that picked PCLender after an MI company and a doc prep company spoke highly of them. “We liked the fact that they had an interface with Mortgagebot,” said Mountain View vice president Brandon Bartholomew. “We use Mortgagebot for online loan applications.”

He singled out PCLender’s security and reporting features as outstanding compliance tools.

“Certainly we have a very comprehensive audit and tracking log that is built in and records any change, any activity that is specific to any kind of compliance,” said PCLender senior vice president Sean Dugan. “A regulator could come in and really drill down into files and procedures. In addition to that, one of the benefits of our program is robust permission-based security. It assures that only employees with relevant access can edit, or even read, files.”

The system has a snapshot feature that records every borrower disclosure made on the system. “We also have the ability to compare snapshots at different points in time to compare the data and how it changes within those points in time.”

PCLender also touts its brand. What sets PCLender apart in terms of regulatory compliance is twofold, said Dugan. “No. 1 is our compliance department, which is responsible for making sure we have the appropriate document associated with any federal, state or local reg in all 50 states, and the second reason is that we are SaaS based.

“Every time our users log on, they know they are getting the latest version of our platform. Our data recovery system is exponentially ahead of what a lender could provide in their own server room.”

PCLender provides users and prospects with a compliance matrix show-

ing how they handle every compliance issue. The company claims “the most comprehensive, dynamic business rules engine of any LOS provider in the industry.”

PCLender uses Web services to build integrations with selected partners, integrating with ComplianceEase “to give real-time compliance checks.” Dugan argued that PCLender’s integrations with ComplianceEase and other partners show no more latency or problems of scale than the internal integrations in any end-to-end system. Absent proof, the measure of superiority has to be the comfort and loyalty of the lender customer. **MT**

## THREE THINGS LENDERS CAN DO TO STAY COMPLIANT:

“We feel we have to be ahead of regulatory measures, not behind them,” said DocuTech president Ty Jenkins. “On RESPA, we were ahead of the curve because we watched during 2009 as it evolved.” Evidence of DocuTech’s close involvement in regulatory issues is an article written by DocuTech compliance specialist Alex Parker on “Using Worksheets In Initial Disclosure Packages” in response to inquiries made by DocuTech users. When provided along with a GFE, said the article, the worksheet should never look like a GFE and should never be used in lieu of a GFE. The article noted HUD’s warning that “a consumer should never have to show ‘intent to move forward’ to receive a GFE.” Jenkins offers lenders some broad tips on staying out of regulatory hot water:

- 1. KEEP INFORMED:** Devote resources or partner with service providers to monitor the regulatory environment. The regulatory climate is never static, new laws and regulations are continually being passed and enforcement policies are always changing. Lenders need to stay on top of this information; if they wait until changes become effective, it could be too late.
- 2. BE NIMBLE:** Implement solutions that can be modified quickly. Don’t rely on slow-moving legacy systems. Utilize modern technologies built for today’s fast-moving regulatory environment. Legal interpretations can be turned upside down by unexpected court rulings, so lenders need to make sure their solutions can be changed rapidly. Selecting vendors who monitor compliance and implement changes rapidly can help lenders move quickly.
- 3. MONITOR YOUR OPERATIONS:** In order to stay on top of changes, lenders need to ensure they have effective internal processes that monitor regulatory changes and enforce them throughout their business operations. A commitment to compliance will not yield results if it is not consistently practiced throughout your organization. So be sure to constantly monitor and enforce compliance-related policies.