

MCCATHERN

Banking and Mortgage Regulatory Update

For monthly updates on compliance issues email mortgage@mccathernlaw.com with your request.

January 10, 2014 has been circled, highlighted and worried about for over two years. Hopefully your company has implemented the requirements enumerated under the Dodd-Frank Act that pertain to your business, and your staff is well trained and ready for the changes that fully go into effect next month. This Update will focus on several key events that occurred last month.

1) New Disclosures

The CFPB integrated the disclosures required under RESPA and the Truth in Lending Act to be more convenient and easier for borrowers to comprehend. With the release of the Final Rule, found at 12 CFR 1024 and 12 CFR 1026, several forms and disclosures are now combined into two forms that use clear language and a simpler design that focuses a reader's attention on the information that is most important to the borrower. The key components of the loan are now clearly presented to the borrower to make it easier to compare and choose the loan that is best for their individual needs. Furthermore, the Final Rule requires the Closing Disclosure to be presented at least three business days prior to closing. While the majority of Dodd-Frank's rules go into effect on January 10, 2014, these new disclosures will not be required until August 1, 2015.

2) CFPB Ombudsman Report May Change Examination Procedures

In its second annual report, the CFPB Ombudsman's Office made recommendations regarding what an examinee can expect during the examination process. The recommendations include citing the examination manual in written communications to the examinees, providing regular updates after onsite examinations, and providing better information regarding examinee's communications about examination concerns. While these recommendations are not guaranteed to become standard operating procedure, providing examinees with more information regarding the examination process could lead to a more efficient system. If faced with an examination, your entity's best bet is to stay in regular contact with your compliance department and the examiner.

3) CFPB Provides Options For Homeownership Counseling List Requirements

Effective January 10, 2014, the 2013 HOEPA Final Rule requires lenders to provide a written list of HUD-approved housing counseling agencies to borrowers of federally-related mortgages. The CFPB has allowed lenders to fulfill this requirement in one of two ways: a list can be obtained through the CFPB's website, <http://www.consumerfinance.gov/find-a-housing-counselor>, or the lender can generate the list independently. For many lenders creating their own programming to provide such lists, the CFPB has allowed a six-month grace period for these lenders to direct borrowers to the CFPB's housing counseling website to obtain a list of housing counselors. This is intended to alleviate concerns with programming and the testing of such programming.

Finally, it was great to see many of you at the 100th Annual MBA Conference and Convention in Washington, D.C. a few weeks ago. Hopefully you were able to attend our party honoring one of McCathern's compliance partners, Pantheon National Title Company's CEO, Craig Chapman, and his appointment to the MBA's Diversity and Inclusion Committee. After speaking with several people at the convention, the attorneys at McCathern discovered that Section 342 of the Dodd-Frank Act has been overlooked by many. As stated in last month's Update, this section governs diversity in the workforce and has significant penalties for failing to implement its requirements. Please refer to last month's Update, or contact McCathern for further information.

This update is not to be considered an offering of legal advice and does not constitute an attorney-client relationship. If you are interested in a more specific and tailored analysis of the compliance-related issues associated with the Dodd-Frank Act, and how it affects your business, please contact Arnold Shokouhi at 214.741.2662.