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What's Good for the Goose ...

Though many servicers will be exempt from the Consumer Financial Protection Bureau's upcoming exams, its new rules on how to handle troubled homeowners will impact them all, reports Glen Fest.

By Sean Sposito

From his panel seat at the front of the hotel conference room, Washington bank lawyer James M. Milano had a question that would have worked for either selection in a game of truth or dare: by an informal show of hands, would anyone in attendance representing the Consumer Financial Protection Bureau kindly identify themselves?

Guffaws broke out among the 100-plus people who came a day early to National Mortgage News' 7th Annual Mortgage Servicing Conference, for the preliminary conference workshop where Milano was speaking. The home-loan professionals who descended on the Westin Galleria in Dallas were in town to navigate, and to not-so-subtly bemoan, the new oversight rules that will start being enforced next year by the bureau. Just the thought of having their regulatory nemesis sitting among them, ready to take their darts before the conference even got into full swing, seemed unlikely.

But at a rear table sat Ann Thompson, a senior analyst in the CFPB's supervision policy office. She was a good sport, offering a smile and a wave as the laughter died down. Milano, a partner with Weiner Brodsky Kider, spotted Thompson from the front of the room and grinned. "So much for a free-flow conversation," he quipped.

It was meant to be light banter, of course, but as a precedent to the three-day conference, his comment couldn't have been more off the mark. What ensued in the subsequent days essentially was a free-for-all on interpretations of, strategies for, trends within and expectations about the mortgage servicing oversight that will come from both federal and state regulators. Though a large section of the attendees came from small servicers that will be exempt from CFPB oversight (those handling fewer than 5,000 loans, for example), the bankers, consultants and regulators in the speaker lineup

largely agreed that the bureau's rules—whether stemming directly from the Dodd-Frank Act or influenced by legal cases like the 2012 foreclosure settlement between five large servicers and 49 state attorneys general—will set the standard for how mortgage servicing also will be handled by prudential and state regulators, as well as the courts.

"Many of you, it looks like, may not be under the direct supervision of the bureau," said Treliant Risk Advisors Managing Director Catherine Brown, but "all of these requirements, if you are in the business of servicing loans, are very important."

In January, the CFPB announced new rules aimed at giving homeowners more protections from foreclosure or default actions by servicers. Among the most talked-about changes were restrictions against dual-tracking owners through the foreclosure and loan modification pipelines, as well as requirements for advance notice on the pricing of forced-place insurance assigned to homeowners with lapsed insurance policies.

The CFPB's new rules will also require more specialized handling of loan servicing arrangements, such as providing single "point of contact" agents that borrowers can reach for any stage of a default, loan modification or foreclosure action.

Additionally, servicers must be more adept at handling consumer complaints. Under new bureau guidelines, according to Brown, servicers will have to gauge the community impact of their foreclosure and loan-mod practices against fair-lending statutes for the life of the loan. This repurposes an aspect of Community Reinvestment Act compliance that historically has revolved almost entirely around origination activity.

All of this will require servicers to seriously enhance their “big data” capabilities, as the CFPB rolls out exams covering compliance with truth-in-lending and RESPA (Real Estate Settlement Procedures Act) statutes, according to Promontory Financial Group director Matthew Ondus, a former CFPB field manager and federal bank examiner.

Ondus said servicers will have to show the CFPB that they have constructed reliable systems to bring the bureau the data it’s looking for.

“There is nothing more, in my experience, that will frustrate a regulator than an inability for an organization to produce data,” he said. “It essentially gets you off on a terrible foot.”

And it’s “not only about the access, it’s about the integrity” and quality of the data, he added.

Giving servicers an idea of what an operational makeover for CFPB compliance could entail, keynote speaker Paul Wible, a senior executive vice president with Bank of the West, talked about his institution’s early efforts to decipher potential CFPB rules. Using the 2012 foreclosure settlements as a model for the rules to come, San Francisco-based Bank of the West began a regression analysis to gauge the community impact its lending was having within its markets. The \$63.3 billion-asset bank also spent over 900 hours poring over 2,800 loans to analyze how mortgage operations, servicing, collections and legal compliance measured against the settlement procedures.

By the time the CFPB rules were proposed in August, Bank of the West already had created a single-point-of-contact

system, as well as a clear-cut, detailed appeals process for troubled borrowers. The bank also built a formal risk-based training program for employees. Wible said what began as a four-person compliance team in his finance group has today grown to 17 people.

The bank did have to invest in new technology and people, he said, but that was better than waiting around until last fall.

“We had a significant head start,” Wible said. “It’s a lot more expensive to get into compliance later on.”

Wible’s discussion neatly bridged to two other panels in which bankers and regulators expounded on how the new rules will change operations, such as the methods for logging and addressing customer complaints.

“It’s not enough to just respond to a complaint” now, said Michelle Leigh, a group vice president at SunTrust Banks. “Make sure the response is absolutely pertinent to what the complaint was,” especially now that complaint logs are being formally captured by the CFPB, she advised.

When the CFPB’s Thompson took the podium midway through the conference, she addressed the big question on the minds of many in the audience: Just how workable will the CFPB’s exam practices be? Thompson offered reassurances that the bureau’s 300 field examiners will look to be cooperative with servicers in helping them to navigate the new rules, rather than looking to trap them. Examiners, she said, are “interested in being transparent and discussing the sorts of things they are finding, because ultimately our goal is to minimize the risk to the consumer.” ■