CHAPMAN AND CUTLER LLP

To the Point!

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FRB Guidance on Communication of Supervisory Findings

The Board of Governors recently issued updated guidance on the communication of supervisory findings to institutions supervised by the Federal Reserve. The guidance clarified the requirements for addressing *Matters Requiring Immediate Attention* (MRIAs) and *Matters Requiring Attention* (MRAs), and instructed examiners to stop using Observations as a separate category for supervisory findings to ensure that an institution's board of directors focuses its attention on those deficiencies requiring corrective action. The Board of Governors advises that to be effective, supervisory findings must be prioritized based on severity and communicated clearly and concisely. To further this objective, examiners are required to include the definitions of MRIA and MRA in all examination reports and must specify a timeframe within which corrective action must be taken by the institution.

Any institution supervised by the Federal Reserve should ensure that its board of directors is familiar with the guidance and is aware of its responsibility to provide oversight of any required corrective action.

Mortgage Rules Update

CFPB Readiness Guide

The CFPB has issued its 2013 CFPB Dodd-Frank Mortgage Rules Readiness Guide to assist banks in their efforts to comply with the new mortgage rules. The Guide includes summaries of each of the eight mortgage rules and their implementation dates, a questionnaire and frequently asked questions. The questionnaire identifies topics banks should consider as they evaluate their readiness to comply with the new rules, including implementation plan, policies and procedures, training, audit, compliance review and internal controls, complaint resolution and analysis, and vendor management. The CFPB cautions that the Guide is not a substitute for the rules and official interpretations. The Guide is available online on the CFPB's mortgage rule implementation page and includes links to those rules and other CFPB implementation aides.

Banks should become familiar with the Guide and use it as a tool to evaluate the progress of their implementation plans.

Fannie Mae and Freddie Mac Update on Mortgage Loans Eligible for Purchase

The Ability to Repay rule ("*ATR rule*") contains a GSE exemption that presumes that loans eligible for purchase by Fannie Mae and Freddie Mac are qualified mortgages. On May 6, 2013, Fannie Mae and Freddie Mac issued bulletins announcing changes to product eligibility guidelines for applications taken on and after the January 10, 2014 effective date of the ATR rule. Beginning on the effective date, interest-only mortgages, loans with terms greater than 30 years and loans with points and fees exceeding 3% of the total loan amount (or other applicable limit for smaller loans) will not be eligible for purchase by Fannie Mae or Freddie Mac.

Fannie Mae and Freddie Mac have recently issued bulletins providing additional guidance on these changes and alerting lenders to anticipate more updates on the eligibility requirements in August and September. They noted that in the short term they would rely on representations and warranties that loans subject to the ATR rule meet the new eligibility requirements, but stated that they will issue new procedures for testing lender compliance, including control testing, as part of the post-purchase file review process. In order to facilitate testing of compliance with the points and fees limitations, enhancements to data delivery requirements are under review. The bulletins also clarified that neither entity planned to specify an end date by which mortgages with application dates prior to the effective date must be delivered.

Banks should monitor Fannie Mae and Freddie Mac announcements for additional guidance on these issues and ensure that the new eligibility requirements are incorporated in their implementation plans.

Additional Exemptions from the Appraisal Requirements for Certain Higher-Priced Mortgage Loans

The federal financial institution regulatory agencies have issued a proposal to exempt three additional categories of higher-priced mortgage loans from the notice and appraisal requirements imposed by the Dodd-Frank Act. The proposal will exempt loans of $25,000 or less, "streamlined" refinancings, and loans secured by existing manufactured housing and not land. The agencies propose that these additional exemptions will be effective on January 18, 2014.

A streamlined refinancing program is one that permits consumers to refinance the balance of their mortgages through an abbreviated application and underwriting process, often at lower interest rates or payment amounts than their existing loans. Such programs include the Home Affordable Refinance Program, certain private refinance programs and certain GSE programs and agency programs (HUD, VA and USDA programs) that meet required criteria.

Under the proposal, a streamlined refinancing is an extension of credit that is a refinancing with the following characteristics: (i) the owner or guarantor of the refinance loan is the current owner or guarantor of the existing loan; (ii) the periodic payments under the refinance loan are not interest-only payments and do not result in negative amortization or a balloon payment; and (iii) the proceeds from the refinance loan may only be used to pay off the outstanding principal balance on the existing loan and to pay closing or settlement charges.

Comments on the proposal must be submitted before September 9, 2013.

Chapman and Cutler LLP

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To the Point! is a summary of items of interest and current issues for financial institutions with primary focus on regulatory, consumer, and corporate issues. Chapman and Cutler LLP maintains a dedicated practice group with expertise to counsel on these issues and other enterprise risk management matters facing financial institutions. If you would like to discuss any of the items contained in these briefings or other legal, regulatory, or compliance issues facing your institution, please contact one of the partners in our Bank Regulatory Group:

Marc Franson • 312.845.2988
Scott Fryzel • 312.845.3784
Heather Hansche • 312.845.3714
Doug Hoffman • 312.845.3794
John Martin • 312.845.3474
David Worsley • 312.845.3896
Dianne Rist • 312.845.3404