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Financial Institution Compliance Update

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This communication is designed to provide you with quick snapshots and timely perspective on recent regulatory developments.

Fannie Mae Updates

Fannie Mae is a critical component in the mortgage ecosystem. As a secondary market participant, they do not lend directly to consumers but rather keep liquidity flowing to mortgage lenders through the purchases and guarantees of loans. While Fannie Mae was not established to make mortgage loans, they do have a big impact on the decisions made by lenders.

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Fannie Mae does establish criteria for the loans they will purchase including credit score and down payment requirements. Lenders often use these same requirements so that their loans can be easily sold to Fannie Mae. As a result, mortgage originators and servicers need to maintain a close eye to the changes Fannie Mae makes to their requirements.

Within 2012, servicing announcements were made to indicate new policies, changes in policies or additional requirements. Out of approximately 27 announcements most are either updates to previous servicing requirements or changes in an existing rule; however, there are several that require some scrutiny.

Regulatory Developments 2012-13

The New Document Custodian Requirement

On May 9, 2012, Fannie Mae announced new requirements for document custodians with respect to compliance audits and certification practices. In Servicing Guide Announcement SVC-2012-08, Fannie Mae states that document custodians must engage third-party auditors to conduct an annual assessment of eligibility and operational compliance. All custodians must also develop and implement a monthly quality control review by September 30, 2012.

This report provides banks and other regulated institutions with changes to the responsibilities of

document custodians with respect to compliance audit and certification practices. Organizations will have to now include this in their annual compliance efforts and budget accordingly.

Key Findings

The report identified three key areas:

- This is an annual review that must be performed by a third party
- Must be filed by March 31 of each year starting 2014. For the first filing of this new requirement all eligible institutions must have it completed by December 31, 2013.
- All document custodians will be required to develop and implement a monthly QC review process to examine the quality of document and data certifications for the prior month.

Allowable Attorney/Trustee Fees Update

Fannie Mae is updating the allowable foreclosure attorney/trustee fees for mortgage loans, participation pool mortgage loans and MBS mortgage loans serviced under the special servicing option secured by properties located in various states.

Key Findings

The report identified the following two key areas:

- Fannie Mae's Regional Counsel must review and approve proceeding judicially in states identified as "On Approval" states. Servicers must request such approval by sending an email to nonroutine_litigation@fanniemae.com. Fannie Mae will provide procedural instructions and approve applicable fees at the time it grants approval.
- Particular state fee requirements have changed. As a result, additional research will be needed to insure proper rates for individual states.

The full report can be found here: Announcement SVC-2012-26

Default-Related Legal Services

Fannie Mae announced new requirements with respect to default-related legal services pursuant to an FHFA directive to Fannie Mae and Freddie Mac to phase out their existing attorney networks and to adopt consistent requirements, policies and processes for managing default-related legal services.

Key Findings

The report identified the following key areas:

- By June 1, 2013 (the Effective Date), all servicers must have selected and retained law firms to handle Fannie Mae matters in all jurisdictions in which the servicer has, or anticipates having, delinquent Fannie Mae mortgage loans.
- Fannie Mae may deny reimbursement of fees and out-of-pocket expenses for any referrals after the Effective Date to law firms that have not been selected and retained under the requirements set forth in this Announcement.
- Law firms that are currently in the retained attorney network are not exempt from the new selection and retention processes set forth in this Announcement.
- Matters referred to firms in the retained attorney network under the existing structure (Legacy Matters) may remain with those firms. At their own expense, servicers may transfer Legacy Matters to firms retained pursuant to this Announcement, but must provide Fannie Mae with five business days' prior written notice via email to default_attorney@fanniemae.com. Following any transfer of Legacy Matters, the servicer will be responsible for any errors, omissions, or delays by the transferee firm.

The full report can be found here: Announcement SVC-2012-22

Mortgage Compliance in 2013

Significant changes are occurring within the mortgage industry. Increasing scrutiny on financial institutions by the CFPB (Consumer Financial Protection Bureau) and pressure from private agencies like MERS and Fannie Mae to take additional steps to monitor and hold their clients accountable for the accuracy of their loan information are forcing originators and servicers to validate key policies, processes and procedures. In addition, these organizations have adopted new requirements to involve third-party auditing as an outside "check" on these requirements.

With the increasing costs associated with compliance functions and related failures, now is the time for organizations to take a more holistic view of their compliance efforts to ensure an appropriate degree of effectiveness, efficiency and flexibility. The mortgage industry has made mistakes and gotten a bad reputation over the past several years. Instead of looking in the rearview mirror, many teams are quickly embracing these new rules and upgrading their compliance programs. More effective controls and efficient compliance programs have become long-term competitive advantages that drive increased profitability for institutions of all sizes.

This demands a cultural shift led from the top down toward higher accountability and stronger governance. By instituting minor adjustments, policies and governance along the way you can avoid the huge sticker shock of costly last-minute implementations and unnecessary scrutiny by federal agencies - consuming significantly more of your resources and expenses.

Forward-looking organizations see this as an opportunity to better manage reputational risks and differentiate them in the market. Instead of waiting to address new requirements, they are creating good process, documentation, accountability, and traceability to reduce their risk and improve their customers' experience. For leading organizations, this goes beyond compliance and operational efficiency. These changes represent an opportunity to distinguish their brands in the market.

If you have specific questions regarding the regulatory content and commentary of this message, please contact knowledge@experis.com.

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