Foreclosure processing regulations: Tips for community banks

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Federal regulators took enforcement action in April 2011 against the 14 largest residential mortgage servicers for unsafe and unsound practices related to foreclosure processing and management. These large servicers accounted for 68 percent of the U.S. market and most of the attention has been on them. However, what do these consent orders mean for community banks and other institutions?

Jim Shankle, director, and Jon Bayers, consultant, of professional services firm CrossCheck Compliance spoke with Sageworks' Billy Burnet to provide insight as to what happened and how community banks should proceed.

What happened – how did we get into this mess?

Jim: The mortgage meltdown increased the volume of foreclosures which led to the quick, inefficient, and improper processing of foreclosures. Consumer complaints and increased regulatory scrutiny, especially around robo-signing and dual-tracking (loan-modification and foreclosure proceedings occurring simultaneously), created the increased focus on the need to assess current procedures and enhance the controls over foreclosure processing.

Jon: Prior to the loan crisis, many community banks were used to seeing only a handful of foreclosures each year. Then all of a sudden, the bottom drops out of the real estate market and the economy, resulting in an increased portfolio of foreclosures.

How are community banks being affected by the volume of foreclosures?

Jim: Community banks are taking a substantial hit and many of the losses are devastating. Many banks are holding on to foreclosed properties and waiting for the market to improve before selling. They are renting the properties in the interim in order to minimize current losses.

Jon: Unfortunately, the myth is that banks want to foreclose because they're greedy. The reality is that nobody wins in a foreclosure, so banks are looking for as many loss-mitigation options as they can and improving their loan-modification programs for consumers.

What does the increased attention and regulation mean for community banks?

Jim: The Office of the Comptroller of the Currency (OCC) is the first agency to issue additional guidance around foreclosures for the financial institutions they regulate. But, other federal and state agencies are in the process of enacting additional oversight. The OCC requires a self assessment as a status check so that banks can see where they stand as a result of increases in foreclosure portfolios.

Jon: The self assessment helps address several concerns related to foreclosure management. Have institutions revised their policies and procedures? Are the proper numbers of staff in the right positions? What is the status of third-party relationships with law firms and/or servicers? Answers to these questions help bankers determine where they are.

What should community banks do right now?

Jim: I would recommend that all banks, regardless of their regulatory agency, stay ahead of the curve. Be proactive because more regulation and guidance is likely coming down the pipe. You can start by taking the corporate governance perspective. Do you have the right policies and procedures, the right people, the right number of people, and are your vendor and third party relationships tied down pretty tightly? Global corporate governance is really critical, regardless of regulatory pressures.

Jon: Performing a critical self assessment of your policies, procedures and documentation, whether it be done internally or by a third party, is key so that you're ready for increased attention and regulation. An example of this is around third-party management. Many banks may use a third-party law firm but don't have the expertise to know if their attorney is doing things the right way. Having a critical self assessment, along with regular reviews of foreclosure files should help ensure that the proper oversight is in place.

For more information on foreclosure processing guidelines, visit CrossCheckCompliance.com or call CrossCheck Compliance at 312-346-4600.

To learn more about staying ahead of the curve and streamlining data management to avoid potential dangers, check out this free whitepaper: Inefficient Data Management

Jim Shankle has more than 30 years of experience in regulatory compliance and internal controls within major financial institutions in both domestic and international markets. He provides thought leadership and advisory support in matters pertaining to consumer compliance, enterprise compliance management, and ERM. Jim is a frequent speaker at various banking and industry events.

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quality control, compliance, and foreclosure management. He has managed multiple foreclosure management reviews to ensure banking clients were adhering to federal and state regulatory requirements related to the processing of foreclosures.