Process Improvement

The CFPB Just Doesn't Stop

With the QM rule behind us, the CFPB is now going after servicers as well. Is technology enough to keep servicers compliant?

By Tony Garritano

In my last column I talked about the Consumer Finance Protection Bureau's (CFPB) qualified mortgage (QM) ruling. My thought on that was that the QM rule can open the door to future innovation and a more automated mortgage process if lenders open their minds a bit. Now the CFPB is at it again, only this time they are taking on servicing. While all mortgage servicers are facing challenges in staying compliant with the industry's many changing regulations, the nature of those challenges vary by the organization's size and require varying solutions.

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The difficulties that larger servicers tend to face are in the area of capacity, while small to midsize servicers are more likely to be challenged by their compliance processes. These challenges have become very apparent with the growing focus regulators have been placing on servicers' operations. The most recent change results from the final announcement of CFPB servicing standards made on January 16, 2013 that will go into effect on January 10, 2014.

Servicers have been watching regulators intently, trying to predict changes and adapt accordingly. The larger servicers have greater resources for implementing compliant processes, but from all indications, will need help in managing capacity issues. The rest, however, will likely encounter challenges in implementing compliant processes and are expected to need help from consultants and outsource providers if they hope to minimize difficulties.

Certainly, recent directives from the CFPB regarding mortgage servicing standards require significant changes in procedures, and servicers will need to take measures to make sure their technology is managing those changes efficiently, according to Bill Garland, Executive Vice President with Decision Ready Solutions, Inc. "To ensure compliance, servicers will need to monitor and measure many new process points. The current technology doesn't have that functionality," Garland says.

Servicers typically have different systems for groups internally, and they're not connected. That makes for a very inefficient review process where the reviewer is required to go back and forth between different management systems, he explains. Decision Ready's cloud computing platform gives servicers the ability to consolidate all the data from their current systems in order to provide the transparency, reporting and scorecarding the regulations require, Garland says. "It can be viewed as a layer of technology overlaying current servicing applications that gives servicers the ability to measure compliance and monitor performance," he notes.

The new servicing rules place increased scrutiny and requirements on things like monitoring and reporting escrow analysis, ARM processing and forced placed insurance, Garland says. "Effectively managing single point of contact and single path processing through loss mitigation and foreclosure processing isn't accommodated by current technology," he adds. Vendor management is another challenge as regulators require servicers to prove they are managing their vendors properly. For example, last year the FHFA issued a directive requiring increased involvement of the servicer in managing designated counsel, Garland says.

Loren Morris, Senior Vice President, General Counsel & Chief Compliance Officer for Retreat Capital Management, added, "Providing a consistent set of servicing rules is the best way to set borrower expectations and provide for servicer consistency. However, there can be execution challenges and unintended consequences, especially for smaller servicers. For example, the requirement to consider the borrower for all loss mitigation options—even those not requested or qualified for—and not being able to file the first foreclosure notice or action until a borrower is 120 days delinquent could push already lengthy foreclosure processes out further in states trying to trim foreclosure timelines.

“While the exemption threshold for small servicers of 5,000 loans or fewer will assist some, it still does not exempt all institutions that will be challenged by the processes and technology change required,” continued Morris. “Those institutions with 6,000 or 7,000 loans are still relatively small by comparison to the largest servicers that have had the benefit of executing against the national mortgage servicing settlement, which incorporated many similar requirements.”

What do the new rules really mean? First, The “Regulation X” final rule implements parts of the Dodd-Frank Act that cover servicers’ obligations to:
>> correct errors asserted by borrowers;
>> provide certain information requested by borrowers; and
>> provide protections to borrowers in connection with force-placed insurance.
This final rule also addresses servicers’ obligations to:
>> establish reasonable policies and procedures that increase servicer responsiveness and accuracy;
>> provide information about loss mitigation options; and
>> establish policies and procedures for providing borrowers in trouble with continuity of contact with servicer staff; and
>> evaluate borrowers’ applications for available loss mitigation options.

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Second, the “Regulation Z” final rule implements parts of the Truth in Lending Act that cover:
>> initial rate adjustment notices for adjustable-rate mortgages,
>> periodic statements for residential mortgage loans,
>> prompt crediting of mortgage payments, and
>> responses to requests for payoff amounts.

It also amends current rules about the scope, timing, content, and form of disclosures to consumers about interest rate adjustments of variable-rate mortgages.

So, can technology truly help servicers comply with these new standards? “The Industry has been preparing for the new rules for some time now and the initial rules that were sent out in preparation have not really deviated from the final rules,” answered John Vella, COO of Equator. “Even though these rules won’t come as a surprise, servicers will still need to make some significant changes to the way they conduct business. The good news is that with the timing of enforcement in January 2014, servicers have adequate time to properly implement any changes that will enable them to meet the new requirements, whether that involves changes to technology, policies or reporting.

“The dual tracking requirements will be a big issue for servicers as they could elongate foreclosure timelines and increase servicers’ expenses to conform to the requirements. The notification to borrowers on rate adjustments and loss mitigation activity is fairly common practice and a good one that benefits all parties,” Vella noted.

However, several of the best practices that have been required by the new rules have already been implemented by several servicers over the past few years, based on previous findings in the industry. “The servicers that have set up their technologies, policies and processes to follow these types of best practices will not have as big an adjustment as those who have been waiting for a mandate to update their practices,” pointed out Vella.

“Technology has made a huge difference when it comes to implementing changes, and while several servicers are ready, others have a lot of catching up to do. Servicers using … technology will find it simpler to stay compliant with the timelines and the various new CFPB rules.”

Here’s hoping that servicers lean on the technology out there to help them navigate these new standards. It can and should be done. ❖

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