
CFPB Issues 8th Edition of Its Supervisory Highlights...Problems Still Persist in Many Markets

By Joann Needleman / Jun 24, 2015

Despite three years of intensive supervision over numerous financial services markets, the [Consumer Financial Protection Bureau's latest Supervisory Highlights](#) (the Report) shows that non-bank entities are still struggling to understand their compliance requirements. The recent report issued yesterday, June 23, 2015, highlights supervisory work completed for the first four (4) months of 2015 and focuses on the following six areas:

Consumer Reporting: Ensuring accurate credit information from both credit reporting agencies (CRAs) and the data furnishers supplying information still seems to plague the industry. One credit reporting agency lacked any quality controls in place to test existing consumer reports for accuracy. Further, one or more CRAs failed to regularly monitor its data furnishers to ensure they were complying with CRA procedures or had any formal programs in place to oversee the information being supplied to those same data furnishers.

Debt Collection: The industry still struggles with the consumer dispute process. Examiners found instances where the debt collector did not record, categorize, or process complaints and inquires, while others were found not to respond at all. Effective Compliance Management Systems (CMS), which the CFPB considers to be the cornerstone of any entity's compliance program, is still lacking. Top management was not informed as to inadequate compliance practices, and training lacked for third-party collection personnel. One examination found no written policies or procedures in place whatsoever. Finally, there was significant criticism of debt collectors for failing to reasonably investigate dispute notices from CRAs and, in several instances, those same debt collectors were deleting trade lines instead of undertaking an investigations.

Student Loan Servicing: Much attention was devoted to student loan servicing in the 2015 Winter Supervisory Highlights and many of the same issues have surfaced in this report. There is still a great deal of mis-information being communicated to borrowers especially in the area of accruing interest and in some cases whether interest was tax deductible. In keeping with the credit reporting theme effecting all markets, several servicers failed to provide all required information in Adverse Actions Notices under the Fair Credit Reporting Act (FCRA) when denying a cosigner's release requests.

Mortgage Origination: The current report reflected the first round of targeted examinations for mortgage originations under Title XIV rules related to ability-to-repay, loan originator compensation, high cost mortgages, homeownership, counsel and escrow. Examiners found instances of non-compliance both in the rules and in the disclosure requirement in Good Faith Estimates (GFE) and with the HUD-1. One or more supervised entities violated Reg Z by failing to establish any written policies or procedures for loan origination. Some institutions violated Reg X by failing to provide a list of housing counseling agencies to consumers within three (3) business days of receiving a mortgage application as well as failing to provide GFE within that same time period. The Report also highlights instances where the HUD-1 did not accurately reflect the actual settlement charges paid by the borrower. Finally, examiners found instances where "general waiver provisions", prohibiting a consumer from bringing claims against the originator, still existed in mortgage documentation in violation of Reg Z.

Mortgage Servicing: This is a top priority for the Bureau in light of the new servicing rules which took effect in January of 2014. The Report highlights problems in the areas of loss mitigation, foreclosure, periodic statement disclosures and the Homeowners Protection Act. CFPB examiners found at least one servicer that sent notices of intent to foreclose to borrowers already approved for trial modifications, while in another instance examiners found notices were sent to borrowers who were current on their loans saying that foreclosure would be imminent. There were problems found in loss mitigation applications where servicers were requesting additional documents from consumers that were inapplicable to their circumstances or documents that had already been submitted. Other servicers simply failed to send the required notices five (5) days after receiving the applications. These breakdowns caused delays in converting trial modifications to permanent modifications, resulting in harm to borrowers. Periodic statements in many instances were found to be inaccurate or not sent at all and several servicers were still collecting unearned premiums for PMI.

Fair Lending: Bureau examiners found that one or more institutions denied or discouraged mortgage applications because the borrower would have relied on public assistance income in order to repay the loan, in violation of the Equal Credit Opportunity Act (ECOA).

The examination results in this current Report suggest that all too often supervised entities are not seeing the forest through the trees. The violations here are the result of a failure to comply with federal consumer financial protection laws and recently established rules as promulgated by the CFPB and nothing more. Unfair, deceptive acts and practices (UDAAPs) are notably absent from this report. A core understanding of the rules of the road is what counts in developing a robust and sustainable compliance program. After three (3) years of supervision, many are still not getting it right.

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