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Exclusive

By Dan Sogorka

Meeting the Challenge

The CFPB integrated mortgage disclosure rule looms large

The CFPB Integrated Mortgage Disclosure Rule (IMD Rule), which was issued November 20, 2013, and takes effect August 1, 2015, is a sweeping reform intended to benefit consumers and that will have broad industry impacts on how mortgages are manufactured within loan production environments.

Under the Truth-in-Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA) as mandated by the Dodd-Frank Act, the CFPB was to establish new requirements for consumer disclosures that were "consistent in language, easy to understand and visually appealing" for the homebuyer.

The CFPB reform process resulted in the creation of two new forms – the Loan Estimate form and the Closing Disclosure Form. Elements from the original early Truth in Lending form and the Good Faith Estimate (GFE) have been combined to ensure that the Loan Estimate form, which is provided to homebuyers within three days of receipt of their application, is well understood and easy to compare to the Closing Disclosure form. This form must be provided to homebuyers a minimum of three days before their loan is scheduled to close and replaces the final Truth in Lending statement and the HUD-1 settlement statement.

In addition to the new forms, the IMD Rule also includes new acceptable tolerances for fee changes, new penalties for changes that exceed stated tolerances, new time lines for delivering information to homebuyers, revised re-disclosure rules, updates to APR calculations, and new data validation, retention and audit trail requirements.

As originators prepare to comply with the IMD Rule, they face dramatic challenges that will impact their entire company and will affect a multitude of things including business processes, workflow, data mapping, technology infrastructure and integrations with thousands of settlement service providers.

In fact, the new IMD Rule will impact the mortgage originator's entire universe. As a result, implementing these changes can be a daunting challenge even for those originators with a solid implementation roadmap and a 2014 budget already in place to tackle the necessary changes.

THE LANDSCAPE

Since early 2010 when the RESPA Reform Act was enacted, lenders have been required to ensure that certain fees disclosed in the GFE — like transfer taxes — were not changed once reported to the homebuyer. They have also been required to ensure that allowable fee adjustments prior to closing were within specific tolerances, such as the 10% variance established for appraisal services. Any fees that might exceed the allowed tolerances were no longer passed along to homebuyers, and were required to be paid by the lender.

This set into motion a significant overhaul in the way mortgage loan originators and settlement service providers worked together to ensure that GFEs were on target.

Since Ernst Publishing Co., a leading authority on land recording requirements, reported that an average of over 10 million documents are rejected annually by country recorders due to errors, it was suggested that the aver-

Dan Sogorka is president of the RealEC Technologies, a division under Black Knight Financial Services. Prior to his role as president, Dan served as as co-chief operating officer at RealEC Technologies.

age closing cost loss associated with GFE errors might average as much as $100 per loan under the new requirements.

The potential financial risk for the industry was clearly significant.

As a result, GFE accuracy and risk containment has remained an area of intense focus for mortgage loan originators, and in many ways, it has changed the way business is done.

For example, the opportunity to leverage third-party providers to deliver the required GFE fee estimates with guaranteed accuracy has become a valuable business proposition for lenders.

This service has helped lenders meet RESPA requirements more predictably and minimized the risk of financial penalties. However, this is just the tip of the iceberg.

With the announcement of the final IMD Rule, mortgage loan originators must evolve and embrace new operating requirements in time to meet the new standards.

Not only does the rule include major changes for disclosures to homebuyers, but it will also require significant changes for lenders including modifications to loan calculations; new or modified document mappings; early and final disclosure tracking; updates to third-part integrations; fee change monitoring; and new processes to obtain final fees earlier in the loan lifecycle to meet the delivery requirements of the rule.

But the modifications don't stop with the lender.

Service providers will also experience the need for significant changes. One provider has identified 2,700 document changes and 700 new fields that must be accommodated before August 2015.

All fees disclosed on the final Closing Disclosure will need to be provided to the lender and/or settlement agent earlier in the process in order to allow for the compliant reconciliation needed to generate and distribute the document within the guidelines.

The new rule covers a lot of territory, and the potential impact must be effectively managed. The question is — what's the best way forward?

THE INDUSTRY UTILITY CONCEPT

In many cases, lenders today still collaborate with settlement agents on fee changes using manually intensive processes — email, voice, fax, scan, etc.

But given the sensitivities associated with the fee changes and disclosure timelines stated in the final IMD Rule, this approach is risky because it is difficult to ensure consistent outcomes.

The use of email is neither optimal nor sufficient since it is difficult to record receipt dates, track various versions of emailed documents, and ensure a truly auditable record and proof of these time-sensitive proceedings.

Certainly technology remains a big part of the solution in the effort to comply with the IMD Rule. It can also help make the closing process more "user-friendly" for borrowers by allowing lenders to incorporate convenient options like e-disclosures and e-delivery of documents, and even the ability to accept e-signatures as a standard way of doing business.

But beyond the benefits to consumers, there is a vital need to leverage advanced technology — as well as business relationship assets — to establish an industry utility that can allow both lenders and settlement agents to efficiently collaborate on documents and fees to meet the new timeline requirements that go into effect on August 1, 2015.

Such an industry utility — or collaborative service — would need to be service provider and origination system agnostic in order to deliver the necessary benefits to the lending community.

It would enable an automated collaborative disclosure creation workflow between lenders and providers, deliver an enhanced bi-directional exchange service between lenders and settlement services agents so they could aggregate and validate fee quotes from multiple sources, and include a data-centric rules engine focused on regulatory compliance validation that is integrated with the disclosure creation and delivery activities.

The industry utility should provide integration to widely used title production platforms (e.g. FAST, Softpro, RAMQuest, etc) as well as a Web portal to provide collaborative workflow to any size settlement agent.

This industry utility should also deliver the option of a consumer facing delivery application to support collaborative disclosure creation and delivery to the homebuyer, and track receipt of consent and acknowledgement of events by multiple parties.

It should enable data to be converted, captured and retained in standard MISMO format to enable efficient system integration and provide machine readable loan archive and payload delivery to address evidence of compliance needs.

Finally, a collaborative industry utility should interface with trade organizations like ALTA to establish and validate industry-wide closing agent credentials.

To be effective, this capability must provide lenders and homebuyers with the assurance that only properly qualified agents are at the table on closing day.

THE ROADMAP

To be successful — and available by August 2015 — an industry utility like the one discussed here would require the expertise and commitment of originators, vendors and a technology partner that can deliver on a collaborative closing capability.

And while much of the technology and vendor network framework already exists in the industry, developing and piloting specific features to align with the projected timeline for the new IMD Rule implementation is needed, and in fact, already underway in some quarters.

Ensuring that the origination industry can adjust to the new tolerances, meet the new timing requirements, deliver the new disclosure forms and avoid the new penalties associated with IMD Rule by August 2015 is a non-negotiable requirement.

However, with a collaborative service that brings together the origination industry to not only create a workable, lender-driven approach but provide the data tracking and auditability that is needed to demonstrate compliance, the industry will be ready to meet the IMD Rule implementation challenges.

It won't be the first time the industry has risen to new levels of performance to achieve compliance with expanded rules, and it won't be the last. But with a smart, cooperative approach, all impacted participants can harness the power of a strong, proven model that would be very difficult to achieve alone. ■