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FOCUS ON FINANCIAL SERVICES INDUSTRY

'Dramatic Reconfiguring' Of Mortgage Lending Rules Impact Consumers, Lenders

By **TIFFANY L. RIDER**
Editor

Mortgage lending got a tight squeeze from the Consumer Financial Protection Bureau in the form of seven new industry regulations that took effect January 10. The core rules, which have the most impact on lenders and consumers and are intended to prevent another housing market crisis, may keep potential buyers out of the market.

"I've been in the mortgage space for most of my adult life," Pete Mills, senior vice president for residential policy with the Mortgage Bankers Association, told the Business Journal. "I haven't seen such a dramatic reconfiguring of the mortgage space in my 30 years [in the business]."

Of the seven regulations required as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of

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Lee Vieira, branch manager at Cherry Creek Mortgage Company in Long Beach, reviews the requirements for a qualified mortgage loan with a potential borrower. Vieira referred to the new rules as "closing the door after the horses are gone." (Photograph by the Business Journal's Thomas McConville)

Mortgage Lending Rules

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2010, three are having the most impact, according to Mills: the qualified mortgage rule, the loan originator compensation rule and the mortgage servicing standards rule.

Under the qualified mortgage rule, lenders are required to make "a reasonable, good-faith determination" that borrowers have the ability to repay. Though the rule does not ban any mortgage products, Mills said it has increased risk exposure for lenders who do not offer qualified mortgages.

For example, if a borrower is able to take out a mortgage loan that is considered a qualified mortgage, and he or she has problems repaying the loan, that individual may seek litigation against the lender for not making the "reasonable, good-faith determination" of the borrower's ability to repay.

Some aspects of the qualified mortgage rule are product specific in that adjusted rate loans must be underwritten to avoid payment shock to the borrowers and that negative amortization loans do not qualify. Others are price specific, such as the 3 percent cap on points and fees charged by the lender.

Others still are borrower specific, including the debt-to-income ratio. "If your housing payment and other debt exceed 43 percent of your income, then you are outside of a qualified mortgage," Mills said. While lenders are still able to offer home loans outside of the qualified mortgage space, those products will have significantly higher interest rates and higher risk premiums.

The loan originator compensation rule is tied to the 3 percent cap rule for qualified mortgages. Anyone who negotiates, assists or modifies a loan can only make a 3 percent profit off a loan of $100,000 or more. That amount includes origination costs, administrative charges, processing and underwriting fees – all finance charges except real estate or third-party fees. Mortgage loans for between $60,000 and $100,000 have a cap of $3,000. Those between $20,000 and $60,000 have a 5 percent cap.

Under the new mortgage servicing rule, regulations set standards for how lenders interact with borrowers in terms of delinquencies and how they work with borrowers on loan modifications. The rule also discusses how soon a lender can move forward with foreclosure.

Ben Alvarado, senior vice president and regional president for Wells Fargo Orange County, told the Business Journal in an e-mail that these new regulations impact the way all mortgage lenders do business in the future. "We believe that overall the new regulations strike an appropriate balance between providing consumer protection and ensuring continued access to credit," he said.

California Bank & Trust had to revise its lending guidelines to meet the qualified mortgage standards, according to Private Mortgage Banking Business Development Manager and First Vice President Michael Smith. "At California Bank & Trust we have always upheld the highest quality lending standards so we have had to make some adjustments but no radical changes in our underwriting philosophy," he said in an e-mail.

Potential borrowers may find fewer mortgage products to choose from as a result of the rules, Smith said. At the same time, he said, those customers should expect to provide more documentation supporting their ability to repay than they may have in the past.

Robert Renteria, vice president and area manager for First Banks' branch in Bixby Knolls, told the Business Journal that these rules should have very little impact on the company's mortgage customer base. "Borrowers who qualify to buy a home will still be able to make that purchase," he said. "Banks are making loans outside of the qualified mortgage rules for those exceptional clients that do not meet the more stringent criteria."

"We are continuing to work on skillfully building our mortgage business," Robert Renteria, vice president and area manager for First Bank, told the Business Journal. Under the new mortgage lending rules, Renteria said, "borrowers who qualify will still be able to obtain financing." (Photograph by the Business Journal's Thomas McConville)

"These rules are supposed to make us cognizant of making loans to people who could qualify," Lee Vieira, branch manager at Cherry Creek Mortgage Company in Long Beach, told the Business Journal. "It's kind of silly. In my opinion, if we can't convince our underwriters that a mortgage can't be sold in the secondary market, we're not going to make the loan anyway."

According to Vieira, these rules are "closing the door after the horses are gone," meaning that they take effect after the poor products and lack of responsibility in lending that caused the most recent housing bubble have been mostly eradicated. "The rules have had probably more of a fear factor because, in the past, only 10 to 20 percent of loans were audited," Vieira said. "This offers the ability to drill down on loans. There will probably be a lot less fraud."

Even so, lenders must weigh staying in the business under these rules against the heightened litigation risk, Mills said. "There are costs that are going to be greater for a small lender," he said. "And there is a smaller base to spread those costs." ■

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