

Ask Tommy: Your QC Expert



By Tommy A. Duncan

Tommy ... what will the Consumer Financial Protection Agency (CFPA) do to the mortgage professional?

The Obama Administration recently released its 88-page summary of the Financial Regulatory Reform proposal, and it appears brokers or mortgagees will be required to up their professionalism in the mortgage industry as a mortgage banker. Some of the key points that affect brokers are:

- CFPA require originators or securitizers to retain an interest in the credit risk of loans transferred in securities to private investors.
- Authorizes new requirements for originator compensation that would disburse commissions over time based on loan performance.
- The establishment of appropriate duties of care applying to financial intermediaries serving consumers, including a new "duty of best execution" for mortgage brokers.

This means that the broker/mortgagee may be required to have five percent interest in the performance of a loan after funding. If the loan goes into default, regardless of the cause, the broker may have fiduciary responsibility as a result. The broker/mortgagee is now in the mortgage insurance business and now held accountable.

Your yield spread premium will no longer be paid with other commissions. You will receive residual income over the life of the loan. And, this new agency will enforce accountability by ensuring banks, non-banks and independent mortgage brokers play by the same rules. It will be interesting to see who establishes the rules and which rules will be selected. Which rules will no longer apply?

Regardless, what the outcome of CFPA will have on the mortgage professional, one thing is clear. There will be more changes to compliance. Quality Mortgage Services (QMS) can provide full-service mortgage compliance. If the mortgage professionals are required to start performing in the mortgage banking world by securitizing or insuring loans, the mortgage professional will need to have risk analysis compliance performed on the loans.

Now, the minimum is 10 percent. However, if the mortgage professional is required to securitize or insure a loan, a larger sampling will be required. I often see where QMS performs 10 percent sampling of post-closing quality control (QC) and the mortgagee gets hit by the U.S. Department of Housing and Urban Development (HUD) on defaulted loans. In most cases, the loans that were hit by HUD were not quality controlled. The mortgagee, as a result, is forced to perform more than 10 percent QC because of the defaults. If the mortgagee had performed a larger selection for QC, the probability is the loans could have been assessed for risk and addressed properly.

When HUD challenges the loans of a mortgagee, the mortgage professional is in reaction mode rather than in pro-active mode. Now that the Obama Administration is reforming the mortgage industry one can expect that the "broker/originator" will have skin in the game if one wants to play. The mindset will no longer be "one more loan," it will be "one more quality loan." The loan will have a legacy and it will follow the broker/originator for the loan's full term. This is why the mortgage professional will have QC or more QC so that the mortgage professional will not have to pay for it later on.

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