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Gauvin, Lori M

From: on behalf of Buck, Carolyn J
Subject: FW: Letter from MBA Member RE Parity Act Amendments
Importance: High

MBA... Working for You

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To: Alba, Rod
Subject: MBAA request for OTS to delay implementation of Parity Act changes
Importance: High

Dear Rod:

My thanks to the MBAA for spear heading a request to the OTS to delay the implementation of the Parity Act changes.

In writing you this letter, I have been drawing on my compliance experience in working both as a compliance officer for a lender and a compliance officer for a software/forms vendor.

Over the last several months, since the announcement of this change, I have probably put in 200-300 hours of research time looking at state law in 50 states, DC and, heaven forbid we forget Guam, Virgin Islands and Puerto Rico. As you are aware there are several sets of laws that you have to look at and analyze. Some states have multiple licenses for lenders that contain laws regarding prepayments, and depending on the type of transaction, open end, closed end, fixed, variable, balloon, predatory, you have many variables to consider in creating a policy for prepayment penalties. It is this layering that causes the greatest amount of work for both a lender and a software vendor. How do you build into programming the questions to select: the type of lender originating the loan, the type of transaction: fixed, variable, purchase, refinance, high cost, balloon, conventional, government, housing authority, and then make sure it has given you a correct prepayment penalty for the state/territory in question.

As part of the process, you have to create state specific note addenda and riders to the security instruments and ascertain that they are attached to the right set of documents. Some lenders and document vendors have actually modified the text on the notes and security instruments to include the proper prepayment language, so all of those documents must be changed. So not only does the note or security instrument have to be modified, but in many cases, since the new text changes the position of the data fields, you have to re-map the form.

These items mentioned above are all the first steps of operationally modifying the system/process for these legal changes. Once this is accomplished, a lender will have to change internal policies, modify rate sheets, change delivery to investors, publish new employee guidelines and perform training. Since the final rule was published on September 26, 2002, 90 days is just not sufficient time to amend all these changes and do them right.

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As far as staff time in accomplishing these changes, as I have already indicated, I have put in 200-300 hours of research time finding the laws by states and trying to place them in a easy to understand matrix for the senior management and employees of my company. I even shared my research with several other compliance officers and have found that there are still other laws to be considered. So the research is still ongoing, and of course changing as predatory laws go into effect. Once the laws are clearly defined, the forms have to be created, the programming, the training, etc. Another six months would be the minimum time frame to implement all of this work, and ascertain that it was completely tested.

I already see changes in the investor relationships between lenders and investors. Some investors are banks or thrifts and may allow the lender to close in the name of the bank or thrift and allow the parity act. Some will not. Some lenders are setting their own internal rules for purchasing loans with prepayments, and example, may choose not to purchase a second lien loan with a prepayment, even if it is allowed by state law. The lenders will have to look for new investors relationships, or modify the types of loans they will close because of sale into the secondary market. Many lenders and banks are waiting to see what the 'group' is doing versus being the one setting the example. All of these changes will take time as well to research.

Certainly, we understand that the OTS is doing what is appropriate to change their policies on a lending practice that can be abused by certain lenders. We just need more time to adapt to the changes.

Again, I thank the MBAA for working with the OTS through this federal regulation transition.

[Name DELETED]