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Industry Outlook

February 25, 2010

The Changing Face of Mortgage Lending

Perspectives By Paul Fosco, Chairman and CEO, Document Express



Paul Fosco

"HUD ISSUES NEW MORTGAGE RULES TO HELP CONSUMERS SHOP FOR LOWER COST HOME LOANS", "RADICAL CHANGES TO RESPA TO TAKE EFFECT JANUARY 1, 2010", "ARE YOU READY FOR SOME RESPA REFORM?" You've been reading the headlines for quite some time now and you're still losing sleep because you aren't sure if you're in compliance with the new regulations. All players involved in the loan process are concerned, and rightfully so. After all, these changes are more than just the implementation of a new form or two. They constitute an entirely new way of doing business and are widespread. Lenders and loan officers are confused about what new disclosure forms to use. Correspondent lenders are typically required to deliver loans that are fully compliant with all federal, state and local laws, rules and regulations. Investors are afraid that they will be held responsible for the errors of others. Brokers are worried about compliance, and oh, what about the yield spread premium? Settlement providers aren't sure about changes to the new HUD-1 form and how it is affected by the new Good Faith Estimate. Before I address these concerns, let's take a look at some of the more important RESPA changes first.

For the first time in over 30 years, HUD has instituted sweeping changes to RESPA. While amendments to RESPA have been discussed and even proposed by previous administrations, the onslaught of home foreclosures and the ongoing housing market instability has created a new sense of urgency for lending and settlement reform. Under the new regulations, lenders, brokers, title companies, attorneys and others who provide loan and settlement services are subject to the tighter, stricter standards. In fact, because the changes are so noteworthy, HUD has announced that it will exercise restraint in enforcing the new regulatory requirements for the first four months of 2010.

The major components of the new RESPA rules, which include a standardized Good Faith Estimate (GFE) and HUD-1 Settlement Statement (HUD-1) forms, are aimed at providing consumers with a variety of clear and concise loan disclosures to assist them in shopping for the lowest cost mortgage. HUD will now require mortgage lenders and brokers to provide borrowers with an easy-to-understand GFE, which requires lenders to disclose and be bound to critical loan terms regarding the interest rate, pre-payment penalties, balloon payments, loan term and total loan costs. Each designated line on the final HUD-1 will also include a reference to the relevant line from the GFE. Further, the rules impose a "zero tolerance" for some settlement costs such as the lender's own origination charges. Other charges cannot exceed 10% from the amount quoted in the GFE. As a result, lenders should now consider their loan charge "estimates" to be the equivalent of loan charge "guarantees." Also, due to previous enactment of the Mortgage Disclosure Improvement Act (MDIA), TIL re-disclosures may be required if the APR in the final TIL varies by more than .125% from the initial TIL in a fixed rate transaction or more than .250% in an ARM loan. Lenders and brokers must be on the same page when it comes to providing borrowers with these required disclosures. GFE's and TIL's must be delivered within three business days after receipt of the loan application.

Without a shadow of a doubt, the lending regulatory environment is becoming more burdensome by the day. Compliance and new

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Without a shadow of a doubt, the lending regulatory environment is becoming more burdensome by the day. Compliance and new disclosure requirements are quickly becoming the singular most important aspect of the loan process. The risk and subsequent penalties associated with non-compliance is enormous and the complexity of the process is only likely to increase. Quite simply, you can't afford non-compliant disclosures and loan closing documents.

Paul Fosco is Chairman and CEO of Document Express. Since 1992, Document Express has been providing mortgage institutions document preparation solutions through its DX Elite Series.

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