The Compliance Group’s Annemaria Allen Offers Best Practices for Servicing Regulatory Compliance

CARLSBAD, Calif., Jan. 30, 2014 (SEND2PRESS NEWSWIRE) — Annemaria Allen, CEO/founder of leading mortgage compliance services provider The Compliance Group, Inc. (TCG), has identified several areas that servicers should pay strict attention to in the event of an audit by a regulatory agency, particularly the Consumer Financial Protection Bureau (CFPB) or Federal Housing Administration (FHA).

Although the CFPB’s final servicing rules only took effect on Jan. 10, several mortgage servicing companies have already been subject to severe penalties for non-compliance prior to the enforcement date. In particular, the CFPB has cited these companies for engaging in unfair, deceptive, and abusive acts and practices (UDAAPs). The latest servicing examination procedures guideline goes in to great detail regarding what the CFPB considers to be a UDAAP, and its clear, says Allen, that this will serve as an underpinning of CFPB examinations going forward.

“The CFPB drew an early line in the sand regarding UDAAPs back in February 2013, and the most recently released examination procedures back that stance,” said Allen. “Servicers haven’t really had a regulatory entity that monitored their relations with customers, nor was there a specific agency consumers could direct complaints to and expect action. Now, the tie goes to the borrower, so to speak, and servicers will have to be on the defensive.”

Another area the CFPB has indicated that it is taking a great interest in is servicing transfers. In addition to assessing compliance with the Real Estate Settlement and Procedures Act (RESPA) with respect to servicing transfer disclosures, CFPB examiners also want to see that the servicer has taken steps to facilitate the transfer of the borrowers’ automated clearing house (ACH) payments in connection with the transfer of servicing rights. Also, examiners are checking to ensure that the servicer to whom a loan is transferred complies with any and all loss mitigation agreements entered into between the borrower and the previous servicer.

The Mortgage Servicing Final Rule made several amendments to RESPA, including requiring servicers to maintain policies and procedures for providing accurate and timely disclosures in response to borrowers’ requests for information; investigating borrowers’ complaints; providing mortgage owners accurate information about their loans; submitting accurate documents during foreclosure; transferring information properly during servicing transfers; and evaluating loss mitigation applications. The CFPB will be examining to ensure that policies and procedures are in place; servicing staff are aware of their existence and have been fully trained on their requirements; and that the procedures are being followed, as written.

Another amendment to RESPA under the final rule covers force-placed insurance. The rule prohibits servicers from charging a borrower for force-placed insurance coverage unless (1) the servicer has a reasonable basis to believe the borrower has failed to maintain hazard insurance required by the loan contract; (2) the servicer has provided an initial notice at least 45 days before charges imposed and a reminder notice at least 30 days after the first notice and at least 15 days before charges imposed; and (3) the charges are for services actually performed and bear a reasonable relationship to servicer's cost of providing the service. Servicers will need to monitor this area closely to ensure prohibited insurance premiums are not inadvertently charged to borrowers.

In addition to the Mortgage Servicing Final Rule, the Department of Housing and Urban Development (HUD) has specific requirements for FHA-insured loans that must be adhered to and monitored by servicers as well. First, legal actions relating to foreclosures are one area, Allen says, where servicers must be diligent in following all timelines. If the first legal action is not filed within the specific timeline, and the servicer did not request an extension, HUD may invoke curtailment of interest to the servicer, which could prove to be a very costly mistake.

Another vulnerable area for FHA loans serviced is property preservation. If fees are out of the ordinary, servicers should obtain pre-approval from HUD prior to having work completed, or they run the risk of HUD only approving what it deems necessary. Keeping accurate records and ensuring all documentation, including invoices for fees and/or services rendered is extremely important on FHA loans.

Improper assessment of late charges is another area that can cause serious problems during a HUD audit. Allen says while this is most commonly a result of input errors into the servicing system, HUD is still extremely strict regarding when late charges are to be assessed on a borrower's account.

Other regulatory agencies who govern servicing activities are continuing to conduct examinations with emphasis on reviewing fees being charged to delinquent borrowers including attorney fees, title fees, property preservation fees, mortgage history fees, payoff fees, etc. Servicers should be very familiar with what fees may be charged and closely monitor this area to ensure fees are not inappropriately assessed or charged.

Another problematic area for servicers has been activities associated with Mortgage Electronic Registration System (MERS). Various regulatory agencies are examining assignments to ensure they have been processed and recorded in a reasonable amount of time and properly executed by authorized parties as of the date of execution.

Servicing system errors can also raise red flags with examiners, according to Allen, so it is important for servicers to continually conduct timeline testing on their servicing systems to ensure system are adhering to agency required waterfalls or timeline requirements for loss mitigation and foreclosure proceedings.

“This is another area that could significantly impact a servicer’s bottom line if done incorrectly,” Allen stated. “Unwinding a foreclosure because timelines weren’t adhered to is extremely costly. Servicers must make sure their processes allow activities to be conducted in the right order at the right time. It is extremely important to perform Servicing Quality Control Audits to ensure timelines and requirements are adhered to.”

To find out more about how The Compliance Group can assist your firm in preparing for a CFPB or FHA audit, visit http://www.thecompliancegroup.net/.

About The Compliance Group:
The Compliance Group (TCG) is a leading nationwide financial services risk management organization focused solely on its clients’ compliance success (www.TheComplianceGroup.net). TCG has helped hundreds of financial institutions mitigate risk and losses with its proprietary, patent-pending technology and its core business solutions of Compliance, Quality Control and Licensing. Founded by Annemaria Allen in 2000, TCG has built upon her deeply experienced understanding of compliance and risk management to bring peace of mind to the financial services industry.

TCG’s LicenseTracker® (www.LicenseTracker.net), is a patent pending, web-based application, to help mortgage businesses, branches, and loan originators maintain and track required state and federal agency licensing deadlines and continuing education requirements.

TCG technology is complemented by its experts’ keen attention to delivering results the right way – with integrity, quality, transparency, reliability and customer care. Its appreciation for relationship building allows TCG to assist its clients in understanding the complexity of compliance, developing their strengths in areas of risk while turning compliance and quality control into a profitability strategy.

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