Compliance Challenges

A Look at Pressing Issues Affecting Credit Unions

By Kris Kully

After years in the shadows, the Home Mortgage Disclosure Act (HMDA) is back. The Consumer Financial Protection Bureau (CFPB) issued a final rule (www.consumerfinance.gov/regulatory-implementation/hmda/)in October addressing every aspect of collecting and reporting residential mortgage loan data—including who, what, when and how.

In short, credit unions that report HMDA data will have to report a lot more data in the coming years. (The rule's collection requirements begin in January 2018.) Some impacts of the rule are obvious, while others are hard to predict.

SIGNIFICANT CHANGES AHEAD

The rule's new data mandates will obviously require significant and costly systems changes. The rule requires 25 new data points, and mandates the reporting of others that were previously optional. Although we just implemented the new Loan Estimate and Closing Disclosures (TRID), we must now revisit our application and origination processes and systems again, and start another conversation with relevant vendors.

Recently, CFPB Director Richard Cordray asserted that even with the lead time for TRID implementation, vendors were not prepared, causing delays and risking compliance violations. The two years until the HMDA rule kicks in will fly by, and this time regulators may have even higher expectations for readiness and lower tolerance for errors.

While the up-front burdens of systems and process changes are obvious, it's harder to predict what the government will do with all the additional data. HMDA data are used not only by regulators for compliance purposes, but also by the public—including researchers, community groups and lawyers. The new data fields will include a member's age, credit score, debt-to-income (DTI) ratio, address and home value.

PRIVACY CONCERNS ABOUND

The CFPB has not yet decided how much of that sensitive information will be made public. Wily data crunchers could likely discover very personal information about individual homeowners, if all or even part of that additional data is disclosed. Credit unions have developed trusting relationships with their members and take the protection of their privacy seriously. The CFPB must carefully weigh the public's need for aggregated information about mortgage lending against each individual homeowner's right to privacy.

It's also difficult to predict how the government will set fair lending priorities. The government has historically recognized that HMDA data is insufficient to prove discrimination, since it does not reflect all the legitimate factors that go into an underwriting or pricing decision.

Generally, agencies have used HMDA data as an initial screening tool, to target certain lenders for further scrutiny. That scrutiny is often a painful, lengthy and expensive process that can threaten a lender's resources and reputation.

FAIR LENDING QUESTIONS

Since the new data will include credit score, ratios, and the loan's rates and fees, plus denial reasons (the reporting of which will become mandatory), the agencies could refine their screening process and target fewer lenders for that onerous additional scrutiny. However, those agencies could instead feel emboldened by the additional data to pursue even more aggressive investigations.

There are many more details to absorb about the upcoming HMDA reporting changes—like the mandatory reporting of certain preapproval requests. Unfortunately, several significant details, including which data will be disclosed and how the CFPB's planned Web-based data submission tool will work, are still unknown.

I predict that any piecemeal release of needed guidance, and any resulting course corrections, will cause us many headaches in the years to come.

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