THE
MORTGAGE BANKER
Covering the Entire Mortgage Lending Process and Everything In Between
MAGAZINE
January 2020

GEARING UP FOR 2020

Achieving Operational Excellence in Mortgage Lending pg. 46

Down Payment Assistance: Does it Hurt Loan Performance? pg. 58

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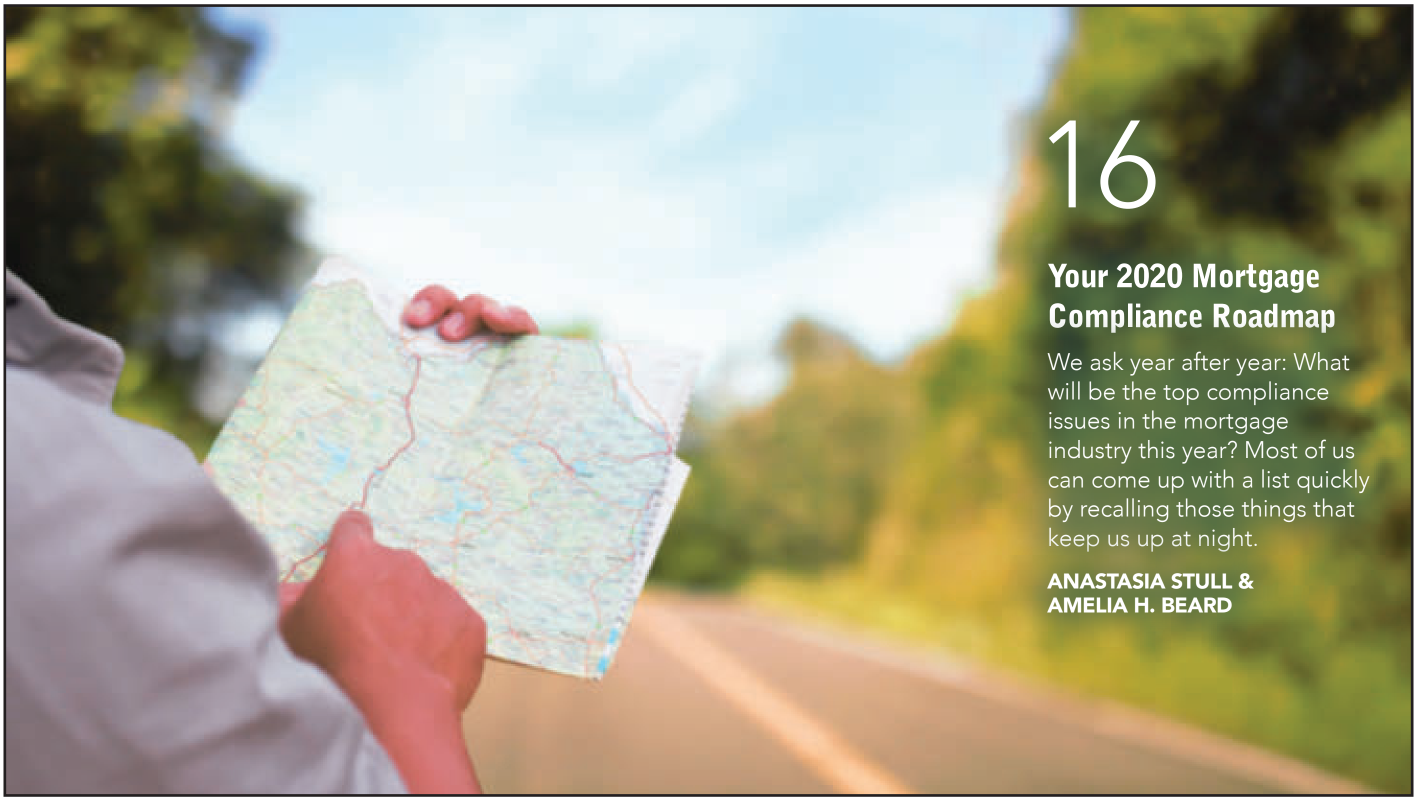

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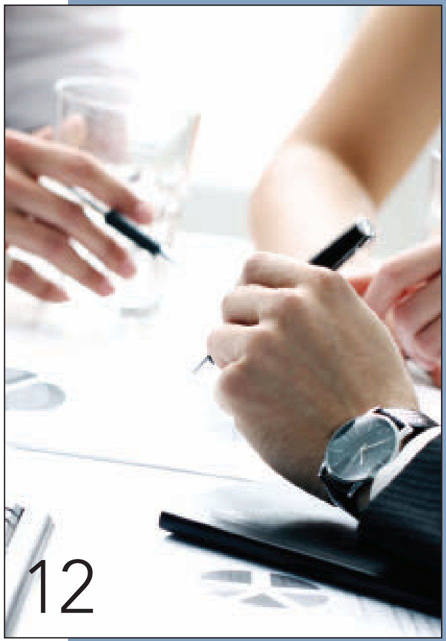

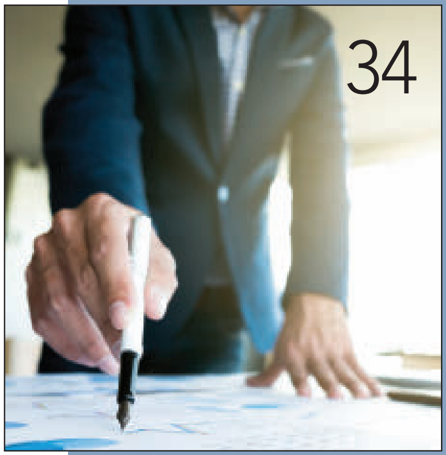

THE MORTGAGE BANKER MAGAZINE

Our Mission

The MORTGAGE BANKER magazine is dedicated to providing quality informational/educational content that betters the mortgage process at every step. The content is oriented to help professionals progress their understanding of the residential mortgage banking business and develop their skills at improving the efficiency and profitability at all levels.

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The MORTGAGE BANKER Magazine is the official publication of the Mortgage Compliance Professionals Association of America.

MCPAOA

FROM THE EDITOR

A couple of months ago in this space, the title was "It's All About Adapting" and the November issue was focused on what lenders need to do to meet the needs of changing demographics. This month and beyond, the former *Mortgage Compliance Magazine* is doing some adapting of its own in order to give you, our readers, what you need.

A new year and a new decade usher in changes to both our name (to *The Mortgage Banker Magazine*) and our focus (to include all of mortgage banking and not just compliance). Our goal is the same: to provide you, our readers, with content that will help you improve the way you do business. In order to achieve that goal, it became necessary for us to broaden the scope of what we cover.

A wide range of topics will grace our pages in the coming months, from quality control and risk management to regulators and agencies, from secondary and capital markets to servicing, from reverse mortgage to technology, from mortgage insurance to core services, and, of course, compliance. With this expansion of our coverage, we intend to make this magazine the best, and the most relevant to what you are doing, in the industry.

In the inaugural issue of *The MORTGAGE BANKER Magazine*, we will be discussing whether there is a link between down payment assistance and default (Richard Ferguson of CBC Mortgage Agency), why millennials are refinancing in record numbers (Joe Tyrrell of Ellie Mae), how to avoid doing what the "losers" did in 2018 (Joe Garrett of Garrett, McAuley & Co.), cutting down on the time it takes to close a loan (Tom Hughes of Banker's Mortgage Consulting), the toxic risk of confirmation bias and consensus decision making (a pieced titled "Kill the Kumbaya," by Steve Spies of SWS Consulting), and much more.

The experts you are familiar with are all still here. You will also be able to enjoy commentary from some of our regular contributors such as Mitch, Kider, Felecia Bowers and Bob Niemi in this and future issues.

It is an exciting time for us, the staff of *The MORTGAGE BANKER Magazine*, so we can only imagine what it must be like for you. What do you think of our new name and new focus? What aspects of mortgage banking do you want to see covered? Contact us via the email address below. Happy New Year and New Decade to all.

Brian Honea
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The MORTGAGE BANKER Magazine welcomes your feedback. If you have comments, questions, criticisms, praise, or information to share with us and our readers, please write us at Editor@MortgageBankerMag.com.

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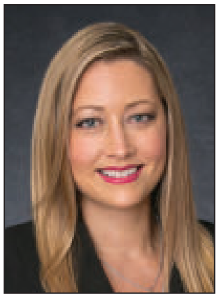

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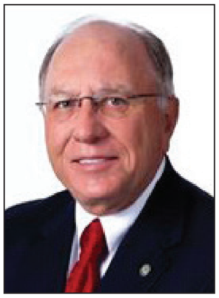

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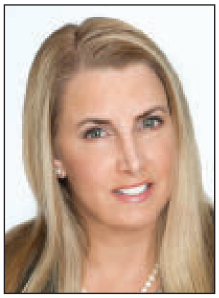

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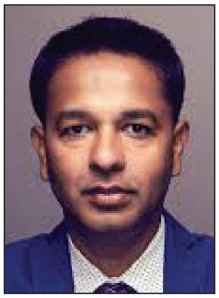

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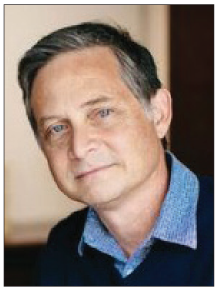
Shashank Shekhar is the founder and CEO of Arcus Lending. After starting his business in possibly the worst year for financial markets i.e. 2008, Shashank Shekhar has grown his company Arcus Lending by 1400% in just five years by helping hundreds of families secure better financing for their homes.



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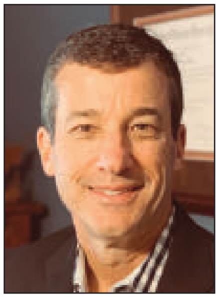

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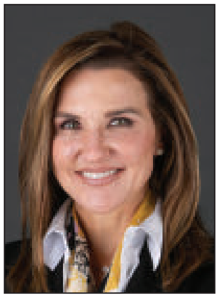

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Getting Ready for The California Consumer Privacy Act

By Raymond Snytsheuvel

The effective date for the California Consumer Privacy Act (CCPA) is fast approaching, and many businesses need to be ready and prepared to comply with it.

The CCPA has had a colorful process in its development. Originally passed in 2018, it has been amended no less than six times since that time. Also, the California Attorney General has issued its Proposed Rules to implement the CCPA, but those are of course subject to further amendment after the comment period ended on December 6. The CCPA becomes effective January 1, 2020, even though the Attorney General will not have finalized the Rules by then. So, businesses that may be affected by the CCPA should immediately begin taking steps to prepare accordingly.

WHAT IT DOES

The CCPA enables consumers to request businesses to do the following:

- Provide them with the types and specific pieces of personal information the business has on them;
- Provide them with the types and specific pieces of personal information the business has sold to third parties;
- Request the business to delete the personal information the business has on the consumer; and,
- Provide them with the right to opt-out of the business selling the consumer's personal information to third parties.

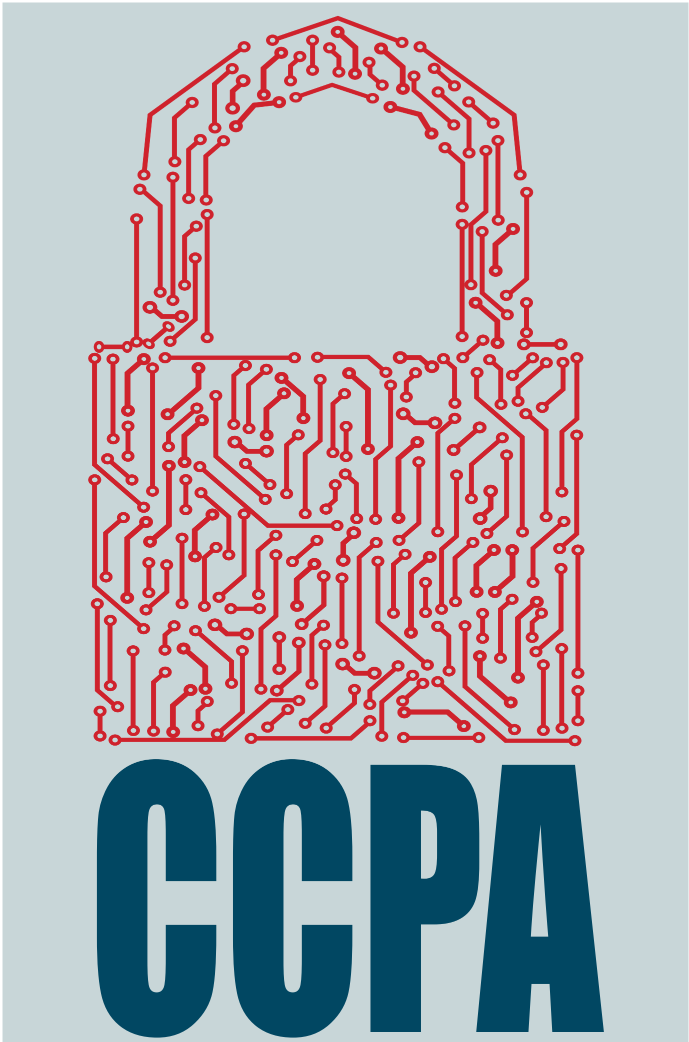
The requirement to provide consumers with their specific pieces of personal information means a business must provide the consumer with the actual personal information that the business possesses on that consumer. This could be concerning since the business will be handing off sensitive data to the requestor who claims to be the consumer. Proper verification of the requestor, therefore, is crucial. Also, the Proposed Rule, as currently written, limits disclosures of the personal information to exclude such things as social security number and driver's license numbers.

As you would expect, there are also disclosure requirements associated with those consumers' rights. This includes, before a business collects any personal information from the consumer, disclosing the type of information that business intends to collect from the consumer and how it will be used.

DETERMINE APPLICABILITY

The first step is to determine if the CCPA applies to your business. Since the rights afforded under the CCPA apply to residents of California, the business should first determine if it does business with California residents. If so, you should then review the definition of "business," which includes, but is not limited to, any business that has annual gross revenue that exceeds $25,000,000. There is no guidance in the CCPA or the Proposed Rule as to whether that annual gross revenue amount is intended to mean all-company revenue or just revenue a business generates in the state of California.

Next, consider if your business is collecting personal information from consumers. Personal information includes, but is not limited to, a consumer's name, unique identifier, email address, account name, and social security number.



EXEMPTIONS

If all of the above is in the affirmative, then you determine if any of the exemptions might apply to the business. A significant exemption for the financial services industry concerns the federal Gramm-Leach-Bliley Act (GLBA), whereby the CCPA provides it does not apply to personal information collected pursuant GLBA. Note that this exemption is not drafted as a blanket exemption applicable to financial institutions that are subject to the GLBA, but instead as applicable to the information that is collected pursuant to the GLBA. This suggests that while much of the information collected by financial services companies may be exempt from CCPA, some businesses may either engage in activities or the collection of other types of information that are not subject to the GLBA, or simply engage with consumers in ways that fall outside of the GLBA. As such, determining the applicability of this exemption to all of your business' activities should be of paramount focus.

There are additional exemptions or carve outs as well, such as not limiting a business to comply with federal, state, or local law. All of these exemptions should be reviewed carefully and applied based on your business' situation.

OPERATIONAL PREPAREDNESS

If it looks like your business may still be required to comply with some or all of the provisions of the CCPA, then it should begin to prepare to operationalize the many facets of this law. There are inherent risks that the CCPA creates, providing specific personal information to a person purported to be the consumer being one of them, and possible operational challenges that may impede your business' ability to comply. Therefore, it is worthy to invest the time to understand the issues and nuances of the CCPA, and the possibilities afforded to a business to mitigate the risk to the business and the consumer.

Key Considerations

- Find out where your personal information is, what you do with it, and how do you get to it for disclosure purposes. This may require a discussion with various departments in your business, including IT (where is the personal information), Sales (which systems are used to collect personal information), Processing (which vendors do we disclose the information to), and Marketing (which, if any, personal information is sold or shared with third parties).
- Develop categories under which the personal information falls.
- Develop and deploy the appropriate disclosures in the appropriate places. In most cases, use of the website and your online privacy policy will address most of the requirements.
- Set up at least two methods by which consumers can submit their requests. Consider website forms and a toll-free number, but other methods may be required.

- Set up a department that is ready to receive, track, record, and process requests completely and timely. The CCPA requires that requests be completed no later than 45 days from receipt of the request (with a possible 45-day extension), and the Proposed Rule currently requires that an acknowledgment must be sent to the consumer within 10 days. Consider your current complaint management process as the template since the requirements and diligence required under the CCPA appear to be similar.
- Assess your methodology to verify, within the bounds of the law, that the requestor is in fact the consumer. A business may require acceptable standards of proof that the requestor is the consumer, but it may not be so burdensome that it will step on consumers' enthusiasm to make requests about their personal information. The Proposed Rule currently provides more guidance on factors to consider when verifying a requestor than the CCPA itself, but it is not completely prescriptive either.

Indeed, the CCPA does not offer the degree of clarity that businesses in the financial services industry are accustomed to when implementing new requirements. Hopefully, the Attorney General will issue a Final Rule that provides adequate guidance on some of the nuanced issues and grey areas in the statute. In the meantime, it's time to roll up the sleeves to assess the CCPA as applied to your business and, where necessary, to take the key steps to operationalize the requirements based on the best information currently available.

This article was reprinted with permission from Garris Horn PLLC. Garris Horn frequently provides guidance on CCPA matters. For more information on this interpretive rule, or to discuss related matters, contact Raymond Snytsheuvel directly at (949) 683-7500 or raymond@garrishorn.com.

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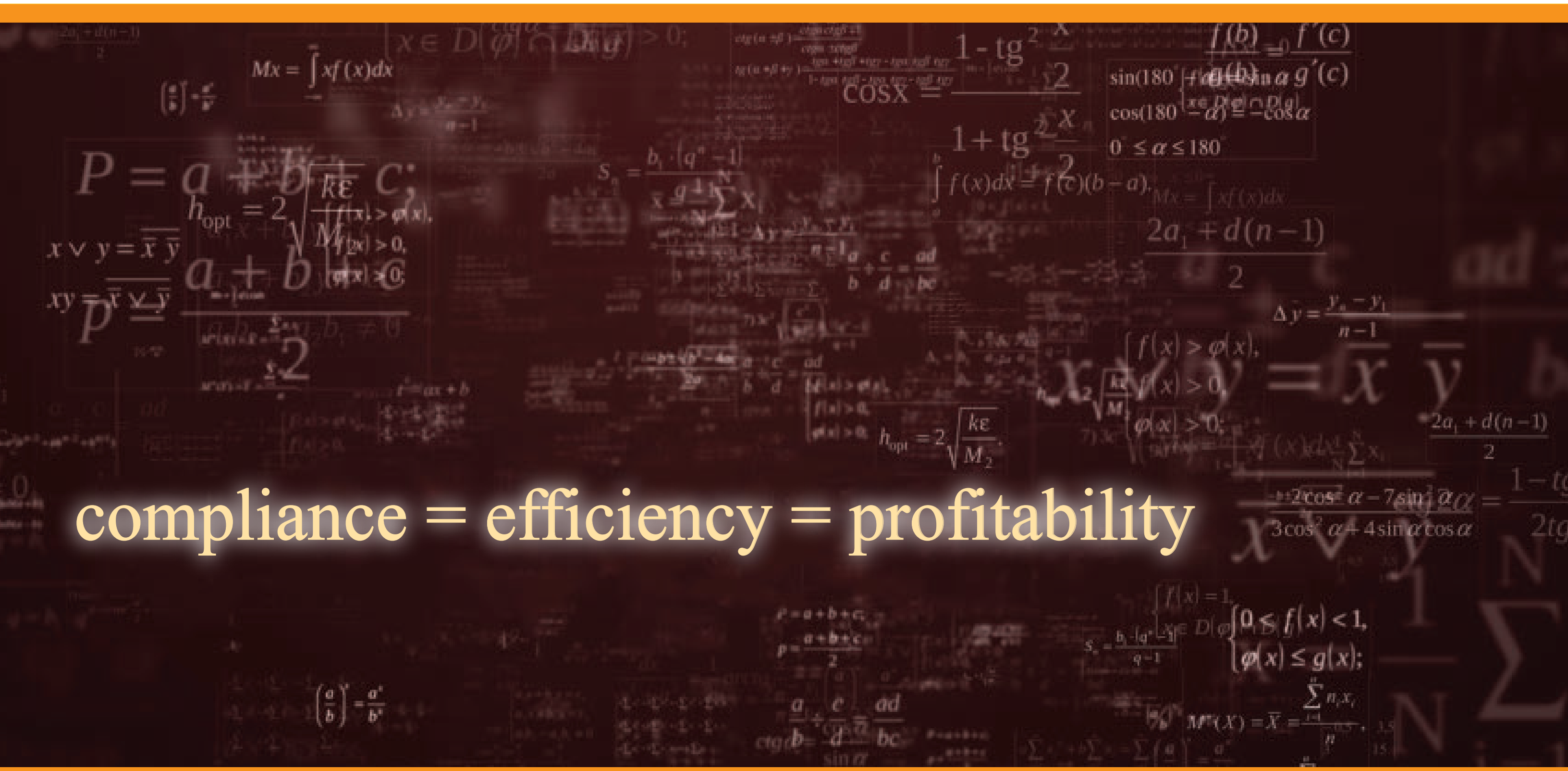

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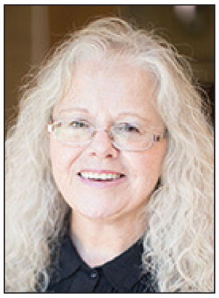
THREE URGENT COMPLIANCE MATTERS FOR 2020

BY FELECIA BOWERS



Happy New Year! Or is it? The New Year brings with it more news about the constitutionality of the CFPB; states ramping up their exams on mortgage bankers and brokers; Transitional Licensing (aka Temporary Authority); California Consumer Protection Act (CCPA); Fair Labor Standards Act (FLSA) Rules on exempt personnel; the Tax Payer First Act; and, many state law changes. Business as usual for the Compliance Department.

TAX PAYER FIRST ACT

The Tax Payer First Act (TPFA) snuck up on everyone with nominal fanfare. This law requires the express written consent of the taxpayer before tax returns are shared with any third party. The rule passed in July 2019 and the final implementation date was December 28, 2019. Investor response was inconsistent as usual. Some wanted the signed disclosure in the file for loans they purchase on or after December 16, 2019 or December 28, 2019. Others wanted it in the file if the promissory note is dated on or after December 28, 2019. Fortunately, we implemented the use of the disclosure early, mid-November, with it going out in the up-front disclosure package as well as the closing package. Did you look at the bigger implementation picture for this rule?

- Does your company utilize the services of a third party to perform an analysis of a consumer's tax returns? Do loan officers utilize that third party during the pre-qualification or pre-approval stage? If the answer to either question is "YES," then that disclosure MUST BE SIGNED by the consumer during the pre-qualification or pre-approval stages which is usually before your TRID disclosures are issued. Make sure your loan officers are armed with the disclosure.
- Remember that the form cannot be sent to the consumer via email unless the consumer has e-consented first. So, your sales staff will need to send the e-consent disclosure first, followed by the TPFA disclosure if doing business electronically.
- One issue not really covered is who has to sign the disclosure. Guidance can be found in the rule itself:

  IRS Subtitle C—Modernization of Consent—Based Income Verification System, Sec. 2201 (b) states *Qualified Disclosure—for purposes of this section, the term "qualified disclosure" means a disclosure under section 6103(c) of the Internal Revenue Code of 1986 of returns or return information by the Secretary to a person seeking to verify the income or creditworthiness of a taxpayer who is a borrower in the process of a loan application.*

  My personal interpretation is that if you have a non-borrowing spouse, then their signature is not required on the disclosure. For joint borrowers, both signatures are required since they are both borrowers in the process of a loan application. Other opinions exist… I'm conservative.
- While you are contemplating the above, don't forget to consider who else will receive those tax returns.Thus, a disclosure is needed on every loan: mortgage insurance (MI) companies; contract underwriters; QC vendors; investors; agencies with whom tax returns are shared; bonding or down payment assistance entities; etc. WHEW!
- Will we be audited for compliance with this new law? States or the CFPB probably won't audit for it, but your investors and QC vendors will. It's not likely the IRS will audit for compliance either. Don't risk non-compliance with a loan that can't be sold.

FLSA EXEMPT SALARY CHANGES

Do your compliance responsibilities spread into the human resources (HR) world? Sometimes "worlds collide" and there are aspects to HR that compliance professionals should be aware of such as ensuring your HR Department is checking employees before hire and periodically thereafter to ensure they are not on the FHA LDP, OFAC, FhFA Exclusionary or SAM lists. Just in case you have overlap, the Department of Labor issued changes, effective January 1, 2020, in the FLSA increasing the minimum salary level requirements for exempt employees, as long as the employee meets the other exempt qualifications.

- The new threshold is $684/week or $35,568 annually
- Or, there is a new 10 percent rule where 10 percent of the standard salary level, or $3,556.80, may be paid in the form of a non-discretionary bonus, retention bonus, incentive, or commission but only if the payment is made annually. This non-discretionary bonus would have to be paid EVERY year if you want to follow this rule. The key word here is "non-discretionary." You should ensure that there is consistent monitoring to ensure the employee is meeting the minimum salary of $615.60/week ($35,568 - $3,556.80/52 = $615.60). And be careful. If you find that you are even $.01 short of meeting the threshold, that employee may have grounds to file suit for back-pay and overtime pay. If you terminate during the year, the 10 percent must be pro-rated.
- Highly compensated employee compensation rose to $107,432 annually. Note that you cannot combine the 10 percent rule with a highly compensated employee.

Issues to consider include, but are not limited to:

- Are your employees classified correctly?
- Classification is especially important for loan originators, i.e. do you have sales personnel classified as exempt outside sales? Make sure they really meet the tests, especially the compensation test. We all have some under-performers that have been with the company since the dawn of time, a few loans a year, semi-retired, etc.

TRANSITIONAL LICENSING (AKA TEMPORARY AUTHORITY)

Transitional licensing (TL) rolled out in November 2019 with the normal amount of unanswered questions and speculation in the industry, compounded by a few loan officers applying for TL without following internal procedures. SURPRISE! Some states are still trying to figure out their requirements under the rule, so expect more interpretative guidance in a compliance version of a drip campaign.

- AZ requires the application documentation within 60 days or a denial will be issued.
- Many states forbid the loan officer from marketing themselves as "licensed" because they are not licensed.
- ID expects to finalize the decision to approve or deny the request within 60 days.
- A couple of states wanted the loan application documents to note that the application was taken while under temporary authority. Unfortunately, most LOS systems cannot accommodate this request on a state-by-state basis. Most will accept proof in the file that the loan was originated under TL.

While we work though the individual state requirements, keep your project plan in place and remember to include the following:

- Track loan officers who have applied for temporary authority. Tracking will help you separate those that are serious from those that are trying to "game" the system; for example, apply for TL, originate and close a loan, and then withdraw the application just to receive a commission on the loan.
- Consider modifying your loan officer contracts to address TL, such as no commission on loans closed under TL until they receive their license. This procedure will stop "gaming" of the system.
- Tracking will also help your post-closing department when an investor issues a stipulation that the loan officer was not "licensed" at the time the loan was originated.
- Consider maintaining a copy of the TL approval from the NMLS in each file. It can proactively be sent to the investor with the sale.
- Are you going to require some sort of business plan from the loan officer, approved by the sales manager, before allowing the loan officer to apply for TL? I would want to know if there is a legitimate need for the license rather than the one-off loan from my 3rd cousin's friend buying a house.
- Because most of the compliance review programs do not recognize TL, they will report a failure for licensing. Make sure you have worked out overrides to these failures.
- Policies and procedures should be created to address how you will handle these requests, monitoring, loan file documentation, etc.
- Make sure these loans are captured in your QC process.
- Are you going to allow a loan officer to advertise or market in the new state during TL? We are not! They cannot market that they are licensed because they are not.
- Are you going to have the loan officer complete additional state specific training in addition to any continuing education that may be required by the state, such as state specific disclosure requirements? Remember, some states, like Oregon, have rules requiring specific training:

  Finance and Securities Regulation – Chapter 441, Division 860, Licensing of Mortgage Bankers and Mortgage Brokers, 441-860-0040(3)(d)
  In order to diligently supervise and control a mortgage loan originator employed by the mortgage banker or the mortgage broker, the mortgage banker or mortgage broker shall:

  > *(d) provide a copy of the procedures required by this rule to every mortgage loan originator employed by the mortgage banker or mortgage broker in written or electronic format.* (the procedures are ORS 86A.095 through 85A.198). MBM

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Your 2020 Mortgage Compliance ROADMAP

By Anastasia D. Stull & Amelia H. Beard

We ask year after year: What will be the top compliance issues in the mortgage industry this year? Most of us can come up with a list quickly by recalling those things that keep us up at night. The road ahead is under construction with no end date in sight(i.e. proposed changes to CRA, FDCPA, HMDA and more) several potholes (i.e. cybersecurity threats and vendor management), and possibly a few detours (i.e. uncertainty around the CFPB and changing/new state regulations). What can mortgage compliance professionals do to stay safely in their lane?

TURN YOUR BRIGHTS ON

Recent history suggests you either get a comprehensive information security plan in place or plan to pay dearly when, not if, you are making headlines. Pay now or pay later is an idea of the past. Protecting the data you collect and transmit must be a top priority for mortgage professionals in 2020. While everyone quickly turns to network and server security, the investment in compliance training of employees cannot be underestimated.

To do this, leadership needs to understand what their employees are facing, who they are interacting with, and what demands they are trying to meet. Not every employee needs access to all the data pieces. Human error has played a role in many of the most recent breaches, so when you are revisiting your cybersecurity protocol for 2020, emphasize the power of your people.

A second component that cannot be overlooked is testing. Testing your networks and servers, testing your third-party vendors, and testing your employees. We are convinced no one is immune from a data breach, but the ones who are routinely testing to identify vulnerabilities are likely to come out ahead.

In sum, revisit your systems to ensure proper security protocols are in place, train your employees thoroughly and routinely, and, finally, conduct robust testing. Arming your employees with the tools and information they need to ward off a breach will not only empower them but also build confidence among your other stakeholders and spare you the reputational harm caused by a preventable breach.

EYES ON THE ROAD... EVEN IF YOU HIRED A DRIVER

In our new world of fast-pasted innovation, it is no secret that vendor management will continue to be a big topic in the boardroom in 2020. Lenders are increasingly relying on third party providers to augment their resources for the most favorable business outcomes.

The goal behind employing innovative strategies is often to extract more value from technological advances and outsourcing and streamline processes, but those efficiencies also invite stringent regulatory scrutiny on third- and fourth-party relationships. In some cases, outsourced solutions can reduce costs for financial services companies by an average of 30 percent by leveraging outside resources compared with the hiring and retention of specialized, expensive staff. However, the more functions that are outsourced, the more need there is for operational transparency and complex multi-vendor outsourcing agreements. Ultimately, leveraging technology can result in efficiencies and cost-savings, but the risks are highest for those organizations that are most reliant on outside vendors.

Starting with the initial engagement of potential vendors to the review of long-standing relationships, vendor management plays an important role in ensuring lenders receive the best possible solutions and services, securely, and as conveyed in your agreements. Compliance professionals must have a fundamental understanding of the processes involved in vendor management, the pitfalls, and be committed to staying in compliance with industry standards during onboarding and beyond.

Failing to stay on top of the latest threats can expose your business to compliance, operational, reputational, and financial risk. If your vendors aren't in compliance, neither are you. Regulators, the courts, and consumers still hold the primary service provider responsible. Compliance must recognize that most vendors require a different approach to risk management because managing the risk of those activities is not outsourced. Lenders should aim in 2020 to find modern solutions to managing the complex vendor landscape that can offer more visibility and strong reporting protocols. The "devil is in the details" approach is critical to ensure there is true standardization and risk mitigation across all vendors and platforms.

For compliance professionals looking to improve their vendor management process, knowing where to start is the first step. On a regular basis, compliance should be completing self-assessments of their vendor management maturity levels to identify a starting point for vendor management teams seeking to identify areas of strength and expose gaps in order to chart an actionable improvement plan. Once an action plan is in place, collaborate and remediate with your internal and external stakeholders to stay in compliance.

EXPECT DETOURS

With questions still looming as we move into 2020 about the constitutionality of the Consumer Financial Protection Bureau, a new Director, Kathleen Kraninger, is firmly in place. There were hints from the former CFPB Acting Director Mick Mulvaney that a new Administration would harken the end of regulation by enforcement. Instead, it appears the lull in decreased federal enforcement is over as we are entering a new decade. Regulation by enforcement is not dead and gone and, in fact, state enforcement is increasing.

On December 10, 2019, in a speech before the National Association of Attorneys General Capital Forum, Director Kraninger recapped FY 2019 enforcement actions and settlements which have resulted in more than $777 million total consumer relief and discussed the Bureau's partnership with the states. She noted the recent efforts between the Bureau and the states to partner in supervision, enforcement, and future innovation. As an example of increased coordination, the Bureau recently announced its partnership with the American Consumer Financial Innovation Network (ACFIN) made up of nine state attorneys general and four state financial regulators, which is designed to enhance coordination among federal and state regulators to facilitate financial innovation. More coordinated efforts between the federal and state regulators should signal to compliance a need to be more buttoned-up than ever before. Those organizations that loosened up their compliance belts may want to reconsider as we enter this new era.

Considering the Democrats accusations aimed at Director Kraninger during her testimony before the Housing Committee on Financial Services on October 16, 2019, that the Bureau has left consumers "high and dry," it is entirely possible that there will be pressure for more enforcement from the Administration if we have a new President in 2020, and in any case we've been told by the Bureau that they expect to release more rules, triggering new compliance requirements, on payday lending and debt collection this year.

IDENTIFY YOUR TRAVEL BUDDIES

Regardless of the size of your organization or the sophistication of your compliance program, you need to identify key people to develop, review, implement, test, amend, and correct your compliance plan. The CFPB, OCC, FTC, FDIC, FFIEC, and your state regulatory entities are all on the roadway ahead, and with the proper compliance attorneys and professionals by your side, you can better meet their demands. From evaluating third party vendors to drafting policies for implementing the latest regulations, anyone reading this article needs the occasional backseat driver to meet the demands of today's compliance and regulatory environment. MBM

Affordable Housing Programs

Dream No More: Homeownership with Zero Down

Chenoa Fund

Chenoa Fund is an affordable housing program provided through CBC Mortgage Agency ("CBCMA"), a uniquely created and organized government institution. Our mission is to provide funding for affordable housing opportunities in communities nationwide.

CBC Mortgage Agency

CBCMA is a public-purpose driven governmental entity. CBCMA specializes in providing 100% financing for loans guaranteed by the FHA, with a focus on under-served borrowers.

CBCMA partners with quality mortgage lenders on a correspondent basis to provide down payment assistance for qualified home buyers in the form of second mortgages and gifts. All assistance is provided in compliance with FHA guidelines.

Financial Tools for Credit-Worthy Families

We believe that everyone in America should have access to affordable housing, and our mission is to make that happen by providing credit-worthy families the financial tools to purchase a home. We believe that by assisting responsible home buyers to overcome the challenge of the minimum investment required for a mortgage, we are helping to create healthy communities by improving the balance between home ownership and other types of housing.

Down Payment Assistance

In combination with an FHA first mortgage, borrowers that meet minimum FICO score and debt/income ratio standards, and earn 115% of median income or less, can receive a forgivable second mortgage, or in some cases a gift, while those with higher income can receive an amortized second mortgage.

Improving Housing Opportunities

Home ownership isn't for everyone—but housing is. While we have minimum credit scores and debt/income ratio restrictions that may put some borrowers out of the reach of our direct assistance, we believe that through assisting credit-worthy families to overcome the down payment assistance barrier, we can reduce the competition for "shelter" housing, which in turn helps to reduce its cost and increase its availability for those we cannot assist directly.

From the Desk of the 'Om-Bobs-man'

"Om-Bobs-Man" is the nickname Bob Niemi earned while serving as the NMLS Ombudsman in 2014 and 2015. Bob is a former Ohio state regulator and now an expert consultant on NMLS and state regulatory matters. Bob can be reached at BNiemi@Bradley.com.

Wear a Flower in Your Hair...

If you're going to San Francisco, a song advises you to wear some flowers in your hair. The NMLS Annual Conference & Training will take place there from February 18th to 21st with a packed schedule of training, sessions, and networking. The gentle people promoted in the song should expect an intense week of review, education, and a glimpse into our future.

The lead agenda item will be a first look at the State Examination System or "SES." The SES rollout for mortgage examinations was outlined at the AARMR Conference in August. A session dedicated to review of the initial pilot examinations and a dialogue that is billed as a regulator and industry user "tell all." In addition, multiple sessions for regulators only will cover SES including adoption considerations, agency onboarding, and process review. These topics demonstrate that expansion is underway with efforts by CSBS to align states toward utilization of the new process. Industry training sessions include a look at the set-up process, basic system functions, and user roles. Another session titled, 'Working Together to Modernize Supervision' promises a deeper dive into system and how to streamline supervision using data within the NMLS.

The NMLS Ombudsman meeting is scheduled for Wednesday morning and should provide good opportunity to discuss and debate the first two days of the conference. NMLS policy and operational issues will also be deliberated. The last Ombudsman meeting discussed the delayed status of NMLS 2.0, the SES, MLO Temporary Authority concerns, and Branch Oversight and Licensing. All session topics at the conference apart from NMLS 2.0 include an update of the system improvements implemented as well as any 'prototype components' of the NMLS is expected.

The conference keynote discussion will be on Reengineering Nonbank Supervision as advancements in regulatory data collection and collaboration among all regulators to improve their network of supervision. As CSBS President John Ryan highlighted in a May release, "A network of supervision is not just better for our regulators. It is better for the financial entities we oversee and ultimately the communities we serve." The Vision 2020 project should also be addressed.

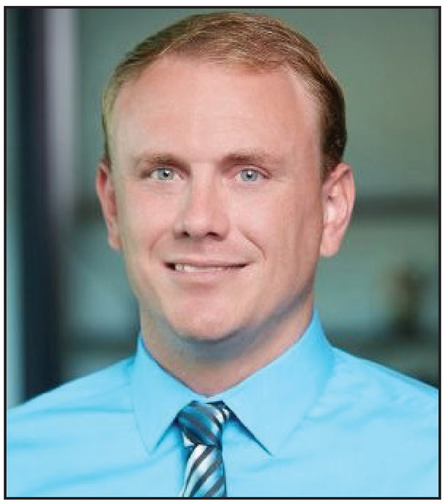
Collaboration between regulators to promote evolution toward regulatory modernization and better leverage submitted data to streamline supervision and processes. This goes beyond adoption of the SES, as states must align on areas of supervision including branch-based licensing and administration. A Thursday session will discuss the move from hand written applications to today's advanced originations system and preparation for technological process of tomorrow.

Collaboration is also sure to be a discussion point when MLO Temporary Authority is reviewed in several sessions, such as the review of the initial data, implementation, and possible enhancements. Expect industry questions to the state layering of additional requirements, notices, and disclosures that were made in the fourth quarter to the 'future of licensing.'

Please make the resolution to attend the 2020 NMLS Annual Conference and bring your vision for the future. Hopefully the local inspiration will inspire attendees to bridge concepts and vision to move mortgage supervision toward a digital transformation of oversight. MBM

Are your vendors CCPA-ready?

top of mind



David Orsini
Chief Product Officer
Top of Mind

Effective January 1, the California Consumer Privacy Act (CCPA) secures new rights for California consumers. If your organization does any meaningful business in California, you're probably on the hook regardless of where you're headquartered. Certain types of personal information collected by financial institutions in accordance with the Gramm-Leach-Bliley Act (GLBA) are exempt from CCPA, but other data points not governed by GLBA are still subject to CCPA. Experts expect other states to introduce similar legislation — so even if you don't do business in California, CCPA should be on the radar for you — and your vendors.

CCPA grants four new rights to California consumers:

RIGHT TO KNOW: Consumers have the right to know what information you keep about them, including information in your marketing platform.

Does this include things like notes or tasks regarding consumers? Copies of emails or other communications sent to consumers? The answer is not completely clear. Your vendors should be prepared to furnish all of this information, so you can make an educated decision about what should be shared with consumers.

If "Joe Smith" invokes this right, make sure you and your vendors have capabilities in place to ensure you are talking about the same "Joe Smith." If you do not have consumer identification standards in place, you are at risk of sharing one consumer's personally identifiable information (PII) with another and could even fall victim to social engineering schemes in which fraudsters intentionally try to gather another consumer's PII. Your data security team should have a plan in place to make sure PII is not given to the wrong people.

RIGHT TO BE FORGOTTEN: Consumers have the right to request removal of all their records from your database.

It is easy to delete a contact from your customer relationship management (CRM) platform or email client. What's trickier is determining what to do with marketing materials sent to the consumer, which you're required to keep on record for two years. How does deleting consumer data impact your ability to deliver state audit files? Your council will need to make that decision. If your organization decides to delete data normally held for marketing compliance reasons in order to comply with CCPA, your vendors need to have systems in place to accommodate this.

RIGHT TO OPT OUT: If the consumer opts-out, you cannot share their information with other organizations, including your CRM or marketing platforms.

Your organization will need measures in place to track these opt-outs and ensure their information never leaves your building. Keep this in mind with your integration partners.

RIGHT TO NON-DISCRIMINATION: Consumers cannot be discriminated against for exercising their rights under CCPA.

This one is more straightforward. If consumers choose to invoke their rights under CCPA, you cannot charge them a higher rate.

What's next?

It's go time. Do your current vendors have the tools to help you maintain CCPA compliance? Are contract addendums required to formalize vendor obligations? Does your security team have consumer identification standards in place? Does your data team have processes in place to handle opt-outs? Do your compliance teams have processes documented to handle these requests as they come in? These are all questions that need to be addressed, and quickly.

Compliance Alphabet Soups

Each month we will serve up cans of Alphabet Soup applicable to the mortgage industry. Each flavor of Alphabet Soup will include the soup's acronym and its actual name, and a hyperlink to the regulation, law, or rule from the agency that administers it. It's all right here; relax and enjoy reading your favorite bowl of Mortgage Compliance Alphabet Soup.

Equal Credit Opportunity Act

The Equal Credit Opportunity Act (ECOA) is a federal law that was enacted in 1974, and it is one of a group sometimes called the 'fair lending laws.' It is codified as part of the federal code of regulations, and, is commonly referred to as Regulation B. The ECOA and Regulation B prohibit discrimination against any applicant in any aspect of a credit transaction on any of nine prohibited bases: race, color, religion, national origin, sex, marital status, age, whether the applicant derives income from a public assistance program, or whether the applicant has exercised in good faith any right under the Consumer Credit Protection Act. The creditor may consider the applicant's age to determine if the applicant may enter into a legal contract. Although Regulation B and the Equal Credit Opportunity Act are sometimes called 'consumer' protection rules, the non-discrimination requirements apply to all applicants for credit regardless of whether the purpose of the credit is for personal, family or household purposes (consumer credit) or for business purposes (business or commercial credit).

The Regulation B and ECOA guidance and requirements include, but are not limited to:

- Requesting for information from applicants and evaluating applications;
- Extending credit (individual or joint) and administering special purpose credit programs;
- Notifying applicants (Notices of Action Taken);
- Furnishing credit information on credit accounts;
- Collecting government monitoring information (race, ethnicity, and sex) for institutions not subject to Home Mortgage Disclosure Act data collection and reporting requirements; and,
- Providing appraisal reports.

The Equal Credit Opportunity Act and Regulation B have been amended numerous times since 1974; however, most recently, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Rules) amended Regulation B regarding requirements for appraisals and other property valuations. The Dodd-Frank Rules require creditors to provide applicants with free copies of all appraisals and other written valuations developed in connection with an applicant for a loan to be secured by a first lien on a dwelling (note that it does not have to be the principal dwelling), and the rules require creditors to notify applicants in writing that copies of the appraisals will be provided to them promptly. The appraisal requirements under the Dodd-Frank Rules were issued in final form January 2013 and became effective January 18, 2014, and include the following:

- Requires creditors to notify applicants within three business days of receiving an application of their right to receive a copy of appraisals developed.
- Requires creditors to provide applicants a copy of each appraisal or other written valuation promptly upon its completion or three business days before consummation (for closed-end credit) or before account opening (for open-end credit), whichever is earlier.
- Permits applicants to waive the timing requirement for providing these copies. However, applicants who waive the timing requirement must be given a copy of all appraisals and other written valuations at or prior to loan closing or account opening, or, if the transaction is not consummated or the account is not opened, no later than 30 days after the creditor determines the transaction will not be consummated or the account will not be opened.
- Prohibits creditors from charging for the copy of appraisals or other written valuations, but permits creditors to charge applicants reasonable fees for the cost of the appraisals or other written valuations unless applicable law provides otherwise.

http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title12/12cfr1002_main_02.tpl

New URLA implementation timeline published with Nov. 1, 2020 mandate

Fannie Mae and Freddie Mac have published the updated implementation timeline and mandate date of Nov. 1, 2020, for use of the redesigned Uniform Residential Loan Application (URLA/Fannie Mae Form 1003) and updated automated underwriting system (AUS) specifications. See the full announcement.

Have Questions? Contact the ULAD Team.

Related Links

- Guide Forms
- Technology Integration
- UMDP Disclaimer and Limitation on Liability
- Uniform Mortgage Data Program (UMDP)

Related Applications

- Desktop Underwriter
- EarlyCheck

Get to Know URLA

- URLA Fact Sheet
- URLA/ULAD FAQs
- URLA Timeline updated

What's New

New URLA implementation timeline announced new

Fannie Mae has published the updated implementation timeline and mandate for use of the redesigned Uniform Residential Loan Application (URLA/Form 1003) and updated DU Specification, as well as updated supporting documents.

Form 1003 | **DU Specification** | **ULAD** | **Help & Training**

The form was initially published in August 2016 and updated in December 2017. It was redesigned to improve the borrower experience, enable lenders to more easily and accurately capture relevant loan application information, and support the industry's move to digitize the loan origination process. To get started, review the documents below.

Guidance

- Form 1003 Instructions
- Form 1003 Rendering Design Options

Current Form 1003

- Current Form 1003
- Current Numbered Form 1003
- Demographic Information Addendum

Redesigned Form 1003

- Updated Static URLA Form +
- Interactive URLA Form To be updated in early 2020 +
- Numbered Form 1003 updated +
- Form 1003 Sample Applications +
- Spanish Translation Aid to Form 1003 To be updated in Q2 2020 +

UMDP
UNIFORM MORTGAGE DATA PROGRAM

Fannie Mae | Freddie Mac

Fannie Mae and Freddie Mac Publish Implementation Timeline and Supporting Documents for Revised URLA and Updated AUS Specifications

December 18, 2019

Fannie Mae and Freddie Mac (the GSEs) have published the revised implementation timeline for the redesigned Uniform Residential Loan Application (URLA) and updated automated underwriting systems (AUS). ***The new mandate date for the use of the redesigned URLA and AUS specifications is November 1, 2020.***

URLA Implementation Timeline

2019	2020				2021
TESTING		PRODUCTION			
INDUSTRY PREP January 2019 – March 8, 2020	FULL FUNCTIONALITY March 9, 2020– Ongoing	LIMITED PRODUCTION June 1 – August 31, 2020	OPEN PRODUCTION September 1 – October 31, 2020	MANDATE November 1, 2020	RETIREMENT DATE November 1, 2021
	UPDATED FUNCTIONALITY INTEGRATION TEST PERIOD				
		PRODUCTION READINESS PERIOD		PIPELINE TRANSITION PERIOD	
October 23, 2019 Mockup of redesigned URLA published. **November 12, 2019** Revised AUS Specs distributed. **Q4 2019** Implementation Timeline published. **January 2020** English Interactive URLA available.	**March 9, 2020** Freddie Mac Customer Test Environment and Fannie Mae Integration Environment full functionality available for testing.	**June 1, 2020** Freddie Mac and Fannie Mae scheduled implementations begin. Aggregators, software partners and lenders will have controlled access to the GSEs AUS and GUI production environment. Three criteria for participation must be met: 1. GSE AUS testing 2. Partner readiness questionnaire 3. Approval to use URLA before Effective Date	**September 1, 2020** Redesigned URLA earliest "Effective Date." Coordinated Aggregator & software partner Implementation Date. Lenders may begin submitting to GSEs' AUS production environment.	**November 1, 2020** Lenders must use the redesigned URLA (Form 65/Form 1003) and updated AUS datasets for all new submissions on or after this date. Applications received prior to this date stay within the AUS format on which they were initially submitted. If a legacy AUS file was submitted prior to the mandate, the submitted file may remain in legacy format and the lender may complete the loan using the 7/05 (rev. 6/09) URLA, even after the mandate date.	**November 1, 2021** Pipeline transition period ends. Current URLA (Form 65/Form 1003) and loan application submission files based on legacy AUS specifications will no longer be accepted.

The implementation timeline includes six segments that are described in detail below.

Industry Prep

On January 1, 2019, the Freddie Mac customer test environment (CTE) and Fannie Mae Integration Environment began accepting MISMO V3.4 loan application submission files in their AUSs from directly integrated customers. These test environments remain accessible. Revisions based on the latest URLA changes and specification updates will start being applied to the test environments soon. Details about the updated URLA documents and AUS specifications referenced below are provided in the joint GSE announcements published on August 8, 2019, October 23, 2019, and November 12, 2019. Many of the AUS specification updates were made in response to customer feedback from early testing.

This communication relates to the Uniform Mortgage Data Program®, an effort undertaken jointly by Freddie Mac and Fannie Mae at the direction of the Federal Housing Finance Agency.

INDUSTRY PREP
January 2019 – March 8, 2020

PURPOSE: Provide industry with the information needed to prepare for the implementation of the redesigned URLA and updated AUS datasets

MILESTONES:

- January 2019: GSE testing of the updated AUS specifications based on MISMO V3.4 began
- October 23, 2019: Published static components of the updated URLA (Freddie Mac Form 65/Fannie Mae Form 1003) non-fillable PDF versions to illustrate changes to the appearance and contents of the form
- November 12, 2019: Published updated GSE AUS specifications addressing URLA modifications and customer test findings
- December 18, 2019: Published the updated GSE URLA/AUS Implementation Timeline and updated supporting documents
- January 2020: Publish updated URLA interactive forms (fillable PDF versions), Form Rendering Guidelines, and Instructions

WHO: All participants in the loan application process

INDUSTRY ACTIVITIES:

- Review URLA static / URLA interactive forms
  - Software providers and lenders identify changes needed to graphical user interfaces (GUIs), user guides, and technical support documents
  - Loan Officers and their teams determine changes needed to training materials, scripts, and supporting processes and procedures
- Review updated AUS specifications
  - Directly integrated software providers and lenders identify changes needed to develop interfaces and implement updates
  - Work with each GSE to obtain updated certification/validation test cases

Full Functionality Testing

The GSEs encourage directly integrated lenders and software partners to complete preparations for accessing the AUS test environments and/or continue integration testing now through March 9, 2020 when the AUS test environments will be fully provisioned with capabilities supporting the November 2019 specifications.

FULL FUNCTIONALITY TESTING
March 9, 2020 – Ongoing

PURPOSE: Provide industry with a dedicated period to test with GSE AUSs, including GUIs, that reflect AUS specification revisions published in November 2019

MILESTONE: March 9, 2020

- Directly integrated lenders and software providers may begin testing their loan application submission files
- GUI capability is available

WHO: Directly integrated lenders and software providers

INDUSTRY ACTIVITIES:

- Testing with the GSEs

FULL FUNCTIONALITY TESTING
March 9, 2020 – Ongoing
◦ Directly integrated lenders and software providers begin testing loan application submission files with the GSEs ◦ GSE customers begin interacting with the updated AUSs through newly designed GUI ◦ Software partners begin working through GSE-specified AUS test cases with each GSE • Testing with trading partners ◦ When the test cases are successfully completed, software providers can test with their clients in their own technical environments ◦ Lenders coordinate and communicate their readiness with their trading partners (MI companies, aggregators, correspondents, etc.) to establish how they will implement and interact with the updated URLA and AUS specifications • Testing internally ◦ Loan Officers and their teams undergo training on the redesigned URLA and accompanying supporting processes and procedures

Limited Production

This phase can be thought of as a "test and learn" period. The GSEs will begin accepting the MISMO V3.4 loan application submission files in production on a limited basis. Aggregators, software partners, and lenders will have controlled access to the GSEs' AUS and GUI production environments. Controlled access will be granted upon validation of prerequisites and completion of a readiness questionnaire. Only participants in the Limited Production phase will be allowed to use the redesigned URLA.

LIMITED PRODUCTION
June 1 – August 31, 2020
PURPOSE: • To provide a production implementation opportunity for early adopters and identify/address any unexpected issues prior to the open production period • To allow additional time for aggregators and correspondents to coordinate entry to production **MILESTONE:** Entry to the GSEs' production environments must be scheduled with the GSEs starting on June 1 through August 31, 2020, and is contingent upon meeting GSE Limited Production entry requirements as defined below **WHO:** Any AUS directly integrated customer who has demonstrated technical and operational readiness to the GSEs **INDUSTRY ACTIVITIES:** **In order to enter Limited Production directly integrated customers must:** • Complete AUS Testing by successfully submitting specified test cases and meeting all AUS technical requirements • Complete the Partner Readiness Questionnaire that satisfactorily demonstrates that front office, internal touch points, and external trading partners are ready to use the redesigned URLA and updated AUS datasets, and that readiness has been communicated to these partners • Receive GSE Permission to Participate using the URLA prior to the effective date of September 1, 2020

Open Production

Starting September 1, 2020, all lenders may submit the MISMO V3.4 loan application submission files to the GSEs' AUS production environments and begin using the redesigned URLA.

This communication relates to the Uniform Mortgage Data Program®, an effort undertaken jointly by Fannie Mae and Freddie Mac at the direction of the Federal Housing Finance Agency.

OPEN PRODUCTION
September 1 – October 31, 2020
PURPOSE: • Establish the URLA Effective Date on September 1, 2020, following Limited Production testing with directly integrated lenders and software providers, enabling all industry to begin using the redesigned form • Provide a period prior to the URLA/AUS mandate during which any AUS customer may begin using the redesigned URLA and updated AUS datasets • Provide a date prior to the URLA/AUS mandate that aggregators and correspondents may choose to move into production together • Limit the amount of time prior to the URLA/AUS mandate that parallel systems need to be maintained **MILESTONE:** Industry participants may enter production on a date of their choice any time between September 1 and October 31, 2020 **WHO:** Any industry participant who is ready and did not enter production during the Limited Production period **INDUSTRY ACTIVITIES:** • Directly integrated lenders and software providers must successfully complete integration testing by submitting specified test cases and meeting all AUS technical requirements • When ready, begin using the redesigned URLA (Effective Date September 1, 2020) and submitting MISMO v3.4 AUS data

Mandate and Start of Pipeline Transition Period

Starting November 1, 2020, all lenders must submit the MISMO V3.4 loan application submission files to the GSEs' AUS production environments and use the redesigned URLA.

MANDATE AND START OF PIPELINE TRANSITION PERIOD
November 1, 2020 – October 31, 2021
PURPOSE: • Set deadline by which industry must use the redesigned URLA that became effective on September 1, 2020, and the updated AUS MISMO v3.4 datasets • Accommodate legacy AUS files that were submitted prior to the mandate by allowing the submitted file to remain in legacy formats and the lender to complete the loan using the 7/05 (rev. 6/09) URLA for up to one year after the mandate date. Examples include prequalification files and construction loans. **MILESTONES:** • November 1, 2020 is the Mandate Date • November 1, 2020 – October 31, 2021 is the Pipeline Transition period **WHO:** All industry participants **INDUSTRY ACTIVITIES:** • Lenders must use the redesigned URLA (Form 65/Form 1003) and updated AUS datasets for all new submissions on or after this date • Assess any open files previously submitted to an AUS and develop approach for completing the file(s) prior to October 31, 2021 • Identify any open file(s) which likely will not be closed prior to October 31, 2021, and notify the GSE(s) as soon as possible

 Page **4** of **5**

This communication relates to the Uniform Mortgage Data Program®, an effort undertaken jointly by Fannie Mae and Freddie Mac at the direction of the Federal Housing Finance Agency.

Retirement Date

On Nov. 1, 2021, the current URLA (Form 65/Form 1003) and loan application submission files based on previous AUS specifications will no longer be accepted.

RETIREMENT DATE
November 1, 2021
PURPOSE: Set deadline on and after which the 7/05 (rev. 6/09) URLA, MISMO v2.n AUS datasets, and DU v3.2 Flat File will no longer be accepted or supported **MILESTONE: November 1, 2021** **WHO:** All industry participants **INDUSTRY ACTIVITIES:** • Lenders ensure that all loan applications are originated on the 9/2020 URLA • Lenders submit all underwriting files using MISMO v3.4 AUS datasets

URLA/ULAD Supporting Documents Published with this Announcement

The following Fannie Mae-specific documents also have been published:

- **DU Implementation Guide MISMO V.3.4 (DU Implementation Guide) –** The DU Implementation Guide provides supporting information for business and technical users for implementation of the updated loan application submission files. The guide was updated to reflect changes from the latest URLA revision, DU Specification updates, and industry feedback from testing.
- **DU Specification MISMO V.3.4 Test Case Suite** – The DU Test Case Suite includes a business narrative, MISMO V.3.4 XML file, and populated redesigned URLA forms for some of the test case scenarios. The data and forms were updated based on the latest DU Specification and updated URLA forms.
- **Fannie Mae DU Wrapper** – The DU Wrapper was updated based on the latest DU Specification. This file is designed to help DU customers accomplish the following:
  1. Import and instantiate the ULAD and DU extensions in the same file
  2. Validate that any ULAD and/or DU EXTENSION containers and data points are added to the XML file in the correct area of the file

The GSEs are on track to publish the interactive (fillable) PDF version of the updated redesigned URLA in January 2020.

Additional Information

We are committed to helping our customers and other industry stakeholders understand and adopt the updated redesigned URLA and AUS specifications. We will continue to work closely with lenders and technology solution providers to assist them throughout the implementation process.

The documents referenced in this announcement, as well as other supporting materials, can be accessed on Freddie Mac's URLA web page or Fannie Mae's URLA web page.

If you have questions about the redesigned URLA, AUS Specifications, or supporting documents, please contact your GSE representative or email ULAD@FreddieMac.com or ULAD@FannieMae.com.

This communication relates to the Uniform Mortgage Data Program®, an effort undertaken jointly by Fannie Mae and Freddie Mac at the direction of the Federal Housing Finance Agency.

Kill the Kumbaya

And Improve Decision Making and Risk Management

Dilbert appears courtesy of Scott Adams

By Steve Spies

"Confirmation bias is a powerful drug"

You just made a decision with your leadership team to enter a new market. The analytics say it's a no-brainer and nary a dissenting word was heard from your managers. All good, right? In reality, it's time to hit the pause button. Not hearing a single concern about the decision is often a sign that your culture is suffering from confirmation bias, or the natural tendency to encourage only positive perspectives and data that support what you want to do in the first place.

Confirmation bias might be the most toxic cultural risk because it rarely acknowledges failure, seldom leads to course corrections, and causes companies to double down on bad decisions. When I heard a speaker equate confirmation bias with drug addiction, I thought they were not overstating the case. The graveyard is full of companies or initiatives where some clear, objective thinking might have avoided disaster. The Takata air bag failure is likely an example of "something where nobody wanted to admit something is wrong" and while the Boeing 737 Max story is still unfolding it appears there were too many unchallenged assumptions and a "can't be wrong" pressure influenced leaders to act contrary to facts. A dead center example in the mortgage world is we now know a candid assessment of the wisdom of no doc/subprime loan parameters surely would have mitigated the mortgage crisis.

I recently finished reading the *March of Folly* by two-time Pulitzer Prize winning historian Barbara Tuchman. She examined four events in history for understanding why leaders clearly made decisions contrary to reason and the self-interest of everyone involved. She starts by saying that while examples of "wooden-headedness" as she calls it, and confirmation bias throughout history are too numerous to count, she chose four classic examples to prove her point: the Greeks with the Trojan horse, the Renaissance Popes and church corruption, the British and the American Revolution, and finally America and the Vietnam

War. It was stunning to read in all four cases the persistence in "self-deception… of assessing a situation in terms of preconceived notions while ignoring or rejecting contrary signs. It is acting according to wish, while not allowing oneself to be deflected by the facts" (Tuchman, Barbara, March of Folly 1984, Random House, e-book). This "folly" of group think that so often plagues governments worms its way into many an organization meeting room.

With a collaborative culture and team building all the rage, we increasingly see no room for the doubters or devil's advocates because no one wants to be the spoil sport, or worse, derail their careers by crossing their boss or antagonizing their peers. Tuchman notes "…it is better for subordinates to not make waves, or press evidence that the chief will find painful to accept. This cognitive dissonance is really a "don't confuse me with the facts" mind set which creates the tendency to suppress, gloss over, water down or waffle issues that produce psychological pain in an organization… that causes alternatives to be deselected since even thinking about them causes conflicts". But how do you enable more objective decision making without inviting divisive conflict into the room? Here are five disciplined ways that will help surface the contrary view, without isolating on the contrary person:

How do you enable more objective decision making without inviting divisive conflict into the room?

1. Use Lean Management root cause problem solving
2. Assign a Champion and a Challenger for each idea
3. Always require the assumptions used in any analytics to be fully vetted and challenged, especially when the assumption is about human behavior
4. On top of vetting the assumptions, require a sensitivity analysis of how each variable may react under different market conditions, including how they may help or hurt when acting together
5. Require everyone to bring a reason not to do the project, reward the best one

A Lean Management System strength is stating every change initiative, new project, or campaign in a problem-solving format. This system uncovers real motivations behind projects under consideration. More importantly, Lean problem solving requires quantified estimates of desired future states. This means mapping the proposed actions to desired outcomes. If the reason for entering the new market is to increase sales and profits by 20 percent, structured problem-solving exposes actions not aligning with desired, quantified results. A great place to start learning about the virtues of Lean problem solving is Art Smalley's book on the Toyota inspired approach to developing solutions. Smalley details how "A3" problem solving drives out "assumptions, biases and misconceptions" and shines a light on "opinion and wishful thinking."

A second simple construct is appointing one person for every initiative to make the case for acting, then one devil's advocate. Designating roles up front takes away the stigma and legitimizes those voices in the room. Rotate the roles, it's fun and empowering for the team. Perhaps even more empowering is honestly assessing the success of previous decisions. Admitting something is not working might be the hardest thing in business because of our vested interest in seeing it succeed. As Tuchman noted, even though John Kennedy knew he did not get America into Vietnam, he could not call off the war because "… he was impelled by the awful momentum that make carrying through easier than calling off a folly…". The Vietnam War apparatchik was also consumed by a data driven approach to decision making that crowded out debate. Those decision makers in the 1960s were a harbinger of how data would eventually overwhelm organizational dialogue.

The Big Data era supplies us with endless information but seemingly makes us dumber. We can't consume and process all the data coming at us. Therefore, cherry-picking data is the path of least resistance to supporting our point of view and more often encourages incorrectly supported assumptions about the unknowns. Once an assumption seems reasonably justified, it may start to weaken if subjected to a high, medium, and low sensitivity assessment. Further, investigating how assumptions impact and layer on each other can reveal the lack of even basic logical support. If the first assumption is flawed or highly variable, then the dependent or layered assumption is doubly so. Rigorously challenging assumptions may turn any previous conclusions on their head and mixing in predictions about human behavior exponentially increases the perils of decision making.

Assumptions further fall apart when they expect humans to behave rationally in all scenarios. This simple flaw in thinking may render an entire analysis meaningless. Tuchman tangibly explores this problem by examining Vietnam war planner Robert McNamara whose "…appreciation of the human factor was not his strong point, and the possibility that humankind is not rational was too eccentric and disruptive to be programmed into his analysis." Time might be better spent modeling possible irrational behavior and conflicts of interests that often provoke seemingly unexpected and unintended consequences. We saw a painful example during the mortgage crisis when borrowers time and again closed on homes they could not afford. Without a job, income, or reserves, they still bought homes, partly driven by greed, but more irrationally thinking it all works out in the end.

> Assumptions further fall apart when they expect humans to behave rationally in all scenarios.

Lastly, before moving forward on a strategic decision, ask each person for at least one reason not to take on the project. This makes hard conversations and constructive conflict the norm, not the exception. Have the group recognize the most powerful concern. It takes leadership to weigh the pros and cons and the courage to say no. If you have not said no recently, and if time allows you the luxury, intentionally table the next close call. Time alone can reveal cracks in decision making. If you are looking for an immediate application of these five problem solving techniques, then look no further than the dizzying world of technology systems, software, and apps. In evaluating tech vendors, you can't do enough to eliminate pre-conceived ideas.

Confirmation bias can be intentionally managed to provide positive influence on decision making. After all, we want to apply our hard earned and informed expertise to future actions. Wisdom is what you want in the room, defined by Tuchman as "the exercise of judgment acting on experience, common sense and available information…" Amen. Don't be overwhelmed on where to start, pick a problem right in front of you like your next tech make or buy decision. As Smalley writes "there are an infinite number of problems to solve, but a finite amount of resources to tackle them." MBM

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BUSINESS SERVICES & PRODUCTS

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Since 1983, Adfitech, Inc. has been the go-to source for premier post-closing and pre-funding quality control services for more than five hundred mortgage lenders, banks, and credit unions throughout the United States. Located in the heartland of America, Adfitech, Inc. is known for concierge-level service in delivering trustworthy results, expert regulatory oversight, and improving overall loan quality for the clients we serve. Adfitech, Inc.'s online reporting and rebuttal platform is the easiest, most transparent online rebuttal process the industry has to offer. Our simple per-file pricing eliminates the need for long-term and minimum contracts, enabling Adfitech, Inc. to operate as your company's full-service quality control partner. For more information or to schedule a demo, please visit us at www.adfitech.com.

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BUSINESS SERVICES & PRODUCTS

QMS delivers reports and analytical tools that assist clients in assessing loan quality and maintaining organizational compliance. Our audit reviews are in line with agency requirements and QC services include: Post-Closing, Pre-Funding, Federal Regulatory, Pre-Purchase/Due Diligence, Early Payment Default, Denials, Servicing, Repurchase Defense, HMDA, Anti-money Laundering and MERS® audits. Additionally, QMS offers a secure reverification platform, QCVerify, and our MARS QC software can be leased to manage QC efforts inhouse.

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CORPORATE PROFILE

Quality Mortgage Services, LLC (QMS) is a well-established leader of mortgage quality control audit solutions and proprietary mortgage auditing software, MARS (Mortgage Analyst Review Software). With over 20 years of experience and specialized knowledge in the mortgage banking industry, QMS is a boutique risk management and mortgage quality control solutions company that provides full service mortgage loan analysis results for banks, credit unions, lenders, brokers and housing authorities.

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Do You Know Your Collateral Risk?

By Amie McCarthy & Meaghan Hunter-Hanley

In this historically low rate environment, mortgage bankers ended 2019 on a high. The 30-year fixed mortgage rate remained below 4 percent for 31 weeks as of the end of December, fueling purchases and refinances. The U.S. unemployment rate dropped to 3.5 percent in November, a 50-year low. The National Association of Home Builders housing market index reached its highest level since June of 1999, reflective of a positive outlook and an increase in new construction, which is expected to continue in 2020. Existing housing supply remains tight, and lower priced homes are scarce. Homeowners are aging in place longer than predicted, and millennials are no longer delaying household formation. Digitally enabled, arm chair buyers are empowered to shop and finance their homes online.

The digital mortgage revolution is here with app-based applications and e-mortgages with digital closings and notarizations becoming more prevalent. This shift is advantageous to the consumer and lender. Accurate and rapid closings are in everyone's best interests, saving time and money. Mortgage bankers are competing for the same borrowers and focusing on the customer experience.

With banks shying away from government lending programs, and non-banks embracing Ginnie Mae mortgage backed securities issuance, the stakes are high from a collateral perspective. New players have emerged in the market, who may not know the rules. Non-qualified mortgages are more common as government insured programs and conventional loans do not suit every borrower. Ginnie Mae MBS issuance reached $56.09 billion in November, while Fannie Mae and Freddie Mac issuance totaled $117.6 billion for single family MBS in the same month. Private label mortgage backed securities are having its biggest year since 2007, forecasted at $40 billion for 2019. And, with volume comes collateral risk.

Are you aware of the collateral requirements to retain, service, sell, or securitize loans? Are you able to recertify Ginnie Mae pools? Are you getting the necessary trailing documents from lenders, title companies, attorneys, and closing agents to complete your collateral files? Whether you are an originator, correspondent, purchaser, or issuer, collateral management is crucial to successful transactions. Preparation, execution, and recordation of accurate instruments is imperative. With the increase in production and changes in regulations and requirements, we would like to discuss collateral risk in the new paradigm. Do you know your collateral risk?

1. COUNTERPARTY RISK: ARE YOU WORKING WITH LENDERS WHO CAN DELIVER CLEAN COLLATERAL FILES?

Lenders are optimizing the borrower experience, but are they using that intelligence for the sale and transfer of portfolios? Larger lenders can invest in technology or engage with business processing outsourcing firms to optimize processes. Smaller players tend to retain post-closing functions, perform them manually, and may leave issues unresolved due to time and expense to cure. Once a loan is sold, and representation and warranties have expired, lenders may not address outstanding items. With much of the focus on origination processes, post-closing and documentation do not get always the attention they require and deserve. Can you count on your partners to manage your collateral risk?

Are your partners sending documents in an efficient manner? Are they actively managing the custodian and closing agents to ensure you get trailing documents? Do you have to ingest paper files, "data dumps," poor quality images, and "blobs" of unindexed documents? Will they provide a duplicate, indexed file to assist with loan boarding and conversion?

Once you know what you have, what is missing or incorrect, is your partner willing and able to cure deficiencies? Having a process to detect, track, manage, and resolve outstanding collateral issues is essential to maximizing best execution. As the saying goes, you are the company you keep. Ensure your lender partners are committed to on time delivery, promptly addressing exceptions, and curing issues; these steps are crucial to successful transactions. In the event sellers are unable to mitigate collateral issues, the ability to put back loans should be built into loan purchase agreements.

2. FINANCIAL RISK: ARE YOU ACQUIRING WHOLE LOANS AT A PRICE THAT MAKES SENSE GIVEN YOUR RISK?

Whole loan buyers are reducing due diligence whether it be for time or financial reasons, or both. The less known about the pool, the higher the risk. Buying closed-end seconds blind? Purchasing distressed first mortgages? Reverse mortgages? You need to know the collateral to make an informed decision and not overpay. Some document and vesting issues can be repaired, if you know they exist. How do you calculate price and reserves on an asset on which you cannot define your collateral risk? What if the originator is unable to repurchase a loan? Do you have a comprehensive purchase agreement which requires put back for collateral imperfections that remain uncured?

When originating and managing post-closing processes, you have more control than purchasing from others. Acquiring loans increases your risk. Having a process or partners to review collateral is essential. Few collateral issues are insurmountable, but you need to know the cost to cure to properly bid and price up front. Although you may identify issues in pre-due diligence, knowing the cost to rectify post-acquisition can ensure you may still obtain target return on investment for the asset. Depending on the asset management strategy, firms may be willing to accept compromised collateral. However, if the intent is to give cash for keys, take a deed in lieu, short sell, or foreclose, imperfect collateral is an impediment. Even if you purchase at a discount, you may overpay if you cannot make an asset cash flow or have disposition at the target rate of return.

The longer exceptions linger, the less likely they will be resolved. Although some firms retain assets on the balance sheet, others who finance on warehouse lines may not be able to service and retain whole loans for an extended period of time. Aged exceptions cost time and money for the originator and purchaser. The cost to carry imperfect collateral is high. Having a process to track, manage, and resolve collateral issues is a crucial component to managing financial risk.

3. DOCUMENTATION RISK: WHAT HAPPENS IF YOU HAVE IMPERFECT COLLATERAL FILES? AND DO YOU HAVE RECOURSE?

Without a chain of title, evidence of legal transfers of the ownership of a mortgage, and other collateral documents, banks and servicers may not have the ability to collect the debt. Once you have an asset with an impaired chain of title and ownership, it may be difficult to sell, if not cured. All assignments must be prepared and recorded following a transfer or sale, and a failure to do so can irreparably rupture a chain of title. The National Mortgage Settlement of 2012 made it clear this cannot be taken lightly. How can you ensure a purchased loan has the chain of title and ownership intact? Have you placed terms in your purchase contract in the event exceptions are not cleared by the seller?

Whether new origination, seasoned, or non-performing or re-performing, compromised collateral and documents impact the ability to service, sell, and securitize. Even if a transaction closes smoothly, with all required documents, the process slows down when documents are sent in paper form to counties for recordation. The mortgage process is not entirely digital and paper recording still occurs the majority of the time. Knowing if all required documents exist and are executed and recorded, is a challenge. Having recourse in a purchase contract is highly recommended. A process to monitor and remediate exceptions is also advisable, or partnering with a firm that can do so on your behalf.

Documentation risk can be mitigated with collateral due diligence. In purchase transactions with little or no recourse, due diligence is imperative. Having knowledge of the investor and product characteristics and how the portfolio was originated are essential. Pre-sale due diligence is all but expected in non-performing and re-performing whole loan sales. As a purchaser, what can you do to mitigate collateral risk? Have a process to identify collateral issues and a mitigation plan to rectify exceptions. Whether it is a representation and warranty to demand repurchase or having an internal process or external partner to remediate collateral issues, its best to be prepared.

The most unlikely exceptions are usually the costliest. Post purchase exceptions may be identified which were not disclosed in the due diligence process. This may occur due to the seller not understanding the requirements to satisfy a specific exception or stipulation. It is common when pre-sale collateral due diligence is only performed on a percentage of the transaction to find issues. When assets go to market based on custodial inventory reporting and are not reviewed pre bid, exceptions are discovered after the transaction is closed. Now what?

Missing documents and imperfect collateral are not an insurmountable situation. Along with the original collateral file at the custodian, it is strongly suggested to create a copy of the collateral file and any servicing files to ensure continuity. Perhaps some documents are still in the process of being recorded, and an unrecorded copy exists. Each county has its own process and pace. Missing or unrecorded assignments, mortgages, deeds of trusts, and title policies are not deal killers. Take stock in the known, determine what is easily remedied and does not impair the loan value, and identify the complex collateral exceptions. Depending on the time and expense, you may be able rectify the issue in house, if your post-closing area is skilled. Or, engage a third party that specializes in rectifying collateral issues, at a lower cost and higher rate of success than you can on your own.

4. LEGAL RISK: HOW CAN YOU PROVE YOU OWN A LOAN?

When purchasing assets or servicing rights, banks and servicers have obligations to notify borrowers in the event of any assignment, sale, or transfer of a mortgage loan pursuant the Consumer Financial Protection Bureau's (CFPB) Regulation X, 12 CFR Part 1024. Consumers have further protection if their mortgage is transferred and in default, under the Fair Debt Collection Practices Act (FDCPA). A mortgage lender must be able to prove the ability to collect a debt, which is demonstrated by a proper chain of title, contained in the mortgage collateral file.

Having a complete collateral file with original recorded assignments, mortgage, and/or deeds of trust, title policy, any security instrument, chattel mortgage or equivalent, and evidence of mortgage

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insurance (MIC, LGC, evidence of FHA mortgage insurance, VA, or RHS guaranty), or copies thereof if acceptable, is evidence of what a lender has purchased and supports the ability to collect a debt. Incomplete collateral files that do not properly reflect the chronology of events by which a new loan holder acquired ownership may hamper the ability to start legal proceedings in the event of default. It is advisable to maintain a duplicate of the collateral file in the event a copy of a legal instrument is needed to verify loan terms or ownership of the debt. The last thing any lender needs is to miss a filing date because they could not obtain a copy of a mortgage and note.

During the credit crisis, many servicers were impaired by incomplete or missing collateral. Many firms could not prove an unbroken chain of ownership due to missing, blank, or unrecorded requisite assignments following the mortgage origination and sale into a mortgage backed security. Without the proper assignment of mortgage, endorsement of the note, and all intervening assignments into a trust, a lender or servicer cannot prove their right to collect a debt. Purchasing loans with an imperfect chain of ownership can lead to legal issues, if you are unaware of vesting, and an inability to foreclose in the event of non-payment. Depending on your investment and asset management strategy, defective collateral is buyer beware.

5. OPERATIONAL RISK: HOW CAN YOU ENSURE YOUR TRANSACTION MANAGEMENT FROM ORIGINATION TO SALE IS OPERATIONALLY EFFECTIVE?

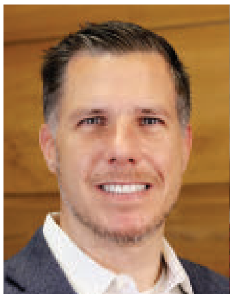
With change, operational risk increases. With all the revisions to the mortgage origination process, such as the change from the HUD-1 to TILA/RESPA Integrated Disclosures, how do you know the lender from whom you are purchasing has it right? How do you know your collateral is correct? What will happen when the new Universal Residential Loan Application (URLA) becomes effective February 1, 2020? Do you have protocols to monitor and manage operational risk? Do you have change management processes for implementation of new regulatory and investor requirements with your software vendors? Supervised lenders likely have these protocols in place, but smaller originators may not have the necessary controls to detect and prevent errors. Operational breakdowns often occur following change.

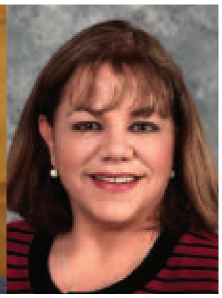
In the new digital mortgage age, operational risk has become more complex and linked to technology and third-party vendor risk as the mortgage process has become more automated. With lenders dependent on software vendors for underwriting and processing, preparation of disclosures, closing packages, and borrower notices, operational risk has increased. As standards and regulations change, change management and operational risk monitoring is more important than ever. Lenders have more responsibility to manage change and monitor third parties that assist them in facilitating transitions.

The mortgage industry has absorbed and implemented many changes since Dodd Frank. Working with third parties to implement change can increase speed to market, as lender may not have capability to develop technology. With the introduction of additional software and processes comes operational risk. Third party oversight, risk assessments and compliance reviews are necessary to routinely and proactively monitor for operational risk, both internally and at vendors.

In the digital mortgage age, mortgage transactions are becoming easier and more efficient. With fintech companies actively offering a fully digital consumer lending experience, the mortgage industry is looking to follow suit. E-mortgages are becoming more prevalent. Digital closings and notarization are becoming more common. Ginnie Mae and the GSEs are looking to modernize the mortgage industry's future with E-mortgages and E-vaults. With all this innovation making the process more efficient, it does not reduce collateral risk. Paper or electronic, collateral risk will remain and become more complex with new technological and privacy concerns. Whether internally managed or outsourced to a trusted partner, collateral risk can be mitigated. Investing in due diligence and collateral risk management services is money well spent. MBM

CASE STUDY





Christian T. van Dijk
President
Integra Solutions

Juliet Alexander
Admin VP Loan Servicing
M&T Bank

INTRODUCTION

To overcome the challenges and risks of a spreadsheet-based custodial reconciliation process, M&T Bank partnered with Integra Solutions to implement SunriseRecon. The bank increased accuracy and visibility, while reducing the risk of write-offs and audit findings.

- **69% improvement in efficiency of the custodial reconciliation process**
- **76% decrease in the time required for data gathering, imports, and balancing**
- **67% increase in efficiency for researching outages, finalizing, and quality control**
- **64% reduction in hours required to train new FTE's**

M&T is now well-positioned to scale its custodial reconciliation operations through loan acquisition.

The CHALLENGE

M&T's former custodial reconciliation process was mostly manual, presenting multiple issues that were an open concern to internal and external auditors:

- **Errors and inefficiencies:** Data was manually collected and entered, increasing the risk of mistakes. Data preparation and quality control required significant human resources.
- **Lack of visibility and controls:** Managers had no means to track progress until final reconciliations were submitted. Furthermore, there was no mechanism to "lock" submitted reconciliations to prevent manipulation.
- **Limited repeatability and scalability:** Variations in operational processes across loan types made training new FTE's difficult and time consuming. Meanwhile the process was virtually impossible to scale or adapt, complicating the conversion of acquired loans.

With these challenges in mind, M&T Bank sought a new approach to custodial reconciliation that would increase efficiency and limit risk. Juliet Alexander, Administrative Vice President of Loan Servicing, identified three areas of opportunity for improving the custodial reconciliation process:

- **Automation:** Both data collection and data input were ripe for automation, which would eliminate errors and reduce the time required for multiple aspects of custodial reconciliation.
- **Outage resolution:** A more efficient process would give analysts more time for outage research and resolution, allowing them to focus on proactive activities like trend analysis.
- **Audit readiness:** Built-in controls and reporting would streamline preparation for audit, decreasing risk of audit findings and reducing write-offs.

The SOLUTION

M&T Bank implemented SunriseRecon for GSE, GNMA, and PLS loans. This represented a complete transformation of a key business function that increased productivity and reduced risk in three key areas:

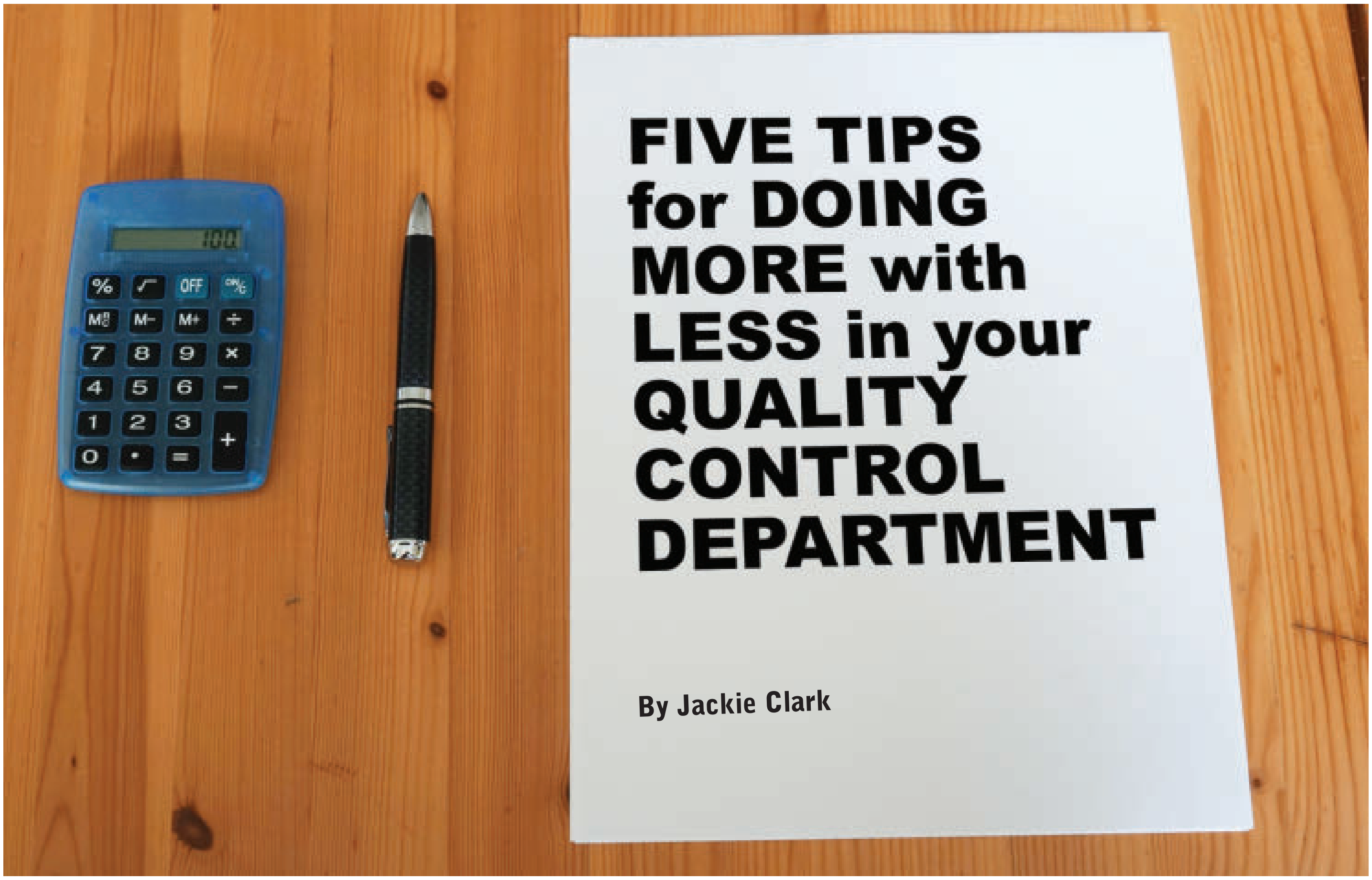
- **Process automation and agility:** By automating what had been a mostly manual process, SunriseRecon significantly reduced the risk of human errors and decreased the time required to perform reconciliations by 69%.
- **Visibility and reporting:** Real-time dashboards and streamlined reporting made it possible to proactively address potential issues; adopt meaningful metrics; and understand previously hidden operational constraints.
- **Audit and controls:** Via built-in controls and paperless processing, SunriseRecon decreased the time required for quality control by 62% and simplified communication with auditors.

"The SunriseRecon suite offers a solution that was long overdue in the industry," said Alexander. "We were immediately impressed from Day One. We knew it was the right tool for us, and that it would change our operations dramatically."

Indeed, implementation of SunriseRecon has transformed virtually every aspect of M&T's custodial reconciliation process:

- The adoption of a new staffing model that requires fewer FTE's
- A formalized process that reduces the risk of audit findings
- Improved quality of reconciliations, leading to fewer write-offs
- Streamlined communication among members of the custodial reconciliation team, other departments, and auditors

For the complete case study, please visit http://bit.ly/integrastudy



Year after year, the mortgage industry faces unpredictability, from changing fraud trends to innovations in technology. When volume rises, employees rush and processes are missed. Decreased volumes drive employees to push every potential loan into the pipeline.

New fraud schemes are discovered or old schemes reinvigorated. New technology reduces human touch-points and creates a virtual transaction for the borrower. With this technology comes additional concerns regarding defects and new opportunities for fraud.

The combination of volume fluctuations, technology changes, and new fraud schemes create challenges for quality control (QC) professionals. We strive to balance these changes while still working to maintain a quality-centric business model.

The charge is not an easy task. With the traditional view of QC as a cost center, getting the additional head count, support, or technology does not come easy. So, as a QC leader, how do you do more with less? Here are five tips and tricks to get you started.

1. RE-EVALUATE YOUR DAILY PROCESSES

Look at your current processes specifically as a leader. Inventory all the daily, weekly, and monthly demands, and evaluate where you have duplication or areas where time seems to vanish into a black hole.

Many of our peers identify reporting an area that's ripe with duplication and vast time consumption. Where bigger companies might have one or more dedicated teams to fully support these efforts, smaller QC departments are left managing their reports from Excel and Pivot Point spreadsheets.

Automation is key when it comes to reporting. Talk to your IT team, talk to your reporting team, or even talk to your QC software vendor. Get your reports automated and have a multi-functional base report that you work on throughout the month.

Taking full advantage of automated reporting frees you up to do the things that matter, like training, coaching, second-level reviews, and getting in the trenches with your team. That is how you start to do more with less.

2. UNDERSTAND YOUR TEAM

Now that you are not spending weeks on reporting, it is time to get your hands dirty with audits. Participate in an audit or two at least quarterly to gain insight as to how your team operates daily.

If your team is struggling with production, consider that an assigned task could be stopping them from reaching production goals.

Review the question set for errors, unnecessary questions, and duplicative steps. Introducing a poor question set can quickly reduce team production and cause you to think you need additional employees when all you really need is a new question set or process.

Examine the exceptions your team has cited during the last six months. Do a comparison of each auditor based on what is cited. Find your strong players for different defect categories, like income or assets.

Consider using the strong players for component audits, allowing them to not only find more defects but to quickly complete the audits with ease. This approach is a quick way to often double your production numbers and have amazing results.

3. IT'S ALL ABOUT THE SAMPLING

Sampling can often be complicated; however, a quick exercise to make sure you are meeting requirements is to chart each agency requirement. Look at the requirements and compare them to your company's current portfolio to see if changes can be made.

Maybe you can go to a statistical sample. If you are already doing a simple statistical sample, you could stratify your statistical sample.

Understand your base requirements first and then build your discretionary, targets, and components from there.

It is easy to fall in the "we have always done it this way" trap; but, for sampling, you need to understand and regularly re-evaluate requirements. When you do this, you can keep your head count stationary while you allow your sample to expand and contract based on volume, trends, and requests.

When volume is high, stick to that minimum requirement, but when it drops, do not be afraid to reconfigure the sample to allow for additional sampling. Lastly, do not always go straight for the additional head count; really understand what you are sampling, why, and what you truly need for head count.

4. SHOW THEM THE MONEY

We often assume that doing "more" means more audits or loans, but there are other ways to do more. A great example is showing your company the cost benefits of a QC department. Instead of focusing only on the number of audits conducted, highlight that you changed the sampling and saved the company an extra $100,000 that month.

Every QC leader should understand the monetary impact of a loan defect or instance of identified fraud. If you do not currently know, find out. Go straight to the source within your company who handles the monetary portion of repurchases, indemnifications, and scratch-and-dent sales.

In doing so, you go from not only giving your executives an error rate but also highlighting the impact of the error rate for the company as estimated loss and or estimated savings for prefunding loans. This process will support you as being a "retention savings" department compared to a "cost center" and will help future endeavors when you do need additional employees.

5. BREATHE CHANGE

To be a "more with less" QC department, you must breathe change. Move when the business moves, adjust when the volume adjusts, and dig deeper when the trends necessitate a deep dive.

QC is not a static department, it is not a one-size-fits-all, and it may never be the most beloved department. QC reflects a company's true culture, and it must be designed to fit every curve.

To do more with less, you need to understand each piece of the business, from the time a loan originator takes an application to the time the mortgage is sold in secondary. Understanding these pieces allows you to design a process that is unique to your company, fits the needs of your customers, and supports a quality-centric culture. MBM

The Mortgage Counselor

Mitchel H. Kider is the Chairman and Managing Partner of Weiner Brodsky Kider PC, a national law firm specializing in the representation of financial institutions, residential homebuilders, and real estate settlement service providers.

Mortgage Compliance in 2020

As we look ahead to the coming year, I think it is helpful to look back as well, to see what we were focused on a year ago, and to consider how that focus has changed over the course of the year.

One of the major stories of 2019 has been the return and persistence of low interest rates, which provided a welcome boost in originations. We do not know how long this period of low rates will last (some forecasts expect it to continue for another year or two), but it is important not to focus only on the short term to the exclusion of long term trends. Last year at this time, I wrote about the intersection of the increasing cost of compliance, shrinking margins, and the disruptive pressure of technological and business innovation. Those trends are not going away; if anything, disruptive innovation has continued apace, but the current interest rate environment has provided some breathing room for the industry to address them.

I also raised, in the context of discussing the cost of compliance, the misperception that regulatory enforcement was no longer a threat. Since that time, which has coincided with Director Kraninger's first year as CFPB Director, we have in fact seen an uptick in both federal investigations and enforcement.

In Director Kraninger's first year, the CFPB has averaged two public enforcement actions per month, against individuals and entities ranging from mortgage lenders and servicers to companies in the student loan industry, and from debt collectors to unsecured lenders. There has been a particular focus on service members and veterans, student loans, clear violations of established law (across industries), and deceptive or misleading practices, including allegedly deceptive marketing. Remember, too, that most of the enforcement attorneys who investigate and make initial enforcement recommendations are the same people who filled those roles under former Director Cordray. We have seen investigation activity increase significantly, and enforcement counsel behave more assertively than had been the case recently. What we have not seen, so far, is a return to regulation by enforcement; the scourge of the Cordray years, which was effectively held unconstitutional by the D.C. Circuit in PHH, and whose demise was announced by then-Acting Director Mulvaney in 2018.

Other federal regulatory enforcement has also been active, including a significant FDIC enforcement action concerning the valuation of desk rentals and online co-marketing under RESPA Section 8. And class action litigation under RESPA and other statutes has also been active.

While most regulatory investigations are not public, those of us who represent companies in investigations have noted an uptick in activity, and expect that a number of pending investigations will lead to public enforcement actions. With the exception of the False Claims Act (which is still a concern, but where the government's position has in fact changed somewhat), we can now confirm what we have long predicted: the temporary lull in federal enforcement that accompanied the change in administrations was not indicative of a long-term trend. But there are important regulatory developments ahead on the rulemaking side, in particular concerning loan originator compensation and the soon-to-expire QM Patch.

Many in our industry have been lobbying to relax some of the loan originator compensation restrictions that have been in effect. Based on the CFPB's Fall Regulatory Agenda, it appears likely that the CFPB may take action at some point this year with respect to two of the contemplated changes: to permit different compensation for state housing finance authority loans, and to permit lenders to decrease a loan originator's compensation to cover the cost of the LO's mistake. Although some had wanted LOs to be able to make pricing concessions by decreasing compensation, I think it is more likely that the CFPB will not make that particular change,

> As we look ahead to 2020 and beyond, there will be more regulatory changes, and the impending end of the QM Patch creates significant uncertainty for our industry.

and even the two changes that we consider likely are far from certain at this stage, and the CFPB's long-term actions list on its regulatory agenda does not list a specific next step or timeframe for any changes to loan originator compensation.

The other key issue facing our industry from a regulatory perspective is the impending end of the QM Patch in January 2021. To date, we have been shielded from the full brunt of the QM definition by defining loans that are eligible to be sold to the GSEs as QMs even if they have debt-to-income ratios exceeding 43 percent or are not compliant with Appendix Q, as long as the general QM requirements are still met. The CFPB issued an Advance Notice of Proposed Rulemaking on this issue in July and received comments. It is not yet clear what, if anything, the CFPB plans to do on this front. It is possible that Congress will make a fix. But if that doesn't happen, the likeliest scenario appears to be changes to the QM test (including a reexamination of Appendix Q) generally, rather than any significant extension of the patch itself, although a shorter extension may be considered.

Other regulatory changes are also on the horizon, including a potential rule or policy statement to define the "abusive" prong of Dodd Frank's UDAAP prohibition, and a joint rulemaking by the CFPB and federal depository regulators to implement quality control standards for automated valuation models (AVMs) used in mortgage lending.

As we look back on 2019, we can see that the constants have been change itself, and the need for smart but thorough compliance. As we look ahead to 2020 and beyond, there will be more regulatory changes, and the impending end of the QM Patch creates significant uncertainty for our industry. The "return" of federal regulatory enforcement demonstrates the continued need for robust compliance to serve our industry. We, as an industry, will keep on making the American Dream of home ownership a reality for millions of our neighbors, and we will keep a sharp eye on compliance as we do that.

Mortgage Banking Lawyers

These attorneys are universally recognized by their peers as setting the highest standard for the legal profession, excelling in all fields – knowledge, analytical ability, judgment, communication, and ethics.

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Thomas Vetters is the managing partner of Robertson Anschutz Vetters, LLC ("RAV") where he has spent his entire legal career developing a comprehensive expertise in the mortgage lending and compliance industry and helped develop the firm's 50-state document software Docs on Demand®. Thomas is Board Certified in Residential Real Estate Law by the Texas Board of Legal Specialization.

Thomas currently serves on the Board of Directors for the Texas Mortgage Bankers Association and previously chaired their Regulatory Compliance Committee, Education Committee and served on their Executive Committee. Thomas has prepared and presented papers on Texas Home Equity, Privacy, Safeguards, Loan Originator Compensation, ATR/QM and the TILA/RESPA Integrated Disclosures. He is admitted to practice in the State of Texas and the U.S. Western District of Texas. RAV's offices include Houston, Austin, Plano, and The Woodlands.

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In his 35 years as a practicing attorney, Mitch has represented banks, mortgage companies, residential homebuilders, real estate settlement service providers, credit card issuers, and other financial service companies in a broad range of matters. Mitch represents clients in investigations and enforcement actions before the Consumer Financial Protection Bureau, Department of Housing and Urban Development, Department of Veterans Affairs, Department of Justice, Federal Trade Commission, Ginnie Mae, Fannie Mae, Freddie Mac, and various state and local regulatory authorities and Attorneys General offices. In addition, Mitch acts as outside general counsel to smaller companies and special regulatory and litigation counsel to Fortune 500 companies.

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Thomas E. Black, Jr. is managing partner of Black, Mann & Graham, LLP. Founded in 1997, the firm has offices in Dallas, Flower Mound, and Houston, Texas. Tom practices in the area of residential real estate law representing many of the nation's largest banks and mortgage companies. He has been admitted to the practice of law in New York, Texas, Iowa and Washington. In 1976, Tom received a B.A. degree from the University of Notre Dame. He received his J.D. degree from the University at Buffalo in 1979 and an M.B.A. degree from The University of Notre Dame in 2008. After holding senior positions with a number of national mortgage companies, he returned to the practice of law in Texas in 1995. A frequent mortgage industry lecturer, he taught more than 25 years in the Mortgage Bankers Association's School of Mortgage Banking. He is active in community service and held a variety of board positions, and serves as a Trustee of the University of Buffalo Foundation and of Saint Mary's College, Notre Dame, Indiana.

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James Brody actively manages all the complex mortgage banking litigation, mitigation, and compliance matters for Johnston Thomas. Mr. Brody's experience centers on those legal issues that arise during loan originations, loan purchase sales, loan securitizations, foreclosures, bankruptcy, and repurchase & indemnification claims. He received his B.A. in International Relations from Drake University and received his J.D., with a certified concentration in Advocacy, from the University of the Pacific, McGeorge School of Law. He was a recipient of the American Jurisprudence Bancroft-Whitney Award. He is licensed to practice law in California and has been admitted to practice in front of the United States District Courts for the Central, Eastern, Northern, and Southern Districts of California. In addition, Mr. Brody has served as lead litigation counsel for numerous mortgage banking and commercial related disputes venued in both state and federal courts, in a direct capacity or on a pro hac vice basis, in AZ, CA, FL, MD, MI, MN, MO, OR, NJ, NY, PA, TN, and TX.

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Roger Fendelman is a managing member of Garris Horn PLLC and CEO of Firstline Compliance. A mortgage compliance technology pioneer with more than 25 years of legal experience, Roger advises both mortgage originators and technology providers on compliance, technology, and automation challenges, with a focus on TILA, RESPA, QM, HOEPA, TRID, HMDA, ECOA and state consumer protection laws. For more than a decade, Roger served as the executive compliance leader of mortgage fraud and compliance technology innovator Interthinx and was the creative force behind PredProtect, one of the first cloud-based mortgage compliance automation solutions. Under Roger's stewardship, the system became an industry standard for compliance, processing one million loans annually and earning a 2014 HousingWire All-Star award. He previously served in various capacities including compliance manager, processor and underwriter, providing him with an enhanced level of understanding for his clients' day-to-day compliance needs.

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Marty Green leads the Dallas office of Polunsky Beitel Green, one of the country's top residential mortgage law firms. Mr. Green is an accomplished attorney with more than 20 years of experience in the legal, banking and financial services industries. He is the former Executive Vice President and General Counsel for Dallas' CTX Mortgage Co. and previously worked with the Baker Botts law firm in Dallas as Special Counsel. In his role as leader of the firm's Dallas office, Mr. Green advises clients on the latest rules and regulations covering residential lending, in addition to building on Polunsky Beitel Green's long tradition of delivering loan closing documents with speed and accuracy. Mr. Green is admitted to practice before all Texas state and federal district courts in addition to the U.S. Court of Appeals for the Fifth Circuit. An honors graduate of the University of Texas School of Law, he earned his undergraduate degree at Southern Utah University. Texas Monthly has selected him as a Super Lawyer multiple years.

Achieving Operational Excellence in Mortgage Lending

By Tom Hughes

Dad, why does it take six weeks to close a home loan? My son asked this question after a visit to a local bank. "I just don't understand," he continued to state in frustration, "I have 30 percent down, my credit score is over 800, and I have more in savings than the loan amount requested. I borrowed my farm production loan for three times as much as the loan requested and it only took 30 minutes!"

Having managed a mortgage operation that guaranteed 15- day closings, I know six weeks is too long, even post-TRID. Unfortunately, the six-week estimate by the local community bank is close to the current national average of 46 days.

WHY DOES IT TAKE SO LONG?

While there are varying answers to this question, lenders often give the following reasons for delayed loan closings:

1. **The Burden of Regulatory Compliance**. Granted, the TRID rule specifies time frames for disclosures and the CFPB's QM or "ability-to-repay" rule requires companies to verify and document the borrower's ability to repay the loan; however, we cannot blame regulation as a major culprit for the time it takes to close a mortgage loan. The mortgage lending industry has dealt with compliance issues for years.
2. **Volume.** Low interest rates mean more applications straining the capacity of a lender's processing and underwriting functions. Unfortunately, in many operations, as volume increases, service decreases.
3. **Standards Required for Securitization.** Mortgage loans must meet high standards to become investment quality for securitization. It is the underwriter's responsibility to assure the quality of the loan. In order to do this, the paperwork relating to the loan, the borrower, and the property go through several screening processes. The lack of documentation or missing documentation greatly slows down the process.


An eClosing
can take 10 minutes or less.
Never miss yoga again!

4. **Appraisal & Title Exam.** The time it takes for these two services to be completed is often cited as factors in time to close. Appraisers and title companies often have trouble keeping up with demand. Providing good, complete information and documentation to each service provider can speed delivery.

HOW DO WE SPEED UP THE PROCESS?

As participants in the mortgage industry, we should be customer focused, which means re-engineering the process to reduce turn times. Often borrowers are disgruntled or confused by the whole application-to-closing process. We can make the process easier, faster, and less stressful for our customers.

Improvement begins with clearly understanding your application process and current workflow, setting objectives, measuring your current performance by using Key Performance Indicators (KPIs), and utilizing a system to ensure quality of the initial loan application.

Stage 1. The success of the mortgage loan process starts with the MLO and a well-documented, complete application. A poor application that passes to the processing state will cause problems that not only affect the loan but cause delays in the entire loan pipeline.

In order to avoid this, the MLO needs to be trained on lender requirements and be held accountable for the quality of applications submitted. When offering 15-day guaranteed closings back in the day, our operation implemented an MLO Scorecard with hard stops for applications that did not meet the quality standard. The MLO Scorecard was the first measurement and one of the most important steps in achieving a successful operation. If you measure it, expect improvement!

Stage 2. A well-trained, efficient processor is also key to getting a loan closed in a timely manner. It is this individual that must gather missing information for submission to the underwriter and then chases missing or unsatisfactory documentation from applicable sources once the loan has been underwritten. Like the other functions of the process, measurement of performance will give management insight into the quality and speed of the individual. Processor productivity can be measured by the following KPIs:

- Completeness of mortgage loan package submitted to underwriting (number of files with conditions)
- Turn time by processor (time file received to submission to underwriting)
- Number of files processed per month
- Mortgage application approval rate

Stage 3. Underwriting is tasked with the responsibility of reviewing a file and determining investment quality. Complete file documentation must be reviewed to determine the risk in the application and determine if it meets investor guidelines. As with a processor, there are indicators to a successful underwriter. An underwriter can be measured by using the following KPIs:

- Defaults on repurchases for individuals
- Turn time by underwriter (time file is received to posting of decision status)
- Number of files underwritten per month
- Findings in QC review

State 4. A closer assembles, prepares, and reviews critical closing documents for a loan once it has been approved for underwriting to close. A detail-oriented, well organized individual will act as a point of contact between parties involved in the loan transaction, coordinate closing, and ensure compliance. As with the other functions, a closer can be measured by using the following KPIs:

- Number of files closed per month
- Turn time by closer (time file received to closing package)
- Findings in QC review

We cannot overlook the importance of technology in this process of faster-close, higher quality loans. The mastery of technology is the key to a highly productive, efficient, and profitable mortgage operation. You must have it and know how to use it! Current and future adaptation of Artificial Intelligence (AI) technology is rapidly changing the mortgage industry. It affects how we currently do business and how we will do business tomorrow. It is and will continue to be a huge factor in the reduction of application-to-closing turn times.

The solution to faster mortgage closings involves the knowledge and implementation of the following:

- A clear, understandable workflow describing an efficient loan manufacturing process
- Well-defined, measurable objectives for process improvement
- Complete, fully documented loan application with MLO accountability
- Measurement and quality checks during the process to indicate areas needing improvement (not waiting for QC after the loan closes)
- Staff education and set expectations
- Outsource processing and/or underwriting in times of excess volume
- Adaptation and openness to the future of technology
- The Big One - strive for perfection and when you think you have achieved it, improve it! MBM

"Everything we do makes a difference and helping people get in their homes and stay in their homes is very meaningful work."

MARY ANN McGARRY

CEO of Guild Mortgage

What is the most rewarding thing about your position?

There are many rewarding things about what I do. I'm grateful that we have the opportunity to make a difference in people's lives. Our mission is to deliver the promise of home in every neighborhood and community we serve. Everything we do makes a difference and helping people get in their homes and stay in their homes is very meaningful work.

I've also enjoyed seeing the personal growth and development of the next generation of leadership at Guild. I've been with the company for 35 years and have worked with so many people for a long time. Watching the growth of our people has been very rewarding. The same can be said for our business overall. I'm very proud of our systems and how well we operate at Guild. Our people and our systems have been key to our continued growth.

What do you think is the biggest challenge the industry is facing in 2020?

The biggest challenges we're facing as an industry are inventory shortages and shrinking markets creating irrational pricing. I think we need to continue to create opportunities for first-time homebuyers. There's just not as much focus on the first-time buyer market as there should be.

What time do you get up?
5 a.m.

What is the first thing you do in the morning?
I typically check my email and then work out.

What is your mantra?
Win the day!

What is on your desk?
My desk is usually pretty clean. I have photos of all my kids, my family, my executive group and a picture of myself and Martin Gleich, who founded Guild Mortgage in 1960. I have my computer, of course, and a folder for things that need my attention.

What is your best habit?
I always try to be positive and lift people up around me. Working to keep others motivated is very important to me. I also make a point to express gratitude whenever I can. I'm very thankful for everyone's hard work and dedication.

What is the last thing you do at night?
I like to unwind in the jacuzzi and review emails before bed.

What time do you go to bed?
Usually between 9 and 10 p.m.

KENNETH KNUDSON

CEO & President
Primary Residential Mortgage, Inc.

What is the most rewarding thing about your position?

I have the opportunity to work with a team of 1,900 mortgage banking professionals in nearly every state across this great country. While we take pride in helping more than 25,000 customers each year to finance their homes, the most rewarding aspect of my position is leaving work each day knowing that the personal lives of each one of my employees has been improved by being a part of an organization that provides more than simply an economic livelihood, but an organization that provides each employee with the opportunity to continue to grow personally as well as professionally so that they can enjoy greater job satisfaction and stability as part of the PRMI Family.

What do you think is the biggest challenge the industry is facing in 2020?

Regulatory uncertainty. The harder we work to meet the demands and expectations of one of our regulatory counterparts, the more we seem to cause another to bristle. Our industry has very few "bright line" regulatory definitions which typically means that doing the right thing to meet one statute or regulator often places us at odds with a competing regulatory interest.

What time do you get up?
6:15 a.m. is my preferred wake-up time.

What is the first thing you do in the morning?
I enjoy reading for 15 minutes each morning and focusing on some aspect of self-improvement before I get into the rigors of my day.

What is your mantra?
"You can't change the way the wind blows, but you can adjust your sails." We are not always in control of the various elements, forces and people we interact with daily, but how we handle those people, forces and factors is what defines who we are and how we will be successful.

"You can't change the way the wind blows, but you can adjust your sails."

What is on your desk?
A picture of the place that brings me the most joy and happiness—the park located just outside of the front door of my home. I also have my latest unfinished book for when I have a few extra moments.

What time do you go to bed?
10:30 p.m. (unless I have unfinished work—sometimes the workload interferes with a proper schedule).

What is your best habit?
Seeking out and finding the talents and skills that others have and striving to allow them to use those abilities to complement my personal skills in an effort to grow and develop our organization.

What is the last thing you do at night?
Personal meditation and reflection on those things for which I am grateful. I have been truly blessed throughout my life and I try to recollect with gratitude all that I have been given.

THE TOUGH YEAR OF 2018

Why the Losers Did So Poorly

By Joe Garrett

The year 2018 was a terrible year for most mortgage bankers, but it was a good year for people interested in learning why some companies consistently excel and some consistently struggle. There were companies that did very poorly and some that failed, and they provided a good contrast to those who did quite well.

Looking at 2019 is less instructive. In good years like 2019, some did better than others, but everyone did well.

It's in the tough years like 2018 where we can draw lessons.

The MBA Performance study showed that the average production earnings loan for retail originators in 2018 was 23 bps, but let's not forget that this was the average, and that half did worse.

There's not much of a margin when you're only making 23 bps, and we saw a good number of companies that lost money for the year, and some which outright failed.

It sounds harsh, but let's define as losers those companies which performed below the average of 23 bps, along with those which actually went out of business.

HERE ARE FIVE COMMONALITIES WE SAW WITH THESE LOSERS:

1. Financial reporting was somewhere between mediocre and non-existent. As we've said thousands of times, "If you don't measure it, you can't manage it."

2. The owner was abysmally ignorant about certain key parts of the business. A typical situation was a production-oriented owner who had no clue about secondary marketing and was oblivious to such things as best execution and leakage.

3. The company gave away too much in the way of price concessions, and their overrides were ridiculous. We were trying to help one struggling company figure out why they were losing money month after month, and one of the many things we always look at is overrides.

We were a bit surprised they tracked overrides, but when we looked at the report and saw they averaged 55 bps, we assumed it was actually 5.5 bps. No, it actually was 55 bps per loan. Aside from the usual overrides to branch managers and the like, they were giving out overrides to people in

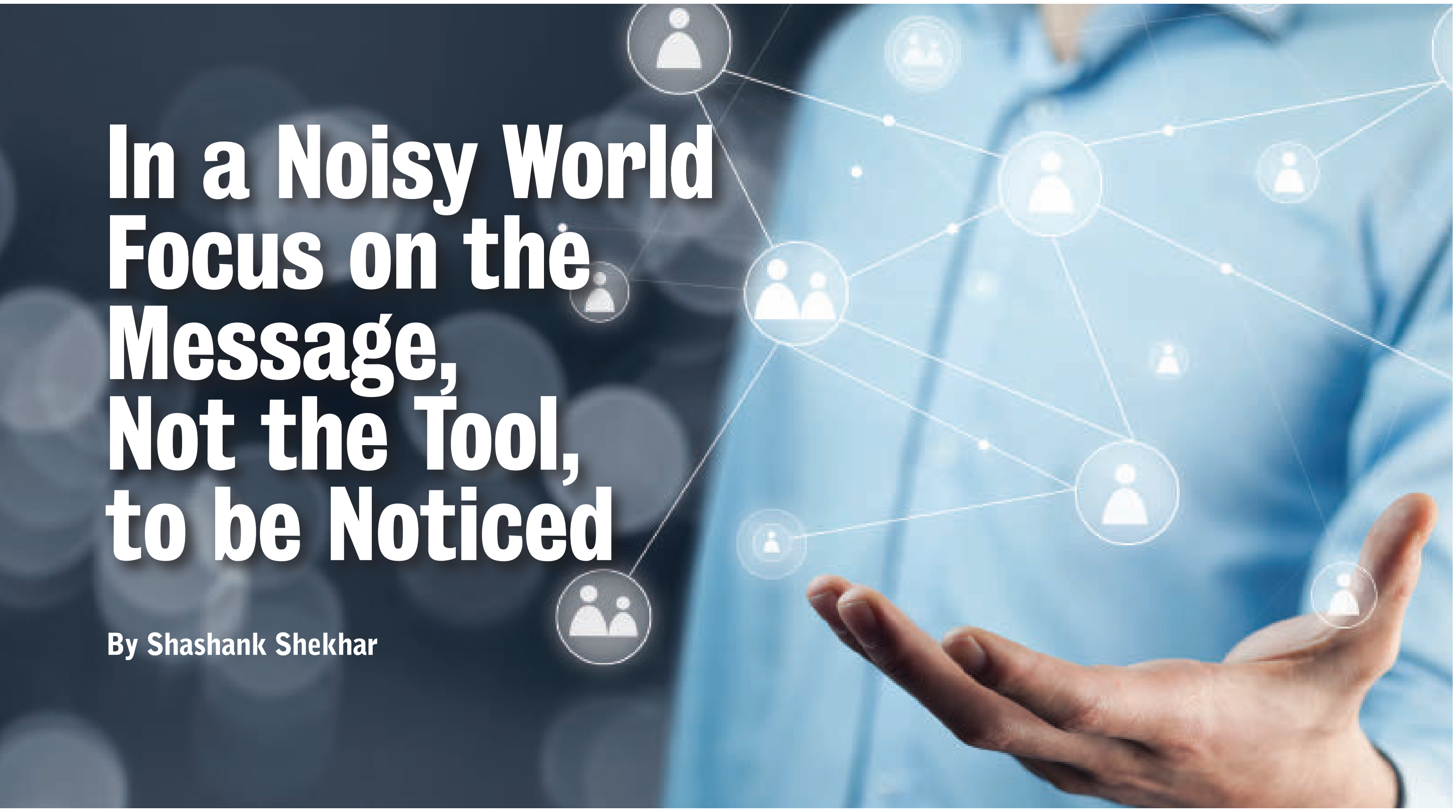
compliance, in operations, in secondary, in legal, with even a half a basis point to a receptionist. Everyone was paid on volume, but no one was paid on profitability.

Mortgage banking is a low margin business, so it's important to be very careful about giving away margin, either in price concessions or overrides. Giving it away like giving away candy on Halloween is a pretty good way to go broke.

4. There was no liquidity plan or cash-flow modeling. Projecting cash inflows and outflows isn't rocket science, but none of the loser companies did it. They typically had one or more near-death liquidity crises and multiple last-minute scrambles to meet payroll.

5. They didn't know their cost-to-originate. It doesn't matter what a company makes, they know what it costs to produce one widget. It's true for the maker of Maseratis as well as mattresses, for makers of printers as well as pencils. The top mortgage companies know what their cost-to-originate is in bps, and they know it at each branch. The losers never had a clue.

When you add it all up, the losers never had a clue about a lot of things, and as a result, they never had a chance. Going into 2020, it might be useful to periodically revisit what the winners did and model your efforts after them. And similarly, try to avoid doing what the losers did.



In a Noisy World Focus on the Message, Not the Tool, to be Noticed

By Shashank Shekhar

How many times have you heard people saying or caught yourself saying, "Facebook is a waste of time," "I will never open an account on Instagram," or "If I can't write my opus, I can't blog consistently" etc.

TOOLS CHANGE

People get caught up on tools, not realizing tools change every few years. How long ago was it that you listened to tapes, carried a beeper, and subscribed to a print newspaper? Well, you may still be doing the latter, but not for long. And in the online world, it wasn't too long ago when My Space was the biggest social media platform around, and to an extent, probably the only one. Now we have Facebook, Twitter, LinkedIn, YouTube, Instagram, and the list goes on. Heck, some experts are already talking about saturation on Facebook and more time spent on newer platforms like Pinterest and Instagram.

WE ARE IN THE PEOPLE BUSINESS

Your goal should not be how many followers you can get on Twitter or how many followers you have on Facebook. Your goal should be how many people want to connect with you in a meaningful way. Whether it's a first time homebuyer completely lost about where to get started or a client that you have refinanced four times, you need to connect in a meaningful and authentic way. It doesn't matter where you are connecting with them, such as Facebook, Twitter, or LinkedIn. The tools would be a waste if the message was not right.

If you used to listen to real estate master motivator, Zig Ziglar and his books on tape, you can now listen to him on iTunes, CDs, or download his presentations on Audible.com (my favorite). Even though the tools have changed, you might find Ziglar's message valuable enough to choose new tools to listen to that same message. Similarly, if your clients and prospects find your message valuable enough, they will listen to you via different tools and platforms. Take this article, for example, whichever format you are currently reading in, you could even find this article on a social media site, a bookmarking site or via an RSS feed to your Google Alerts account. But then again, if you don't like the article, it doesn't matter in how many ways and formats it is available, you won't read it. And even if you do read it once, you won't necessarily come back to read my future articles. You see, it's always about the message and rarely about the medium.

TOP TOOLS FOR TODAY'S MORTGAGE PROFESSIONALS

Choose your tools wisely. At the end of the day, we are still active originators who need to prospect, take loan applications, follow up with clients, and remain on top of guidelines and rates that change daily. Don't go after the next "shiny" thing. Most of the tools out there are just that – shiny. Here are the top four tools that have helped me build a $180 million+ annual personal production.

1. **Blogs**: Social monitoring company, Hubspot, reports that companies who blog get 95percent more visitors than companies who don't. Blogging instantly catapults you to "expert" status, as you show your expertise in a public forum. This is from my personal experience. I have found regular blogging to be the #1 game changer in garnering new leads for my mortgage business. Over the last 10 years, I have published on an average of one blog per week.
2. **Facebook:** It is the most populous and engaging platform on the planet. Facebook allows you to connect with people and deepen relationships, a "must-have" tool in the game of mortgage lead generation. The great thing about Facebook is that it is as much "Social" as it is "Media." While it's a perfect platform to connect with people in a personal way, it's also okay to post about your business as long as you keep that in moderation.
3. **LinkedIn:** The professional recommendation site of choice gets great search engine optimization. You want to be sure to have an account, so people can Google your name and find out more about who you are and what you do professionally. Make sure you complete your profile and get some testimonials (called Recommendations) up there, as well.
4. **Local Review Sites:** Two of the most ignored, but very effective sites, are Google My Business and Yelp. They are both local online directories and consumer review sites, and you can get yourself listed there for free. Again, they pop up in a Google search and make it appear that you own the web for your name, showing that you are a savvy loan originator. Not to mention, having great reviews triggers the "Law of Social Proof" and "Law of Authority," two of the most powerful ways for people to choose you as their preferred loan originator.

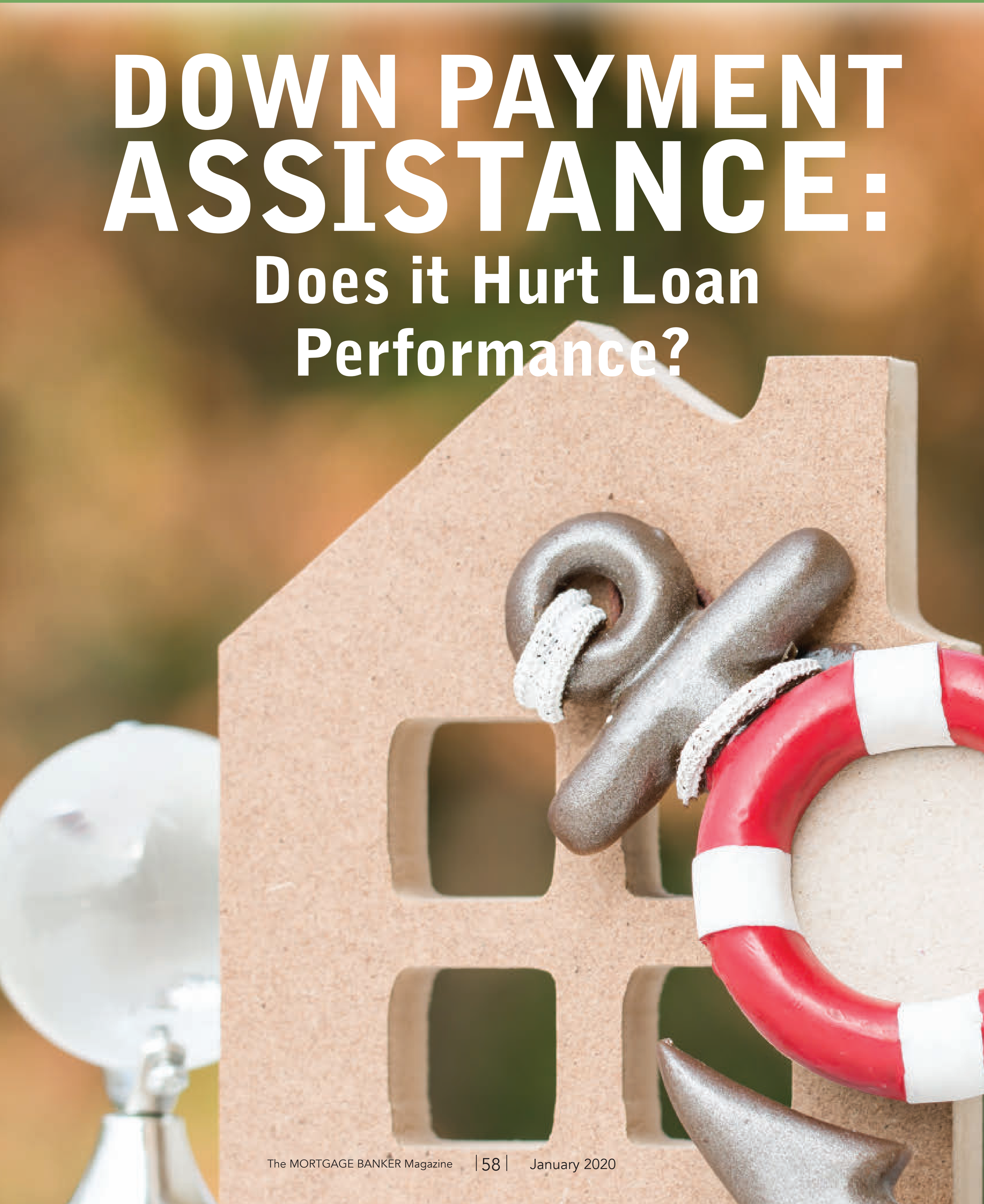
I don't know if these tools will be relevant five years from now. I am not even sure if all of the present platforms are relevant for your business right now. Heck, I don't even know if they will all be here next year.

One thing that will remain of critical importance is you going where your clients are. That's Marketing 101. If they are hanging out on social media, be there. If they are consuming mortgage content via blogs, write some. If they are reading reviews to select a loan officer, make sure you have a ton of them and good ones. Remember, it all depends on where your customers are looking for referrals, relationships, and information. If you are not where they are, they will find someone else who is there.

What are your strengths, and have you positioned yourself as an expert across the social web? Where are you providing value and is your target market listening? If you build it, they might not come, but if you focus on the right message where your customers are, they will. MBM

DOWN PAYMENT ASSISTANCE:

Does it Hurt Loan Performance?



Are borrowers who receive down payment assistance more likely to default than those who don't receive assistance? The Harvard University Joint Center for Housing Studies (JCHS) says no. In a recently released study on how the presence and type of down payment assistance affects the performance of affordable mortgages, Harvard JCHS Senior Research Fellow Michael Stegman wrote, "Despite HUD's stated concerns, my colleagues and I find that the receipt of down payment assistance is not significantly associated with default risk."

The MORTGAGE BANKER Magazine recently spoke with CBC Mortgage President Richard Ferguson, who has been at the heart of the down payment assistance industry for two decades, about the findings of the Harvard JCHS study. CBC Mortgage filed a lawsuit last year against HUD that successfully forced the agency to rescind Mortgagee Letter 2019-06, which limited companies' options for offering down payment assistance. Ferguson says, however, CBC is still feeling the effects of the mortgagee letter where its loan volume is concerned—and that policy makers should heed the study's conclusions for the sake of the communities who need help the most with down payment assistance.

MBM: How did HUD mortgagee letter 2019-06 negatively impact CBC Mortgage, as the lawsuit filed earlier this year by your company claims?

Ferguson: The mortgagee letter stated that government entities could only provide down payment assistance within their geographical jurisdictions on FHA-insured loans. As a Native American government entity, the implication was that we could only lend to people on the reservation, itself. In essence, HUD was saying, "Hey, you guys cannot branch out your business. You have to stay on the reservation." Given the fact that we were no longer able to provide down payment assistance to anyone across the country as we had been doing, as per the charter we have from the federal government, that would have effectively eliminated our business, because we assist people off the reservation.

MBM: How did the outcome of the suit affect mortgage loan originations and DPA programs?

Ferguson: The good news is, we won the lawsuit, and that allowed us to continue to offer down payment assistance all over the country, and therefore help buyers in need who aren't being helped by other programs. There are a many programs out there, but most of those programs have certain limitations. Some of them have geographic limitations, certain kind of credit restrictions, first-time homebuyer restrictions, income restrictions; we don't have the kind of restrictions that the other programs have, so it allows us to continue offering our program to credit worthy individuals.

However, even though we won the lawsuit, the volume that we are doing now has not recovered to the kind of volume we were doing before that HUD mortgagee letter. The mortgagee letter had a chilling effect. There are lenders out there who are somewhat apprehensive as to what HUD's next move or intentions might be, and therefore are unwilling to participate in offering that program to the borrowers. So, it's the borrowers who lose out in that scenario.

MBM: Do you see the volume recovering back up to pre-mortgagee letter levels?

Ferguson: I hope so. We may need to wait until spring when the real buying season picks up again. We were on pace to help 700 or 800 people per month, and now we've been knocked down to about 400 to 500 per month. So, there are several hundred people every month who are not getting the down payment assistance they could have been getting.

MBM: In the Harvard JCHS study, how is the theory disproved that receiving down payment assistance is significantly associated with default risk?

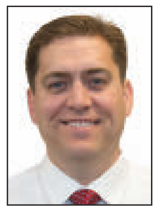
Ferguson: The study says that receiving down payment assistance is not associated with default risk, and that's the really salient point. What they did was they took a look at a pool of about 30,000 loans and their performance over a period of about a decade, and they characterized the loans along traditional underwriting criteria such as FICO score, debt to income, loan to value, and they even looked at other things such as race and geographic location. They also looked at whether the borrower received down payment assistance or not. When they do a statistical analysis, they can look at each one of those variables, and control for each variable using a mathematical or statistical method. When they control for all the variables and look at the effect that down payment assistance has on a loan's performance by itself, it was determined by this study that there was no noticeable problem with loan performance just because the borrower received down payment assistance. It did have one caveat after that—in some cases there was a bit of a noticeable difference, but the difference was really more due to race than down payment assistance. Unfortunately, many minority communities lack resources, family or otherwise, and when a difficulty arises in a borrower's financial situation, they don't have the support system like other communities might have to help them make their payments. What the study is trying to say is that since communities of color rely quite a bit more on down payment assistance than other communities, they shouldn't be penalized for that fact. In essence, what's happening is HUD is saying, "We think that down payment assistance is causing loan performance issues." But in reality, it's not down payment assistance, it's the demographic of the people getting the down payment assistance and their life circumstances and community circumstances. If HUD desires to limit down payment assistance to control perceived risk, all they are really doing is telling minorities they have less access to down payment assistance and other kinds of help that they normally would have. That's the argument we're trying to make. There's got to be something to help minority communities build up that network, that nest egg, that inter-generational wealth.

MBM: If in fact that is what HUD is doing, doesn't that seem contrary to their mission?

Ferguson: Absolutely. That's the point we're trying to hammer home. HUD, and FHA in particular, was set up to help minorities and underprivileged communities realize the dream of homeownership. We as a society need to ask ourselves, Is the goal of homeownership worth a slightly higher risk because we're helping minorities get out of inter-generational poverty? I say emphatically yes, it's worth that. We try to do everything we can as a program to help those borrowers be successful. We have 12 months' worth of post-purchase support to help those borrowers transition into successful homeownership, we make contact with them regularly, and we have various forms of assistance such as counseling if they get into a rough patch.

MBM: What are the implications of the Harvard JCHS study's findings for mortgage loan origination in the future?

Ferguson: The study's main implications are for policy makers. Policy makers have the understandable goal of trying to ensure that loan performance is the best it can be. Everyone agrees on that. The implication is that if they limit down payment assistance because they think that down payment assistance is the cause of poor loan performance, then they are misguided. What they'll end up doing is throwing the baby out with the bathwater and hurting the very communities they are supposed to help. On the front page of the summary of the report, there is an admonition to the policy makers that they need to be very careful in evaluating the down payment assistance policies because down payment assistance does not have an effect on loan performance. And if you try to limit down payment assistance, all you're going to do is hurt the communities you're trying to help. That's the takeaway. MBM



Richard Ferguson is president of CBC Mortgage Agency, a nationally chartered housing finance agency and a leading source of down payment assistance that helps low-income consumers, often in minority neighborhoods, achieve the dream of homeownership. He can be reached at richard.ferguson@chenoafund.org.

Inside the Millennial Refi BOOM

With mortgage rates falling to a three-year low, everyone has been getting in on the refinance game. This has especially been true of millennials of late. Refinances represented 34 percent of all loans closed by millennials in October, according to Ellie Mae's Millennial Tracker, the largest share since Ellie Mae began tracking the data in January 2016. This share represented an increase of 9 percentage points from two months earlier in August.

While purchase loans only accounted for 66 percent of all loans closed by millennials, Ellie Mae believes that lower rates may provide greater purchasing power to millennials, which will encourage them to take the leap into homeownership. *The MORTGAGE BANKER Magazine* recently spoke with Ellie Mae Chief Operating Officer **Joe Tyrrell** to dig deeper into why more millennials are refinancing and the future of millennials in the world of homeownership.

MBM: Mortgage rates on conventional loans are down to 3.9 percent, the lowest level in three years. How big of a role did this play in the millennial refinance boom, and were there other factors involved that are making this a popular time for millennials to refinance?

Joe Tyrrell: Record-low mortgage interest rates gave extra incentive to those millennials who were tentatively considering a refinance to actually take the plunge. In addition, many millennials who purchased homes in recent years also took advantage of this opportunity to refinance and lock in a better rate.

MBM: Do you expect this trend to continue? If so, why?

Tyrrell: As interest rates decline, homeowners of all generations not just millennials, will continue to take advantage of refinance and savings opportunities. Economists from Freddie Mac have predicted that average interest rates will continue to remain low throughout 2020, which will likely encourage more millennial refinances across the country.

MBM: What factors account for the rise of average FICO scores for millennials up to 729?

Tyrrell: With an overall strong economy and healthy jobs reports from the Bureau of Labor Statistics, many millennials are in an advantageous position to increase their credit scores and secure better mortgage rates. Millennials are also typically waiting longer to buy homes today, which allows them to build their credit for a loan and lastly, with the advent of so many companies promoting the importance of boosting credit scores, Millennials have actually focused on building and maintaining their credit score.

MBM: Why do conventional loans account for the highest share (75 percent) of all loans closed during September for millennials?

Tyrrell: Millennials today may have stronger FICO

scores that help them qualify for conventional loans. Likewise, with the influx of millennial homebuyers in the market, many lenders are anticipating demand by offering millennials conventional loans with a high percentage of financing. Additionally, many millennials are becoming homeowners for the first time and may not be aware of the variety of loan options available to them outside of conventional loans, such as FHA loans. This provides an opportunity for lenders to educate potential homebuyers on their options and thus deepen their relationships.

MBM: Why is the average age of millennial homebuyers (30.6) at its highest level in nearly a year?

Tyrrell: While the average age of millennial homebuyers has fluctuated slightly over the years, on the whole we have seen a slight increase in age year-over-year. This may be due to multiple factors, including rising student loan debt damaging millennials' financial health and delaying life milestones including marriage and homebuying. However, one distinction to note is that our Ellie Mae Millennial Tracker data has found that millennial men are more likely to wait to purchase a home until they are married and start a family, while we've seen millennial women more likely to purchase a home without a spouse.

MBM: What conclusions can be drawn about millennial homeownership from looking at these recent statistics?

Tyrrell: Millennials are extremely savvy in their quest for homeownership. Whether it be researching their potential lender, refinancing a home, or quickly taking advantage of low interest rates to buy their first home, this generation of homebuyers is making sure they are making fiscally responsible choices. MBM

Joe Tyrrell is the Chief Operating Officer at Ellie Mae. Joe oversees technology, product strategy, product management, and business an corporate development efforts involving the company's network of current and potential business partners and merger and acquisition strategies.

MBa MORTGAGE BANKERS ASSOCIATION

Education & Training Calendar

January 2020

Date	Course Name	Dates	Link
Jan 8	**Formalizing Your Strategy for Cybersecurity Preparedness**	January 8	https://www.mba.org/store/events/webinar/ce-formalizing-your-strategy-for-cybersecurity-preparedness
Jan 14	**Ten Things Your Company Must Do in 2020**	January 14	https://www.mba.org/store/events/webinar/ten-things-your-company-must-do-in-2020
	Introduction To Mortgage Banking	January 14 - 28	https://www.mba.org/store/events/instructor-guided-online-course/introduction-to-mortgage-banking-january-2020
Jan 15	**Trends in CFPB Servicing Rules**	January 15	https://www.mba.org/store/events/webinar/ce-trends-in-cfpb-servicing-rules-x260476
Jan 16	**A Deep Dive into RESPA Section 8**	January 16	https://www.mba.org/store/events/webinar/ce-a-deep-dive-into-respa-section-8
Jan 21	**School of Loan Origination**	January 21 – February 13	https://www.mba.org/store/events/instructor-guided-online-course/school-of-loan-origination-january-2020
	School of Mortgage Banking III	January 21 - 24	https://www.mba.org/store/events/somb3/school-of-mortgage-banking-iii-january-2020-nashvilletn
Jan 29	**Update on AML/SAR Reporting and Enforcement**	January 29	https://www.mba.org/store/events/webinar/ce-update-on-aml/sar-reporting-and-enforcement-x2601634
Jan 30	**Effective Internal Audit Function: The Fundamentals**	January 30	https://www.mba.org/store/events/webinar/effective-internal-audit-function-the-fundamentals
	mPower presents Being Resilient: A Key to Leadership Success	January 30	https://www.mba.org/store/events/webinar/mpower-presents-being-resilient-a-key-to-leadership-success
Feb 4	**Cyber Liability For The Mortgage Finance Industry**	February 4	https://www.mba.org/store/events/webinar/cyber-liability-for-the-mortgage-finance-industry
Feb 11	**School of Mortgage Banking I**	February 11 - 14	https://www.mba.org/store/events/school-of-mortgage-banking-i/school-of-mortgage-banking-i-feb-2020-washington-dc
Feb 13	**Effective Internal Audit Function: Beyond the Basics**	February 13	https://www.mba.org/store/events/webinar/effective-internal-audit-function-beyond-the-basics-x261631

Conferences/Conventions
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MBA Research Events
Other
Classroom Course
Webinar
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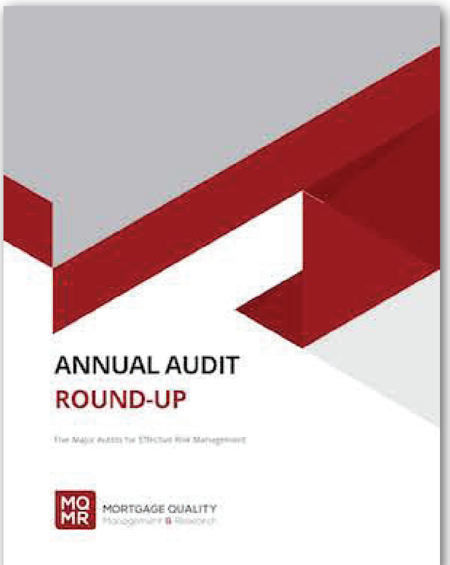
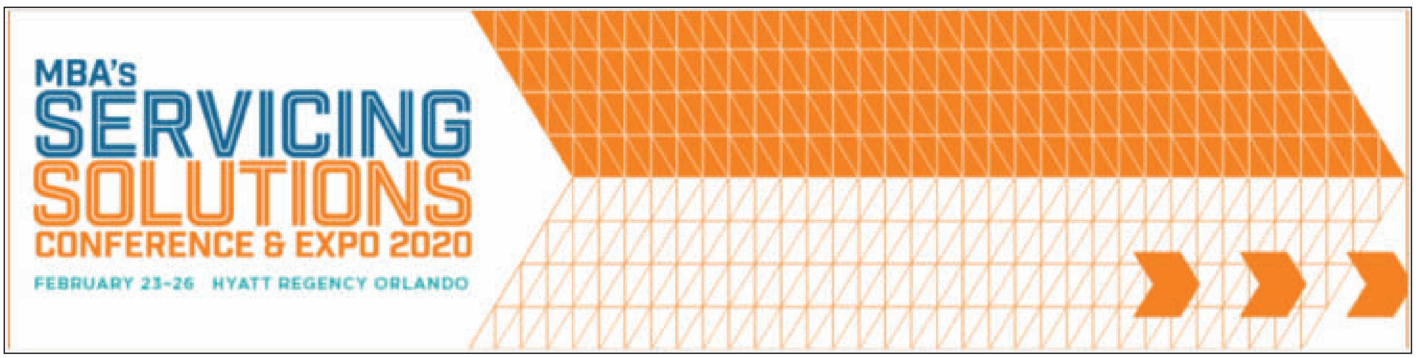


Calendar of Events 2020



Calendar of Events STATES

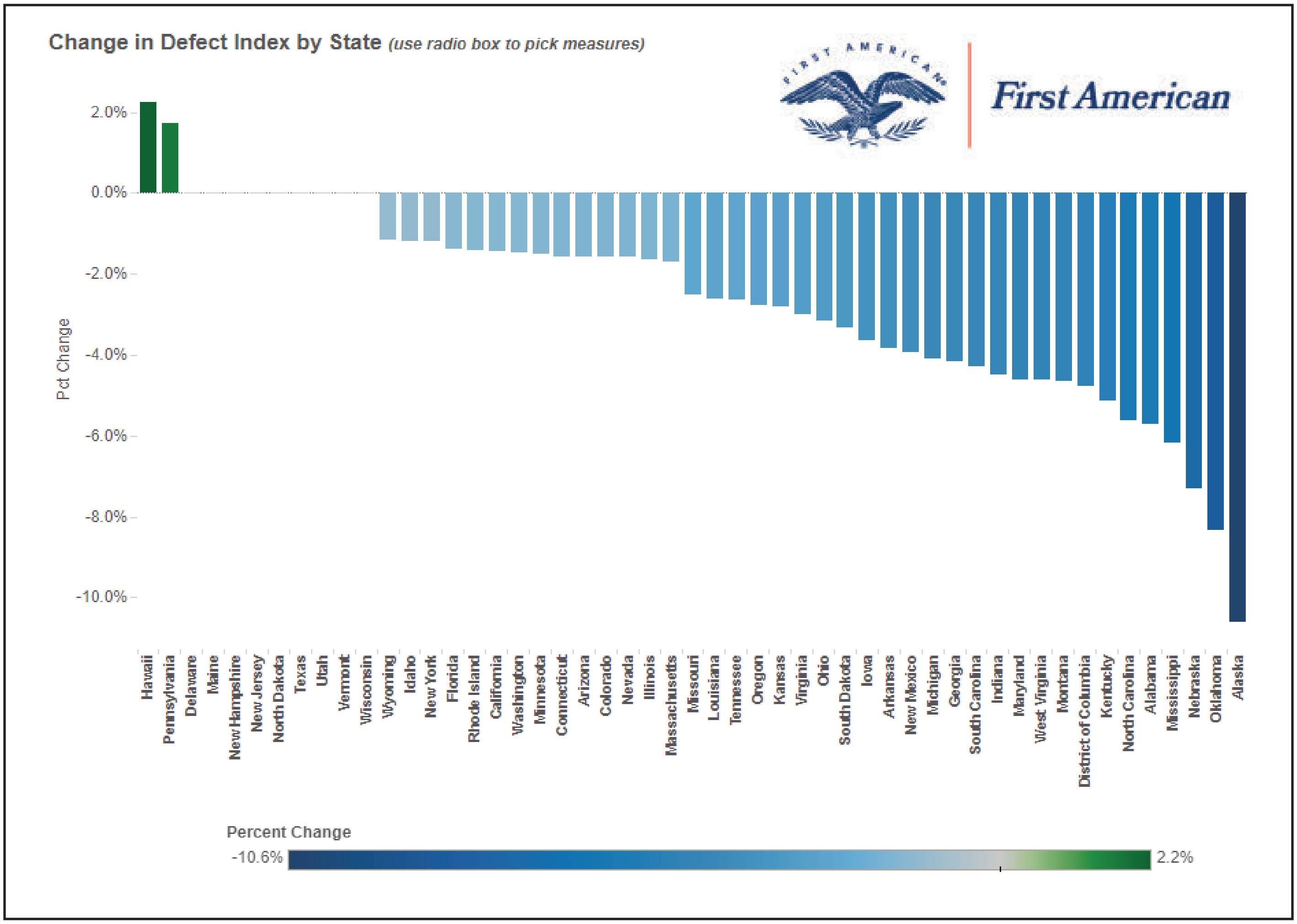
JANUARY	FEBRUARY	MARCH
COLORADO **January 9, 2020** **FORUMS** https://cmla.com/civicrm/event/info?id=308&reset=1	**NEBRASKA** **February 6, 2020** **Sales Excellence Workshop** https://nebraskamortgageassociation.com/meetinginfo.php?id=32&ts=1576086549	**ILLINOIS** **March 04, 2020** **Mortgage Lending Industry Conference** https://imba.org/meetinginfo.php?id=9&ts=1576687922
NEW YORK **January 15, 2020** **New Year's Networking Event** https://esmba.org/events	**VERMONT, NEW HAMPSHIRE, & MAINE** **February 6-7, 2020** **Tri-State Mortgage Conference** https://mbba-nh.org/event/2019-tri-state-mortgage-Conference/	**NEW YORK** **March 11, 2020** **6th Annual Strategic Real Estate & Lending Summit** https://mbany.org/events/event_list.asp
NEW ENGLAND **January 17, 2020** **New England Mortgage EXPO** https://www.mortgageconferences.com/nemortgageexpo/	**TEXAS** **February 18-19, 2020** **Secondary Market Conference & Warehouse Conclave** https://www.texasmba.org/secondary/	**CALIFORNIA** **March 23, 2020** **Legislative Day** https://www.cmba.com/legislative-day/
MASSACHUSETTS **January 23, 2020** **Installation of Officers** https://www.massmba.com/i4a/pages/index.cfm?pageid=1	**KENTUCKY** **February 20, 2020** **Education Conference** http://www.mbaky.org/	**IOWA** **March 24, 2020** **IMA Spring Conference** https://whova.com/web/imasp_202003/
TENNESSEE **January 23, 2020** **Installation Banquet** http://www.memphismba.org/events-1.html		**CONNECTICUT** **March 24-25 2020** **Loan Officers University** http://www.cmba.org/?_wga=2.188795171.986432858.1576958208-1661659382.1572117843

First American Loan Application Defect Index

The First American Loan Application Defect Index estimates the level of defects detected in the information submitted in mortgage loan applications processed by the First American FraudGuard® system. The index is based on the frequency with which defect indicators are identified. The Defect Index moves higher as greater numbers of defect indicators are identified. An increase in the index indicates a rising level of loan application defects. The index, nationally and in all markets, is benchmarked to a value of 100 in January 2011. Therefore, all index values can be interpreted as the percentage change in defect frequency relative to the defect frequency identified nationally in January 2011.

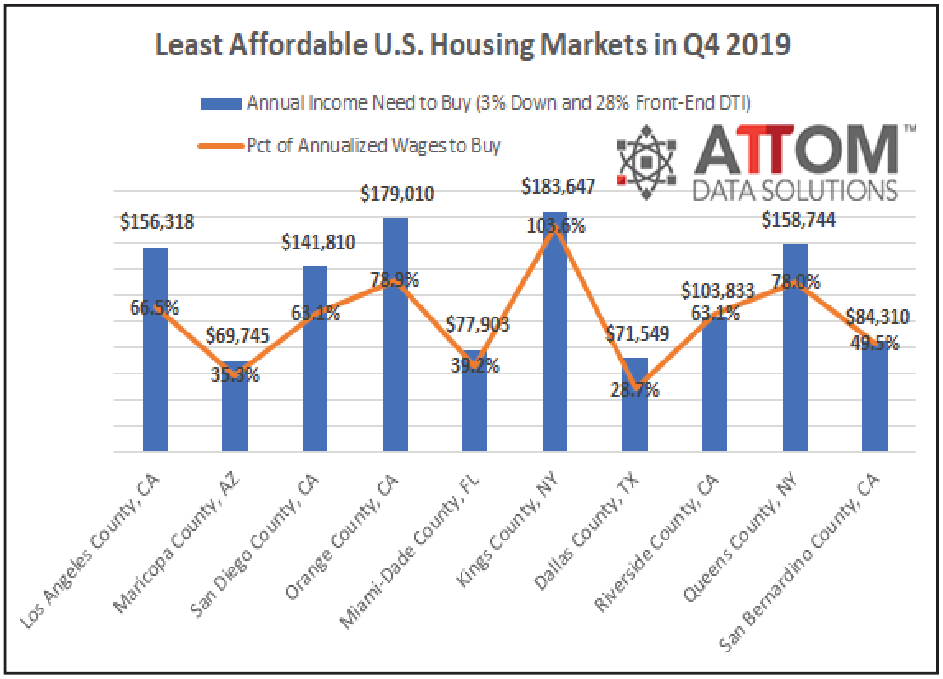
The index shown is current as of Nov. 30, 2019.

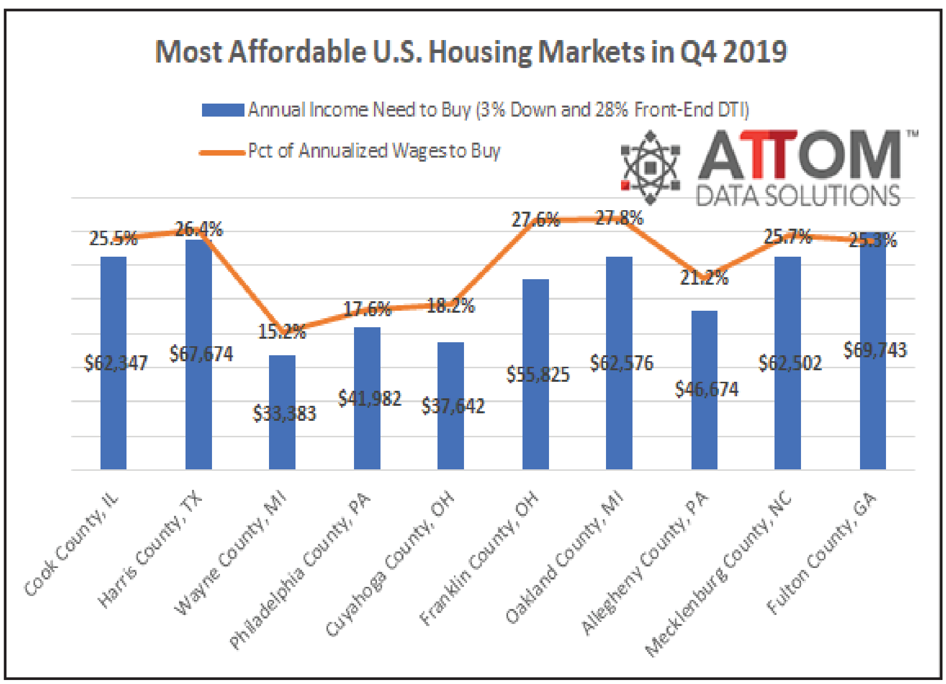
First American Financial Corporation is a leading provider of title insurance, settlement services and risk solutions for real estate transactions that traces its heritage back to 1889. First American also provides title plant management services; title and other real property records and images; valuation products and services; home warranty products; property and casualty insurance; banking, trust and wealth management services; and other related products and services. With total revenue of $5.7 billion in 2018, the company offers its products and services directly and through its agents throughout the United States and abroad. In 2019, First American was named to the Fortune 100 Best Companies to Work For® list for the fourth consecutive year. More information about the company can be found at www.firstam.com.



The Most and Least Affordable Housing Markets in Q4 2019

ATTOM Data Solutions' Housing Affordability Index determines affordability for average wage earners by calculating the amount of income needed to make monthly house payments — including mortgage, property taxes and insurance — on a median-priced home, assuming a 3 percent down payment and a 28 percent maximum "front-end" debt-to-income ratio. That required income was then compared to annualized average weekly wage data from the Bureau of Labor Statistics.





According to ATTOM's Q4 2019 U.S. Home Affordability Report, median home prices remain unaffordable for average U.S. wage earners. The report cites that is the case in 344 of 486, or 71 percent of the U.S. counties analyzed. That number is down from 73 percent from Q3 2019 and 75 percent from Q4 2018.

ATTOM Data Solutions is a multi-sourced national property data warehouse that contains tax, deed, mortgage, foreclosure, environmental risk, natural hazard, health hazard, neighborhood characteristic and property characteristic data for over 155 million U.S. properties, delivering actionable data to clients and powering consumer websites owned by ATTOM Data Solutions: RealtyTrac.com, Homefacts.com, and HomeDisclosure.com.

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