LENDERS UPDATE™

ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

David Jerome Alt
Attorney at Law
David.j.alt@altandassociates.com
www.altandassociates.com

Main Office:
2102 BUSINESS CENTER DRIVE
SUITE 130
IRVINE, CA 92612

July 5, 2017

TREASURY DEPARTMENT REPORT

The U.S. Treasury Department recently issued a report titled "A Financial System That Creates Economic Opportunities-Banks and Credit Unions." In addition to recommended changes for the CFPB, the report devotes substantial attention to the residential mortgage industry.

We apologize for the length of this *Lenders Update* but we thought the report bore recreating in full. Portions of the following are reproduced from a report of Ballard Spahr as well as from the U.S. Treasury Department.

The report cites the size of the housing market, contributing approximately 18% to U.S. GDP, and constituting a debt market second in size only to the U.S. Treasury market. Accordingly, the report states that tight mortgage lending conditions in the private sector warrant careful review of regulations which may be holding back access to credit.

The Treasury's review produced the following findings, which are copied verbatim below:

- "The revised regulatory regime disproportionately discourages private capital from taking mortgage credit risk, instead encouraging lenders to channel loans through federal insurance or guarantee programs, or Fannie Mae or Freddie Mac;
- Regulatory requirements have significantly and unnecessarily tightened the credit box for new mortgage originations, denying many qualified Americans access to mortgages;
- Increased regulatory requirements have significantly increased the cost of origination and servicing activities, which, when passed on to borrowers in the form of higher mortgage rates, have decreased the number of Americans that can qualify for mortgages;
- Some regulatory regimes or approaches are viewed by industry participants as having inadequate transparency and mutual accountability, thus creating uncertainty and risk aversion among lenders in serving certain market and client segments; and
- Capital, liquidity, and other prudential standards, in combination with a wide range of capital market regulations, have inhibited both private originate-to-hold lenders as well as lenders focused on origination and secondary sale in the private-label securitization market."

According to the report, the aim of Treasury's recommendations is to properly calibrate the regulation of mortgage lending to be more efficient, effective and appropriately tailored. Treasury further states that its recommendations also serve the goal of avoiding the recurrence of flawed practices in the U.S. residential mortgage market that contributed to the financial crisis. The recommendations for the residential mortgage market include the following:

- Mortgage Loan Origination
    - Adjust and clarify the ATR/QM rule and eliminate the “QM Patch” for GSE-eligible loans (the temporary exemption for loans eligible for purchase by the GSEs). The goal of this recommendation would be to subject all market participants to the same set of requirements, and provide greater flexibility to the QM parameters.
    - Modify Appendix Q of the ATR/QM rules to simplify the standards and release clear, binding guidance for its use and application.
    - Revise the points and fees cap for QM loans, by increasing the dollar loan amount threshold for application of the 3% cap.
    - Increase the maximum asset threshold for making small creditor QM loans.
    - Clarify the TRID rule through notice and comment rulemaking and/or through the publication of more robust and detailed FAQs in the Federal Register.
    - Modify the TRID rule to allow for a more streamlined waiver for the mandatory waiting periods, and to permit lenders to cure errors in a loan file within a reasonable period after closing.
    - Improve flexibility and accountability for the Loan Originator Compensation rule, in particular to allow for post-closing corrections of non-material errors.
    - Delay implementation of the new HMDA reporting requirements until borrower privacy is adequately addressed and the industry is in a better position to implement the requirements.

- Mortgage Loan Servicing

    - Place a moratorium on additional Mortgage Servicing Rules, while the industry updates its operations to comply with existing regulations and transitions from the HAMP program to alternative loss mitigation options.
    - Improve alignment and consistency among the CFPB, prudential regulators, and state regulators, in both regulation and examinations, to help decrease the cost of servicing.

- Private Sector Secondary Market Activities
    - Repeal or revise the residential mortgage risk retention requirement. If the requirement is revised rather than repealed, designate one agency from among the six rule-writing agencies to be responsible for interpreting the rule.
    - Enhance investor protections for private label mortgage-backed securities.
    - Clarify limited assignee liability for secondary market investors, in connection with origination errors that are not apparent on the face of the disclosure statement and not asserted as a defense to foreclosure.
    - Evaluate the impact that the Basel III capital and liquidity rules would have on the secondary market, and adjust them to reduce complexity and avoid punitive capital requirements.

ABOUT ALT & ASSOCIATES

Alt & Associates publishes the *Lenders Update* via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their business operations. Legal counsel provided to the mortgage industry includes, but is not limited to:

****Regulatory assistance, both state and federal**
****Compliance work**
****Operational advice**
****Transactional work**
****Agreements such as Loan Officer Compensation Agreements etc.**
****Various forms of employee, officer, and/or manager contracts**
****Litigation representation**

You may direct any questions or comments directly to:
David J. Alt, Esq.
David.j.alt@altandassociates.com

Previous issues of *Lenders Update* are available on our website at:
www.altandassociates.com

SHOULD YOU HAVE COLLEAGUES WHO WISH TO BE ADDED TO THIS COMPLIMENTARY SERVICE,
PLEASE HAVE THEM E-MAIL US AT:
special@altandassociates.com
****
Only those persons who have personally requested this newsletter are on our distribution list.
TO UNSUBSCRIBE,
PLEASE SEND AN EMAIL MARKED "OP-OUT" TO:
special@altandassociates.com

Who's Who in American Law
Martindale Hubble Pre-Eminent Attorney