LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

AN ALT & ASSOCIATES NEWSLETTER

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

Mailing Address:
P.O. BOX 4125
IDY, CA 92549-4125

DAVID JEROME ALT
Attorney at Law
David.j.alt@altandassociates.com

TELEPHONE 949.253.5755
FACSIMILE 949.253.5756
www.altandassociates.com

Volume IX **JUNE 2009** **Issue VI**

The purpose of the Lenders Update is to provide a "heads-up" of new legislation and other issues affecting the mortgage lending industry. We provide summaries of new matters so our readers can judge whether the subject impacts their operations. We recommend that our readers review the entire new statute, regulation or other material in detail where it is relevant to them. For reference, the applicable matter can be easily identified in the summary, and, where possible, a link is provided.

The Update includes information available to Alt & Associates as of June 17, 2009.

OBAMA'S NEW FINANCIAL OVERSIGHT PLAN

On June 17th President Obama announced his new "rules of the road" to regulate the nation's financial system. His belief is that the financial crisis was caused by "a culture of irresponsibility" whether by Wall Street or Main Street. The President stated that regulations enacted in the Great Depression, beginning in 1929 and still being used today, were "overwhelmed by the speed, scope and sophistication of the 21st century global economy." These proposals are bound to create great controversy as they progress through the legislative system. They face, in the president's words, a "heavy lift".

The Obama administration will forward its proposals to law makers on Capital Hill almost immediately. It would hope to have the new structure in place by the end of the year. This time table was echoed by Senator Chris Dodd, D-Conn who is the chairman of the Senate Banking Committee and by Representative Barney Frank, D-Mass, who is chairman of the House Financial Services Committee. Whether this time frame can be met, is arguable.

We thought it would be helpful to emphasize some of the key provisions of the proposal (which can be found in its entirety at www.financialstability.gov) :

- The Office of Thrift Supervision and the Office of the Comptroller of the Currency, would be done away with and supervision and regulation of all federally chartered depository institutions would be streamlined under a new National Bank Supervisor. Charters for Thrift institutions, i.e. US Chartered Savings and Loans would be eliminated.
- The proposal suggests higher capital limits to make financial institutions better able to absorb losses during difficult periods "with more stringent requirements for the largest and most interconnected firms".
- A new oversight body is proposed which would be chaired by the Treasury Department. The Financial Services Oversight Council would replace the Working Group on Financial Markets. Its job would be to identify entities to be regulated by the Federal Reserve. Its members would include the Director of the new National Bank Supervisor, the Chairman of the Federal Reserve Board, the Director of a new Consumer Financial Protection Agency, the FDIC Chairman, the Director of FHA and the Chairman of the Securities and Exchange Commission. Judging from the proposal, this would seem to be envisioned as a largely advisory group.
- Security issuers who concentrate with asset backed securities, would have new requirements to provide information on compensation to sponsors, originators and brokers. The information reported would be available to credit rating agencies.
- Loan originators would be required to maintain for themselves, 5% of the risk of securitized exposures. The loan originators would be barred from hedging or otherwise transferring that risk.
- Credit rating agencies importance
- would be downgraded by reducing or changing the legal requirements covering debt issuance. Credit ratings would thus become less significant.
- The proposal envisions a Consumer Financial Protection Agency. Its job would be to "protect consumers of credit, savings, payment and other consumer financial products and services, and to regulate providers of such products (emphasis added)". It would subject a range of "other firms not previously subject to comprehensive federal regulation".
- Oversight of "Over the Counter Derivatives" is proposed. The proposal says "all derivative contracts will be subject to regulation, all derivative dealers subject to supervision, and regulators will be empowered to enforce rules against manipulation and abuse."
- Under the proposal, the Federal Reserve would be given the responsibility as the supervisor of systemically important and interconnected firms. These would be known as Tier I Financial Holding Companies ("Tier I FHCs"). The stated purpose of this new regulatory regime would be to avoid the disorderly resolution of failing Tier FHCs. It would be modeled on that of the Federal Deposit Insurance Act.

We look forward to reporting to you on the progress of these significant and watershed proposals as they make their way through the process.

/////
/////

/////
/////

Our monthly Lenders Update is published via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States. Only those persons who have requested this newsletter are on our mailing list. Should you have colleagues who wish to receive this complimentary service, please have them e-mail us at

sherry.edwards@altandassociates.com

ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past two decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations. If you have any questions please contact:

David J. Alt, Esq.

David.j.alt@altandassociates.com

You may view previous issues on our website at

www.altandassociates.com