

# LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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*The purpose of the Lenders Update is to provide a “heads-up” of new legislation and regulations affecting the mortgage lending industry. We try to provide brief summaries of new matters so our readers can judge whether the subject impacts their operations. We recommend that our readers review the entire new material in detail where relevant. For your convenience, the applicable statute, regulation or cases can be easily identified in the summary. Our Update includes changes in legislation available to Alt & Associates by October 17, 2005*

## FEDERAL ISSUES

On September 20, 2006, the OCC, Federal Reserve, FDIC, OTS and NCUA published a joint Release entitled “Federal Financial Regulatory Agencies Guidance on Nontraditional Mortgage Product Rules”. The Release addresses the risk posed by residential mortgage products that allow borrowers to defer payment of principal and sometimes interest. The Release is numbered NR 2006-107. The joint agencies discussed these products as “nontraditional”, “alternative” or “exotic” loans.

The Release addresses the agencies’ concerns over whether borrowers fully understand the risks of these products. The combination of these features, in conjunction with other features of loans, compounds the risk and the agencies are addressing this issue as “risk layering”. Examples include making simultaneous first-second lien mortgages and relying on reduced or no documentation in evaluating an applicant’s creditworthiness.

The agencies direct management to:

- Ensure that loan terms and underwriting standards are consistent with prudent lending practices.
- Recognize that these types of loans are untested in a stressed environment and warrant strong risk management and capital levels commensurate with risk.
- Ensure that consumers have sufficient information to clearly understand the loan terms and the risk.

In addition to this Release, the agencies released two other related documents:

- Proposed Illustrations of Consumer Information for Nontraditional Mortgage Products, and

- An addendum to the May 2005 Interagency Credit Risk Management Guidance for Home Equity Lending.

For those of you interested, we refer you to the number of the Joint Release mentioned above. Further individual contact may be made with the particular agency regulating your institution.

## STATE ISSUES

### CALIFORNIA

AB 2416 became law amending the California Finance Lenders Law provision in which a licensee may charge an appraisal fee on any loan that is secured by real property, if specific requirements are satisfied. Now, in addition, the new statute authorizes a CFL company to collect a fee for the use of an automated valuation model result prepared by a 3<sup>rd</sup> party as long as the fee charged is not in excess of the actual cost paid to the third party. The statute also authorizes a licensee to charge a reduced appraisal fee, for the same real property, one year or more after collecting a fee for such an automated valuation, when the borrower has obtained a new loan or an additional advance. As with appraisals, the lender must provide notice to the borrower of the borrower's right to receive a copy of the automated valuation result.

### WASHINGTON

As we know, Washington "mortgage" law has changed in several significant aspects in the recent past. Consequently, Washington is currently in the process of the adoption of new rules and regulations pursuant to these changes in state statutes.

Washington has long recognized a wholesale exemption from licensing for those who may not be subject to the mortgage banker's licensing requirements. In a specific question to Washington regulators relative to whether or not table funding would fall within this exemption, regulators indicated to our firm that, in fact, such is the current interpretation. However, they indicated that licensing requirements for table funding are also currently under review. We will let you know when we are notified of any change.

**Our monthly Lenders Update is published via e-mail as a complimentary service to our subscribers and clients in the financial industry throughout California and the United States.**

**Our Lenders Update Manual: A Guide to State Mortgage Lending Law is available through our website at [www.altandassociates.com](http://www.altandassociates.com)**

**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 [susan.graaff@altandassociates.com](mailto:susan.graaff@altandassociates.com)**

**ALT & ASSOCIATES provides regulatory, compliance and licensing services, 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:**

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