CRA COMING TO FANNIE AND FREDDIE, AND WHY BANKS SHOULD CARE

Nancy finds hints of fair-lending policy and glimmerings of future bank duties

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I was reading the Federal Register notice from the Federal Housing Finance Authority about the "enterprise duty to serve underserved markets." (I know, you're thinking, "Doesn't she have a life?") What I unexpectedly found was some interesting and very relevant information about the federal government's focus on Fair Lending and a whole new "Community Reinvestment Act."

The Federal Housing Finance Agency (FHFA), which supervises the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corp. (Freddie Mac), issued a proposed rulemaking under Section 1129 of the 2008 Housing and Economic Recovery Act. That section of the law establishes a duty for Freddie and Fannie to serve three specific underserved markets:

• Manufactured housing market

• Affordable housing preservation market

• Rural housing market

Fannie and Freddie (the enterprises) have a duty under the act to "increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for very low and low-to-moderate income families" in these three markets. What FHFA is proposing via new regulations are the procedures and standards for evaluating the enterprises' compliance with this duty.

In regard to manufactured housing, the support for the premise of the underserved markets comes from the 2008 HMDA data. According to FHFA's proposal, the 2008 HMDA data shows that home purchase applications for manufactured homes are denied three times more often than applications for site-built homes. The 2008 HMDA data also demonstrates that 60 percent of the manufactured housing loans that are made are in the "higher-cost mortgage" category compared with only 8% of site-built home loans.

The affordable housing preservation market involves property owners keeping rents affordable for low-to-moderate income households, while at the same time maintaining the quality and viability of the property. Property owners need more financing to improve or maintain such properties that are then made available as affordable housing.

Finally, the rural housing market-with less population, fewer developers, fewer nonprofit housing organizations, more difficult access to funding for public utilities, and fewer lenders, this market is also underserved.

These are broad, national categories of under-served lending. They are directed at the national secondary market-the enterprises of Fannie Mae and Freddie Mac.

But, has your bank given any consideration to these needs in your own community? Many local banks may see these needs to also be community-based and local needs.

Under the proposed regulations, the enterprises would have their own "community reinvestment act," not unlike banks and savings associations. FHFA would evaluate each enterprise's performance under specified assessment factors and would assign a rating of "Satisfactory" or "Unsatisfactory" to each factor for each underserved market. The enterprises would be required to develop a strategic plan that sets out goals and objectives for serving the markets.

There would, of course, be reporting required by the enterprises of efforts made to serve the underserved markets and meet their strategic plan goals. And, there would be consequences for not meeting those needs.

You may be thinking, "Good! Banks have been subject to CRA for decades and now Freddie and Fannie have to join the club."

But, somehow, I'm fairly certain that ultimately there will be increased regulatory burden on the banks and lenders that make loans for sale in the secondary market that is occupied by Fannie and Freddie as a result of the new "enterprise duty to serve underserved markets."

About Nancy Derr-Castiglione

“Lucy and Nancy’s Common Sense Compliance” is blogged by both Lucy Griffin and Nancy Derr-Castiglione, both ABA Banking Journal contributing editors on compliance.

Nancy, a Certified Regulatory Compliance Manager, is owner of D-C Compliance Services, an independent regulatory compliance consulting services business that has provided expertise in compliance training, monitoring, risk assessment, and policies and procedures to financial institutions since 2002.

Previously, Nancy held compliance positions with Bank One Corporation and with United Banks of Colorado.

In addition to serving as a Contributing Editor of ABA Banking Journal, Nancy has served on the ABA Compliance Executive Committee; National and Graduate Compliance Schools board; conference planning committees, and the Editorial Advisory Board for the ABA Bank Compliance magazine. She can be reached at nancycastiglione@comcast.net

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