

NANCY'S TURN: ANOTHER ANSWER TO CFPB'S CALL FOR STREAMLINING SUGGESTIONS

Nancy takes a dual Compliance-consumer look at regs

* * *

Last month, Lucy discussed her suggestion for the Bureau of Consumer Financial Protection for regulatory streamlining-Home Mortgage Disclosure Act/Regulation C reporting. Now, it's my turn.

Unfortunately, Lucy picked a really good one, and I can't be a copycat. There were also some really good suggestions in the CFPB's notice and request for comments in the Dec. 5, 2011 Federal Register .

The CFPB's announcement covered 14 laws and regulations that the CFPB is inheriting from other federal agencies:

- • Regulation M-Consumer Leasing
- • Regulation E-Electronic Funds Transfer
- • Regulation B-Equal Credit Opportunity
- • Fair Credit Reporting Act regulations (part)
- • Fair Debt Collection Practices Act
- • Regulation C-Home Mortgage Disclosure
- • RESPA Regulation X
- • Regulation Z-Truth in Lending
- • SAFE Act
- • Regulation DD-Truth in Savings
- • Interstate Land Sales Full Disclosure Act

- • Gramm-Leach-Bliley Privacy provisions (Regulation P)
- • FTC rule on unfair and deceptive mortgage practices
- • FDIC Act requirements for disclosures by uninsured depository institutions

Note this: The CFPB announcement that it was only interested in suggestions that could be accomplished without congressional action. (That means, if it's mandated by law, the regulators can't change it on their own authority).

My list doesn't necessarily follow that rule. My list of suggested changes or enhancements is driven by what appears to me from a consumer's perspective as well as a compliance perspective as unnecessary and counterproductive.

- • Eliminate annual privacy notices

This one was also mentioned in the CFPB proposal, but not as a complete elimination of the requirement. After many many years of receiving these notices from every financial entity that I have even a remote relationship with, I'm sick of them. I want them to stop coming to my mailbox. I can't even opt out if I want to, like you can with other junk mail.

I got the message already. Stop treating me like an idiot who can't be trusted to remember a simple idea.

• Eliminate the Regulation Z requirement to quote only APRs in oral disclosures

Reg Z says that if you orally respond to a consumer's inquiry about the cost of credit, you can only quote the APR, or the APR in conjunction with the simple interest rate, but not the interest rate alone.

First of all, no one complies with that requirement now.

If a consumer wants to know what the rate is on a particular loan product and has to wait until the banker quotes an APR for a representative loan transaction with X loan amount and Y payment amount and Z term, with this set of circumstances, the consumer is going to be running down the street screaming for mercy. Leave the specific APRs and cost disclosures for the written documents--of which there are plenty.

• Triggering terms and triggered disclosures under Regulations Z, M, and DD

My suggestion would be to eliminate all or most of the triggering terms and disclosures that are triggered in consumer loan, lease, and deposit advertising.

These requirements have created two unworkable options for advertising. Banks can make the ads so generic so that you don't give the consumer any relevant information. Or they can squeeze an enormous amount of fine print into the bottom of the ad, print that can only be read by a lawyer with a magnifying glass.

This requirement has created new job opportunities for fast-talking voice-over talent.

• Eliminate the application mortgage servicing transfer disclosure under RESPA

This disclosure tells the first-lien mortgage loan applicant that the bank may or doesn't intend to assign, sell, or transfer the servicing of the potential loan at some point in the future. It is provided to the applicant at the very beginning of the loan application process.

However, it is not a promise to never assign, sell, or transfer loan servicing. If the servicing is ever transferred, the borrower gets at least two more notices (one from the transferor and one from the transferee servicer).

I think this is an unnecessary disclosure that just adds to the volumes of paper that the mortgage loan applicant has to deal with during the loan application process.

• Simplify the notification rules under Regulation B

Creditors spend an inordinate amount of effort trying to prove to the examiners when an application is "received" and "completed" so that there is no violation for exceeding the Reg B time limits for notification.

Customers don't understand that when they fill out and date an application form and don't immediately drop it off at the bank the same day, this creates a terrible problem for the bank who later tries to assert that the date is not the application date. As soon as a creditor defines in its procedures what constitutes a "completed application," an applicant comes along that has an unusual type of income verification document that throws everything out of whack.

Adverse action shouldn't be defined to include counteroffers that are not accepted by the applicant. If I, as the consumer, turn down the bank's counteroffer, I'm the one who should be sending the bank an adverse action notice, not the other way around.

Let's also do away with adverse action notices to business applicants. The business loan process is more about negotiating and discussing various options and scenarios. It's hard to know when you have an actual application for a specific loan versus a discussion about possibilities.

• Get rid of Regulation Z's right to cancel

I'm sure this one especially will get laughed at by the CFPB. But, has anyone ever had a customer rescind a loan?

I ask this of every banker I run into. I'd love to hear if there's anyone out there who has had a customer rescind a loan (and not as a legal maneuver in court after the loan has been in default and in foreclosure).

That's my initial list of suggestions for streamlining the regulations. What are your ideas? Tell us in the comment section below

Read Lucy's earlier blog on this subject

Read Nancy's earlier blog regarding her concerns about the CFPB complaints process

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

You can get word about these columns the week they are posted by subscribing to ABA Banking Journal Editors Report e-letter. It's free and takes only a minute to sign up for. [Click here.](#)