

Quality Control Compliance And The Consumer Privacy Act

Mortgage companies can meet the Gramm-Leach-Bliley Act through effective quality control practices.

BY ANNA DESIMONE

The Gramm-Leach-Bliley Act requires financial institutions to disclose their privacy policies and practices with respect to information-sharing with third parties on financial products for personal, family and household purposes.

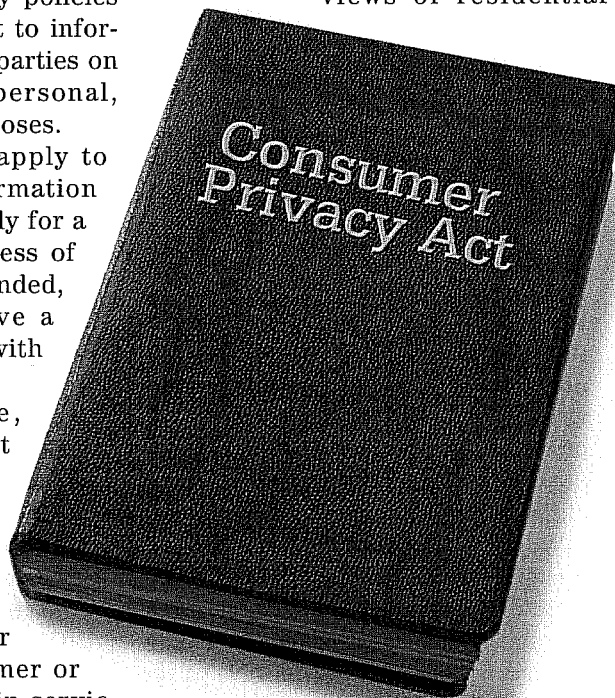
The act's provisions apply to nonpublic personal information about consumers who apply for a financial product, regardless of whether the credit is extended, and customers who have a continuing relationship with the institution.

Under the final rule, the initial notice and opt out requirements do not apply to processing and servicing transactions necessary to effect, administer or enforce a transaction requested or authorized by the consumer or in connection with certain servicing, processing, securitization and secondary market functions.

The Federal Trade Commission is expected to release substantially similar guidelines to the Consumer Privacy Act to all non-depository mortgage lenders. Under the present rule, a customer relationship is established by the entity responsible in the loan origination (including brokers) and continues through

transfers to loan servicers.

Post-funding quality control reviews of residential



mortgage loans are covered under the exemption for the sharing of personal information between financial institutions and nonaffiliated third parties. Mortgage institutions must enter into a contractual agreement with the third party that:

- requires the third party to maintain the confidentiality of the information to at least the same extent that

the institution must maintain confidentiality under the rule, and

- prohibits the third party from disclosing or using the information other than to carry out the purposes for which the third party is contracted in the ordinary course of business.

Overseeing third-party service providers is addressed in the Interagency Guidelines Establishing Standards for Safeguarding Customer Information as required by the Gramm-Leach-Bliley Act. Under III.D of the guidelines, financial institutions must exercise appropriate due diligence in selecting service providers, require their providers by contract to implement measures designed to meet the objectives of the guideline and monitor their services to confirm compliance to the act.

Best practices

The privacy act has led to in-

Anna DeSimone is president of Bankers Advisory Inc. in Arlington, Mass., which provides policy manuals and compliance services. An author for the Mortgage Bankers Association of America, her publications include "Fair Lending," "Reverse Mortgages," "International Mortgage Banking" and the forthcoming "B2B Marketing for Loan Officers."

creased consumer awareness and misunderstandings regarding the lender's use and re-use of personal information. Suggested are the following best practices:

- Re-assess internal workflow steps to ensure respectful treatment of borrower information throughout all processing, underwriting and post-closing functions.

- Consider technology enhancements and end-to-end automated underwriting tools that help reduce exposure of borrower information to unauthorized parties.

- Consider today's level of expertise necessary for effective and compliant quality control whether completed within the institution or outsourced.

Fannie Mae and Freddie Mac have reduced quality control steps for loans approved through Desktop Underwriter and Loan Prospector. Inasmuch as the agencies' amendments are unrelated to the Consumer Privacy Act, compliance to Fannie Mae and Freddie Mac reverification steps verbatim can be a critical measure toward safeguarding borrower information.

Agency guidelines

This is a summary of the most recent guidelines:

- Fannie Mae requires a post-funding quality control review of 10% of a lender's total mortgage production and recommends reviews to be completed on a monthly basis.

- Quality control sampling selections must reflect the institution's full scope of business and include a representative sample of loans underwritten by Desktop Underwriter that receive an Approve, Refer, or Refer with Caution recommendation.

- A new credit report is not required for Desktop Underwriter loans. However, if significant errors, discrepancies or erroneous data is found, a new credit report is required. In-file reports are required for all non-DU loans, and residential mortgage credit reports (RMCR) are required

for a 10% of the QC sampling.

- Reverification of income and asset documentation for DU loans require the same procedure as non-DU loans. If a telephone verification was a DU condition, a telephone re-verification must be completed by QC.

- Field review property appraisals are required for 10% of the QC sampling. Field reviews include subject property photographs, street scene and completion of FNMA 2000. For DU loans, reviews will be conducted on the applicable FNMA Appraisal or Collateral Assessment, such as Fannie Mae 1055, 1065 or 1075.

- Quality control procedures must determine that the loan meets Fannie Mae eligibility and underwriting standards as follows:

Approved loans: QC must confirm that all verification messages/approval conditions have been satisfied and are adequately documented.

Referred loans: QC must determine the rationale applied in the decision to approve a referred loan and review the entire underwriting file, including additional documentation provided to support the underwriting decision.

Ineligible loans (Approve or Refer): QC must verify that the ineligible conditions referenced in the underwriting findings report are permitted in the master agreement or negotiated variances. Verification is not required if the loan receives an eligible recommendation.

Freddie Mac requirements

- Freddie Mac requires that post-funding quality control audits are performed within 90 days on 10% of the lender's total annual home mortgage production, total secondary market production or total Freddie Mac production, including Freddie Gold.

- A 10% sampling is required of the lender's entire portfolio of three- to four-unit mortgages. Quality control must include a full representation of Loan Prospector loans and must be

clearly identified as LP on management reports.

- A new credit report is not required for Loan Prospector mortgages. QC must verify that the Loan Prospector-provided credit reports are for the correct borrower. Loan Prospector Accept mortgages and A-minus mortgages do not require QC to determine credit underwriting compliance. Credit must be re-underwritten to Freddie Mac's requirements for LP and non-LP loans.

Caution advised

- An in-file report is required for non-LP loans. An RMCR or a three-bureau merge is required for 10% of the entire sampling. If the mortgage requires an Indicator score, QC must confirm the correct method was used on the Transmittal Summary Form 1077.

- Reverification of income and asset documentation for LP loans require the same quality control procedures on as non-LP loans. If a telephone verification was completed, a telephone reverification is required.

- Field review property appraisals are required for one out of 10 loans in the sampling with a desk review for the remaining nine, or field reviews on three out of 10 loans and no desk reviews for the remaining seven.

- Original collateral assessment documentation for Loan Prospector mortgages may include Freddie Mac Form 70, 72, 465, 2070, Fannie Mae 2075 or Fannie/Freddie Form 2055.

As our industry moves forward with increased consumer disclosure, mortgage lenders must take a new look at marketing and promotional materials to build trust and maintain customer loyalty.

Employee education programs should incorporate training on the Consumer Privacy Act so consumer questions may be addressed in a manner that upholds the institution's mission toward quality customer service. **SME**