

AuditOne Advisory

From Bud Genovese, Chairman

Complying with the Changes to Compliance

As new banking regulations shower down like spring rainstorms, no area is more flash-flooded with increased complexity than compliance. Bankers face a rising river of new compliance regulations, past requirements, and upcoming changes, and many need sound advice on how to navigate these whipped-up turbulent waters.

AuditOne has responded to this growing demand for practical advice on compliance. We've recently appointed our senior compliance auditor, Stan Mattice, to the newly created role of Compliance Practice Director. In this capacity, Stan will stay abreast of changes in compliance and BSA regulations, respond quickly to specific client inquiries, update and maintain our audit programs, and regularly communicate to clients about changes and how to deal with them.

In his first client communication in this new role, Stan offers insights below on Truth in Lending, the Real Estate Settlement Procedures Act, and the Expedited Funds Available Act.

Truth in Lending Act (TILA) (Regulation Z) revisions became mandatory last July 30, 2009, and this is one of the most revised regulations we face today. The revisions superseded the enactment of the Mortgage Disclosure Improvement Act of 2008 (MDIA) that was to take effect in October 2009. A few critical points to note are that early disclosures need to be provided to the applicant for purchase or construction of a home, to refinance home loans, and on home equity loans (any consumer dwelling). They are no longer limited to a consumer's "principal" dwelling. Further, the disclosure must contain the phrase, "You are not required to complete this agreement merely because you have received these disclosures or signed a loan application." Another requirement is that no fees are allowed until after the early disclosures are provided, except for a credit report fee. I encourage you to examine the other changes in this regulation to ensure your institution is in compliance.

Real Estate Settlement Procedures Act (RESPA) (Regulation X)

The new changes to the Good Faith Estimate and HUD-1/1A Settlement Statement forms, all of which were effective January 1, 2010, are so numerous we suggest you review the regulation in its entirety. Here we describe some of the critical changes that include, but are not limited to, the new requirements applying to all mortgages secured by a borrower's home, including primary and second homes and refinancing: if the annual percentage rate (APR) changes by more than 0.125 percent, the lender must provide a corrected disclosure to the borrower and wait an additional three business days before closing the loan; the loan closing may not take place until expiration of a seven day waiting period after the consumer receives the early disclosure; there's a prohibition against imposing any fees before the Good Faith Estimate disclosure is provided, except for a reasonable fee for obtaining a credit report; disclosure tolerances, including re-disclosure rules for "changed circumstances;" and new three-page GFE disclosure, new three-page HUD-1 and the new two-page HUD-1A forms. The changes to this regulation are extremely comprehensive and deserve your bank's focused attention.

Expedited Funds Available Act (Regulation CC)

The new regulation shortens check hold periods. The most significant change is that there will no longer be any non-local checks after 2/27/10. The longest standard delay that can be used will be the two-day availability period that was previously permitted for local checks, and the longest a check can be held for an exception reason is seven business days. The following steps need to be taken by your institution.

- Review and update your funds availability policies, including delayed funds availability; immediate, same day, or next day funds availability; and any other necessary changes.
- Send change notices to your customers within thirty days after the change.
- Update lobby posters.
- Provide a comprehensive training program.

Compliance is not the only area impacted by recent multiple regulatory changes and focus, and AuditOne has assembled a team of experts to weigh the implications of changes throughout our internal audit specialties. We have developed updated comprehensive audit procedures to evaluate bank identification of risks involved, analyze internal controls in place to mitigate those risks, and perform audit testing to evaluate/confirm the controls are working as intended.

We're working hard and intelligently every day to ensure that our risk managed internal audit and credit review services are the industry's best value. Please contact me at 408-980-8099 or AuditOne CEO Kevin Watson or AuditOne President Jeremy Taylor in our Southern California office at 562-802-3581 for further information on how AuditOne can help you navigate through the torrent of new regulations. --
Bud

*Bud Genovese is Chairman of AuditOne LLC, a California-based internal audit firm that focuses only on banks and their service providers. Mr. Genovese pioneered the concept of providing comprehensive, affordable, independent internal audit and credit review services by gathering wide-ranging, extraordinary expertise within one firm. AuditOne now serves over 160 clients throughout the Western United States, and **nationally**. Contact Bud Genovese at 408-980-8099 or bud.genovese@audit-one.com*