HOMEOWNERS PROTECTION ACT - HOPA

EXAMINATION PROCEDURES

Examination Objectives

• To determine the credit union's compliance with the Homeowners Protection Act of 1998 (HPA), as amended.

• To assess the quality of the credit union's policies and procedures for implementing the HPA.

• To determine the reliance that can be placed on the credit union's internal controls and procedures for monitoring the institution's compliance with the HPA.

• To initiate corrective action when violations of HPA are identified, or when policies or internal controls are deficient.

Examination Procedures

1. Through discussions with management and review of available information, determine if the credit union's internal controls are adequate to ensure compliance with the HPA.

Consider the following:
a. Organization charts;
b. Process flowcharts;
c. Policies and procedures;
d. Loan documentation;
e. Checklists;
f. Training; and
g. Computer program documentation
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f. Training; and
g. Computer program documentation

2. Review any compliance audit material, including work papers and reports, to determine whether:

a. The credit union's procedures address all applicable provisions of HPA;
b. Steps are taken to follow up on previously identified deficiencies;
c. The procedures used include samples covering all product types and decision centers;
d. The compliance audit work performed is accurate;

e. Significant deficiencies and their causes are included in reports to management and/or to the Board of Directors;
f. Corrective action is taken in a timely and appropriate manner; and
g. The frequency of compliance review is appropriate.

3. Review sample transactions, disclosure and notification forms, and the credit union's policies and procedures to ensure the credit union provides:

a. Initial Disclosures for
(i) fixed rate mortgages,
(ii) adjustable rate mortgages,
(iii) high risk loans, and
(iv) lender paid mortgage insurance;

b. Annual Notices for
(i) fixed and adjustable rate mortgages and high risk loans, and
(ii) existing residential mortgages; and

c. Notices of
(i) cancellation,
(ii) termination,
(iii) grounds for not canceling PMI,
(iv) grounds for not terminating PMI,
(v) cancellation date for adjustable rate mortgages, and
(vi) termination date for lender paid mortgage insurance.

(Refer to Appendix A for required content of the disclosure and notices.)

4. Using the above sample and bank policies and procedures, determine that borrowers are not charged for any required disclosures or notifications (12 U.S.C. 4906).

5. Obtain and review a sample of recent written requests from borrowers to cancel their private mortgage insurance (PMI) on "non-high risk" residential mortgage transactions. Verify that the insurance was cancelled on either:

a. The date on which the principal balance of the loan was first scheduled to reach 80 percent of the original value of the property based on the initial amortization schedule (in the case of a fixed rate loan) or amortization schedule then in effect (in the case of an adjustable rate loan); or

b. The date on which the principal balance of the loan actually reached 80 percent of the original value of the property based on actual payments, in accordance with the applicable provisions in 12 U.S.C. 4902(a)of HPA (i.e., good payment history, current payments and, if required by the lender, evidence that the value of the mortgaged property did not decline, and certification that the borrower's equity was unencumbered by a subordinate lien) (12 U.S.C. 4902(a)).

6. Obtain and review a sample of "non-high risk" PMI residential mortgage transactions where the borrower did not request cancellation. Select loans from the sample that have reached a 78 percent or lower LTV ratio based on the original value of the property and that are not current. Verify that PMI was terminated, based on the initial amortization schedule (in the case of a fixed rate loan) or the amortization schedule then in effect (in the case of an adjustable rate loan) on the date that the principal balance of the loan was first scheduled to reach 78 percent of the original value of the mortgaged property (if the borrower was current) or on the first day of the first month after the date that the borrower became current (12 U.S.C. 4902(b)).

7. Obtain a sample of PMI-covered residential mortgage transactions (including high-risk loans, if any) that are at or beyond the midpoint of their amortization period. Determine whether PMI was terminated by the first day of the following month if the loan was current. If the loan was not current at the midpoint, determine that PMI was terminated by the first day of the month following the day the loan became current. If, at the time of the examination, a loan at the midpoint is not current, determine whether the credit union is monitoring the loan and has systems in place to ensure that PMI is terminated when the borrower becomes current (12 U.S.C. 4902(c) and 12 U.S.C. 4902(g)(2)).

8. Obtain a sample of any lender defined "high risk" PMI residential mortgage transactions that have a 77 percent or lower LTV based on the original value of the property. Verify that PMI was cancelled, based on the initial amortization schedule (in the case of a fixed rate loan) or the amortization schedule then in effect (in the case of an adjustable rate loan), on the date that the principal balance of the loan was scheduled to reach 77 percent of the original value of the mortgaged property (12 U.S.C. 4902(g)(1)(B)).

9. Obtain a sample of loans that have had PMI cancelled or terminated (the samples obtained above can be used). For PMI loans cancelled upon the borrowers' requests, determine that the credit union did not require any PMI payment(s) beyond 30 days of the borrower satisfying the evidence and certification requirements to cancel PMI (12 U.S.C. 4902(e)(1). For the PMI loans that received automatic termination or final termination, determine that the credit union did not require any PMI payment(s) beyond 30 days of termination (12 U.S.C. 4902(e)(2) and 12 U.S.C. 4902(e)(3)).

10. Using the samples in steps 5, 6, and 7, determine if the credit union returned unearned premiums, if any, to the borrower within 45 days after cancellation or termination (12 U.S.C. 4902(f)(1)).

REFERENCE: 2012 CFPB Examination Manual