Examination Objectives

The objectives of the examination are:

1. To determine the financial institution's compliance with the Homeowners Protection Act of 1998 (HOPA), as amended.
2. To assess the quality of the financial institution's policies and procedures for implementing the HOPA.
3. To determine the reliance that can be placed on the financial institution's internal controls and procedures for monitoring the institution's compliance with the HOPA.
4. To initiate corrective action when violations of HOPA 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 institution's internal controls are adequate to ensure compliance with the HOPA. 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.
2. Review any compliance audit material, including work papers and reports, to determine whether:
    a. The institution's procedures address all applicable provisions of HOPA;
    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. Obtain a sample of recent residential mortgage transactions, including those serviced by the bank and conducted electronically, if applicable. Complete the Homeowners Protection Act worksheet (page V-5.8). Also, obtain a copy of the bank's disclosure and notification forms and policies and procedures to complete the worksheet. As applicable, the forms should include:
    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.
    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.
4. Using the above sample and bank policies and procedures, determine that borrowers are not charged for any required disclosures or notifications (12 USC §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 canceled 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 the 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 USC §4902(a) of HOPA (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 USC §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 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 USC §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