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Subservicer Oversight-Managing Your Subservicer Relationship

APRIL 16, 2019

About the Presenter- Kurt Blohm, Director, BAS

- Over 25 years experience in the financial services industry.
- 7+ Years experience in providing consulting & compliance services
- Experience Prior to Richey May includes:
  - Servicing Controller- BB&T
  - Business Advisory- Grant Thornton
  - Operations Manager- H&R Block Mortgage
  - Regional UW- Countrywide & H&R Block Mortgage
  - Collections Manager- Beal Bank
- Memberships & Designations
  - Certified Public Accountant-CO
  - American Institute of Certified Public Accountants (AICPA)
  - Colorado Society of CPAs
  - The Institute of Internal Audit
- Wife Elizabeth (married 23 years), 1 son Zachary, & a bunch of rescued pets

OCC & Agency Bulletins & Guidance Overview

OCC Bulletin 2013-29, Third Party Relationships

OCC Bulletin 2017-21, FAQ to Supplement OCC Bulletin 2013-29

CFPB Bulletin 2016-02, Service Providers

Fannie Mae Servicing Guide, A2-1-06- Subservicing

GNMA Mortgage-Backed Securities Guide, Chapter 4-Issuers and Subservicers- Responsibilities

Key Points addressed in all bulletins/guidance:

1. You are expected to practice effective risk management and oversight of your subservicer. The level of due diligence and ongoing monitoring should be consistent with the size, level of risk within your portfolio, and complexity of the third-party relationship.

2. You as the master servicer are ultimately responsible for the performance of all servicing obligations and remain fully responsible for the performance of servicing functions delegated to a subservicer.

So…How Do I Adequately Monitor My Subservicer?

- The importance of conducting oversight and being able to document oversight efforts to those who may inquire is critical. Oversight requirements are outlined in the various bulletins and guidance and oversight can be either conducted internally or outsourced to a third-party
- Proper oversight should include monitoring various servicing functions throughout the year. Although the extent and timing of oversight may vary based on the size and complexity of one’s portfolio, becoming aware of issues/concerns, and/or regulatory/agency changes, oversight activities typically fall into either an annual, quarterly, or monthly oversight program, or on an ongoing or as-needed schedule.

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Monitoring Your Subservicer

Annual Monitoring Recommendations:

- Conduct an on-sight visit to the subservicer's facility, taking specific notice of physical environment controls (i.e. visitor badges, locked server rooms, cameras, etc.) and the protection of non-public borrower information (NPI).
- Review financial statements for net worth compliance.
- Review E&O and fidelity bond policies for agency compliance.
- Review SSAE18 (SOC1) and request management responses for any significant control weaknesses or findings.
- Review critical vendor listing and evidence that the subservicer has developed monitoring policies and procedures for each (i.e. performs oversight of them, scorecards, etc.).
- Review applicable policies and procedures for the incorporation of significant regulatory or agency changes.
- Review business continuity/disaster recovery plan and review the results of IT assessments performed (i.e. call tree exercise, network security assessment, penetration testing, etc.)

Monitoring Your Subservicer

Quarterly Monitoring Recommendations:

- Review call center reports for key metrics or significant changes since the last review (i.e. hold times, abandonment rate, etc.)
- Compare delinquency rate to prior periods and industry averages.
- Review consumer complaint logs and evidence that timely responses were provided to borrowers, and identify trends and/or patterns that might suggest that internal controls are failing.
- Review a sample of loans in various servicing areas for the following:
  - Escrow disbursements are made timely and any penalty is assessed to the correct party. Escrow analysis performed per agency guidelines.
  - Ensure Notice of Transfer requirements for newly-boarded loans are met.
  - Evidence that reconciliations are performed and aged items are addressed.
  - Ensure that ARM resets are calculated correctly and that notifications are provided to borrowers per agency timelines.
  - Verify investor remittances are made by agency-specified cut-off dates.

Monitoring Your Subservicer

Quarterly Monitoring Recommendations (continued):

- Ensure that late charges assessed agree to the note and/or state limits.
- For paid-in-full loans, review for evidence that escrow overages were returned within agency timeframes and lien releases properly administered.

- Discuss with subservicer any performance issues with critical vendors, turnover of key personnel, results of QC/internal audit reviews, or self-reporting items.

Monthly Monitoring Recommendations:

- Review a sample of defaulted loans for evidence that borrowers are offered loss mitigation/alternative-to-foreclosure options per agency timelines, that loans are referred to foreclosure per agency requirements, and that non-performing loans are properly handled.
- Review monthly management reports provided by subservicer for trends, issues, anomalies, etc.
- Ensure all Early Payment Default (EPD) and First Payment Default (FPD) loans are QC'd and reported per HUD guidelines.

Monitoring Your Subservicer

Monthly Monitoring Recommendations (continued):

- Monitor consumer complaints submitted to the CFPB, BBB, or received internally to ensure responses/research conducted and provided to borrowers.
- Reconcile servicing advances to loan-level detail in servicing system.
- Ensure any payments received internally and forwarded to subservicer are accounted for and effective dated to date of receipt.
- Review that loans with lender-placed insurance (LPI) were provided proper notices and any cancelled LPI policies were refunded back to the borrower’s escrow account.
- Review a sample of loans boarded within the past 60 days for evidence that no late charges were assessed and no negative credit reporting occurred for the first 60 days after transferred to/boarded with subservicer.

Monitoring Your Subservicer

On-going or As-Needed Recommendations (continued):

- Ensure that loans transferred to the subservicer (whether on bulk or flow basis) are reconciled to subservicer records (i.e. UPB, escrow balances, critical fields, etc.).
- Ensure that document or information requests from subservicer are provided or responded to in a timely manner.
- If a natural disaster impacts your portfolio, ensure that subservicer is notifying your clients of loss mitigation/relief options.
- Follow-up/inquire about remediation to prior issues/concerns identified.
- For new subservicer relationships, conduct calls for the purpose of addressing any questions/concerns, training opportunities, process delays, etc.

Monitoring Your Subservicer

Loan-level review recommendations:

- Review actual loan-level activity from your portfolio on either a targeted or rotational basis.
- Target loans to review based off:
  1. Recently identified issues from examinations, QC findings, etc.
  2. Trends from consumer complaints received
  3. Recent changes to agency/regulatory requirements
  4. Niche products (i.e. Non-QM, HUD 235, HUD 189)
  5. Delinquency reports (P-195)
- Rotate the type of servicing activities to review. Suggested areas to review include:
  1. Early stage collections- efforts to make live contact by 36th day of delinquency, staggering the times of calls, delinquency letters being sent per agency timeframes, and loss mitigation offered by 45th day of delinquency.
  2. Foreclosure- borrowers provided loss mitigation options prior to FC initiation, FC initiated no sooner than the 121st day of delinquency (or earlier if property is vacant), and property inspections being conducted while in FC.

Monitoring Your Subservicer

Loan-level review recommendations (con't):

3. Bankruptcy- notes document BK information (case #, chapter, filing date), collection efforts halted after being notified of BK filing, FC was suspended, timely submission of proof of claim, and Motion for Relief pursued for non-payment per BK plan.
4. Escrows- timely disbursement to insurance & taxing authorities, annual escrow analysis being provided, penalties not passed to borrower if subservicer responsible for paying late.
5. ARM loans- arm information is correct in MSP, adjusted rate validation, and ARM notification requirements met.
6. New Loan Set-up- RESPA Notice of Transfer Letter timely sent and reconcile key terms to origination documents (IR, property/mailing address, 1st/next payment due date, and no late charges accessed within 60 days after being transferred.
7. Insurance monitoring- carrier meets agency rating requirements, mortgagee is named as loss payee, and adequate insurance overage (covers UPB or 80% of full replacement value).
8. Paid-in full loans- no fee charged for providing payoff information, payoff/escrow overages refunded within 30 days of receiving payoff funds, and timely release of lien after receiving payoff funds.

Monitoring Your Subservicer

Loan-level review recommendations (con't):

9. Late charge analysis- late charge terms agree to Note and/or state limits and no late charges assessed within first 60 days of transfer.
10. SCRA loans- no FC activity while active military member and during the 12 months following, IR capped at 6%, proper documentation received to validate eligibility.
11. Payment processing- proper authorization of ACH set-up, payments posted/effective dated to date received, suspense funds properly applied when received, and certified funds requirements when NSF history.
12. Force-placed insurance- LPI notification and cancellation adherence, LPI policy deductible doesn't exceed max allowable, and refunds prorated if insurance information provided after activating LPI.

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Recent Trends/Focus of Regulators

Following are some of the areas that examiners/agencies have been focusing on:

- Borrowers impacted by natural disasters and steps subservicer took to mitigate/assist.
- Consumer Complaints- timely responses and trend analysis being conducted
- Lender-placed insurance compliance
- TCPA compliance
- Loss mitigation efforts and notifications of missing/incomplete information being provided

Note- CFPB periodically issues "Supervisory Highlights" that outline recent examination findings in the areas of mortgage servicing, auto loan servicing, credit cards, UDAAPs, fair lending, ECOA, debt collection, and HMDA.

https://www.consumerfinance.gov/policy-compliance/guidance/supervisory-highlights/

Do’s and Don’ts of Interim Servicing

- Although one may utilize a subservicer, the loan must still be properly serviced in the interim.
- Loans can be delayed for a variety of reasons and organizations are expected to have proper processes in place.
- **Do’s of interim servicing:**
  - Have an interim servicing policy & procedure
  - Post payments received and ensure effective date used if not posted same day received
  - Reconcile funds received at closing (from Closing Disclosure) to amounts in LOS (if using for interim servicing) or servicing system.
  - Ensure FDCPA compliance if attempting to collect.
- **Don'ts of interim servicing:**
  - Hold payments received until transferring to subservicer
  - Delay in remittances of upfront MIP premiums or monthly MI premiums
  - Ignore any consumer complaints or inquires/requests for information
  - Delay the payment of due taxes/insurance amounts
  - Ignore hazard insurance cancellation notices received

Internally or Outsourcing- Things to Consider When Deciding How to Conduct Oversight

- Proper knowledge or experience to conduct internally?
- Adequate resources/staff to conduct internally?
- Cost considerations- cost to conduct internally when taking into account time and travel costs vs. cost to outsource
- Value of having an independent third-party assessment

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Benefits of Proper Oversight

- Keeps you compliant and out of regulatory "hot waters".
- Ability to identify issues/concerns proactively vs. reactively.
- Assists in validating or confirming whether your borrowers are being serviced and treated the way you would expect them to be.
- May assist in identifying origination concerns or process gaps.
- Mitigate losses that may result from the untimely completion of milestones that result in claims curtailments.

Overview of Richey May's Subservicer Oversight Product

- Annually performs reviews on Dovenmuehle (scheduled for January 22-24), Cenlar (typically in May/June) , and LoanCare (typically in August/September).
- Conduct reviews on behalf of over 45 clients/participants.
- Ability to participate even after we have gone on-site.
- Report length is over 100 pages plus various appendices.
- Ability to tailor and select loan-level reviews on a per-loan basis.
- Testimonials received include:

  "We changed from OCC to FDIC last year, so this was our first full scope compliance exam by the FDIC and they decided to limit our scope in the servicing area because of your review. They mentioned it over and over and said it was great that you did this and covered all areas they would be concerned about, therefore we had no additional testing or review. This just happened before the holidays so we definitely want to ensure we do it again for the next audit cycle completion."

  "I thought the audit was something that was good to have two years ago when we signed up. However, after just finishing with our second major scheduled audit in the past five months, this report proved to be more than just backup. It was instrumental in helping with a smooth review of subservicer oversight. I can't thank Richey May enough for looking out for their clients."

- If interested in learning more, please contact me at kurt@richeymay.com or at 303-253-7953.

Questions?