VENDOR VIEWPOINT

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FINANCIAL SECURITY


ANDREW LIPUT, PRESIDENT AND CEO, SECURE INSIGHT

BIDEN AND HARRIS AND WARREN, OH MY!

For the past four years lenders have experienced a relaxation of rules and regulations governing the banking industry, as well as a significant reduction in aggressive audits. That appears about to change.

If their public statements are any guide, the new President and Vice President will likely increase the pressure on lenders regarding consumer protection, fair lending, race-based credit bias, and anti-fraud measures. Under President Trump, the Consumer Financial Protection Bureau (CFPB) had departed from its previous aggressive stance on compliance issues and we saw a big drop off in public investigations and consent orders. This hands-off atmosphere obviously permitted banks to focus squarely on origination and not so much on risk and compliance issues. As with the boom period from 2002-2005, the approach to risk and fraud deterrence has often been "originate more loans." Success has a way of taking our collective eyes off of the fraud ball and instead kicking the problems of defective loans, theft of funds, and fraud for housing and profit schemes down the road to be "addressed later."

As Bloomberg reported back in August 2020, "[Kamala] Harris's political rise was paved with a strong post-crisis stand against big mortgage lenders as California attorney general in talks that forced lenders including Bank of America Corp., Wells Fargo & Co. and JPMorgan Chase & Co. to pay $18 billion to settle claims they improperly foreclosed on borrowers." Should we expect a Vice President Harris to be less aggressive after January 2021?

On November 30th, Real Clear Markets reported that "If [President-elect] Biden replaces the director of Senator Warren's brainchild the CFPB with her ideological kin, it will renew its war on the subprime-credit industry…. [resulting in] expanding government's role in and regulation of banking." Already there is talk about moving credit reporting to the CFPB, relaxing lending standards, and addressing race bias in credit decisions through new rule-making. A Biden Presidency will see more regulation, not less.

Then there is the economy. If it stays strong, perhaps the recent lending gravy-train will continue unabated. But if the economy falls, we could see a period of defects and defaults that rival the 2008-2010 period when investors rolled bad loans back downhill expecting immediate repurchases, state courts could not keep up with the bankruptcy and foreclosure volume, and Washington was dictating rules regarding forbearance, foreclosure alternatives and loan modifications. In that case all the profits made in the past few years may evaporate.

So what does the future hold for mortgage lenders with the pending change in administration? If history is our guide, enhanced regulations, increased oversight, more investigations, new consent orders and fines, and a lending environment that will force compliance tools and risk management back to the foreground and out of the shadows. Lenders take care of your compliance employees and risk management vendors, because if these predictions hold true you will need to rely on them once again! CT