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Yogi Berra Had It Right – But We’re Gonna Talk 2020 Reverse Reg Compliance Anyway

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Three Big Key 2020 Reg Compliance Predictions

- Distractions
- Contractions
- Reactions

Distractions

- For 2020, the Congress, even more so than usual, is distracted and will not act on matters even indirectly affecting the broader reverse mortgage industry.
- The great distractions: Elections and Impeachment.
 - GSE Reform
 - Simplifying the QM Rule and eliminating the so-called QM patch
 - Reduce unnecessary private-label securitization regulatory impediments
 - Promote private sector competition

Contractions #1

- **CFPB Reg Enforcement has contracted, but has not gone away.**
 - **Sept. 25, 2019 Complaint against Fair Collections & Outsourcing, Inc. *et al.***
 - CFPB alleging certain debt collection practices of the company and its affiliated entities violated the CFPA, FCRA, and FDCPA
 - **May 25, 2019 Consent Order against Service One, Inc. d/b/a BSI Financial Services**
 - CFPB found various servicing practices violated the CFPA, RESPA, and TILA
 - BSI to pay \$200,000 civil money penalty, at least \$36,500 in restitution, establish and maintain a comprehensive data integrity program, and implement an information technology plan

Contractions #2

- **The President's efforts to scale back broad federal regulation and enforcement.**
 - Executive Orders on Agency Guidance Signed on October 9, 2019
 - “Promoting the Rule of Law Through Improved Agency Guidance Documents”
 - Binding rules imposed through statutes or regulations to ensure fair notice of obligations.
 - “Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication”
 - Agencies taking enforcement actions to only apply publicly stated standards to avoid unfair surprise, and not treat noncompliance with a standard announced solely in a guidance document as itself a violation of applicable statutes or regulations.

Reactions #1

- **The States are moving in . . .**
 - NY AB 5626
 - Would regulate HECMs in relation to advertising, issuance, counseling, disclosures, and ability to foreclose
 - ME SB 415
 - Creates duty of good faith for mortgage loan servicing, which includes making payments to a borrower under a HECM or reverse mortgage
 - NJ SB 1811
 - Would establish pre-loan counseling requirements and borrower right of rescission for reverse mortgage loans

Reactions #2

- **HUD (including its FHA Commissioner) persists, nevertheless.**
 - HUD Housing Finance Reform Plan (Sept. 2019)
 - FHA should develop servicing standards for HECMs to reduce operational and financial burdens on servicers and FHA
 - FHA should eliminate HECM-to-HECM refinancing
 - NRMLA is in dialogue with HUD about its proposal to eliminate HECM-to-HECM refinancing, and about proposals to reform how back end servicing of HUD assigned loans can be reformed

Reactions #3

- **HUD (and DOJ) Agree to Trim Remedies for Reg. Violations**
 - False Claims Act (FCA) Memorandum of Understanding (MOU) aimed at limiting circumstances when punitive FCA lawsuits will be filed against lenders.
- **HUD Trims Lender Annual and Loan-Level Certifications**
- **HUD Clarifies Defect Taxonomy**
 - For example: Inadequate HECM loan financial assessment may result in remediation through submitted mitigation documents or life-of-loan indemnification.

Other Predictions (Questions)

**Other 2020 Reg Compliance predictions
(questions) . . . ?**

***“It’s tough to make predictions, especially
about the future.” – Yogi Berra***

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