



KEY ISSUES COVERED AT ATTORNEYS ROUND TABLE

Participants agreed that the growth of nonprime, as a percentage of all mortgage lending, means that the industry will continue to provide great opportunities and challenges

Our Association sponsored its 20th Attorneys Round Table meeting last month in Chicago. Sixty-five in-house and outside counsel representing the nonprime mortgage lending industry gathered to exchange ideas about legal developments affecting the industry. The Attorneys Round Table meeting has been a significant opportunity over the years for lawyers who are focused on this industry. We have many repeat attendees as well as newcomers from year to year.

This year's program focused on the most current developments affecting the industry, including potential federal legislation to pre-empt state and local laws. Wright Andrews with the Butera & Andrews firm, led the discussion on a federal law with uniform national standards. The prognostication is that we will get a federal law, but the timing is caught up in politics.

Meanwhile, the state legislatures continue to pick away at business practices that for all intents and purposes, simply remove "high cost" loans from the portfolios of the larger nonprime lenders. That is, once a state sets up a regimen that makes high cost lending too risky, the more risk averse lenders withdraw from making those loans; and, the loser is the marginal customer who cannot get or must pay more for a loan.

The operator viewpoint

Steve Alonso with Oak Street Mortgage led a fascinating session on industry developments from an operator's vantagepoint. The growth of nonprime as a percentage of all mortgage lending means that the industry will continue to provide great opportunities and challenges. Some of the challenges — the things that Alonso said keeps him up at night -- include:

- detecting and fighting fraud,
- dealing with the laws of each of the many states in which he does business, and
- keeping investors satisfied with rates of return.

A host of speakers addressed statutory, regulatory and case law developments, from both a federal and state perspective. The group included Alan Kaplinsky, Robert Cook, Tim Meredith, Len Bernstein, Matt Grey and Michael Sullivan.

Dale Sugimoto and Joe Machisotto, both of OptionOne Mortgage Corporation, spoke on the subject of fraud and theft identity. They shared war stories as well as some practical advice as to how to combat these problems. Among the suggestions were:

- keep track of broker/appraiser relationships,
- benchmark broker originations, and
- educate the fraud unit in the technologies of forgery.

Larry Platt from Kirkpatrick & Lockhart, LLP, and Anne Sutherland from Centex Home Equity spoke about legal developments in the areas of servicing and collection.

*States continue to pick away
at practices that remove
“high-cost” loans from the
portfolios of the larger
non prime lenders.*

Larry analyzed the recent Fairbanks settlement and passed along his “lessons of Fairbanks” that should be taught to and learned by our mortgage loan servicers. His fundamental premise was that Fairbanks had grown so fast that it was basically unable to pay attention to its customers’ needs and complaints.

Effective collections

Anne Sutherland shared some thoughts about effective collection techniques that serve borrower, lender and servicer well. Heeding Anne’s and Larry’s advice could save your company or client from encountering serious problems.

Terry Franzén of Franzén and Salzano led a very interesting discussion on the techniques of dealing with regulators and/or prosecutors when they come knocking at the door, The real life experiences that Terry and the other speakers shared with attendees is extremely valuable in preparing to respond to future contingencies.

In summary, the Round Table was a wonderful opportunity to exchange ideas about the legal issues of the day in a warm and friendly atmosphere. I think it’s safe to say that all participants came away with very valuable information that they will be able to immediately implement within their companies or for their clients; and, the cost of obtaining these ideas was certainly a bargain. (In addition, most states continuing legal education commissions accept our program for credit for participants.)

Special thanks to Loretta Salzano for an admirable job speaking on the topic of the unauthorized practice of law and chairing the meeting. Also, Jeffrey and Susan Zeltzer picked an outstanding venue for the meeting at Le Meridien just off Michigan Avenue in Chicago. I look forward to seeing many of you at our Attorneys Round Table meeting next year. I urge our member companies to encourage their in-house and outside counsel to participate in this most informative meeting.