Dodd-Frank Implementation Checklist

Project Initiation – Determine the nature and scope of the project

1. **Determine who will be responsible for implementing Dodd-Frank Act compliance requirements, and how the implementation process will be structured and managed.**
    - Determine which departments/employees of your organization are primarily responsible for implementation of the Dodd-Frank Act Compliance Requirements.
    - Identify the organizational process that will be used to implement the new requirements and communicate the process to all participants
        - » If your organization has an existing process for implementing compliance-related requirements, determine if it is sufficient to handle complex, long-term projects involving multiple departments.
        - » If a new process is required, determine which departments must be involved, and who will represent those departments in the core workgroup.
        - » Ensure the implementation process includes required communication and approvals of policy committees, executive management, and the Board of Directors.
        - » Determine how the implementation work will be identified and tracked, how decisions will be made, and how the group will communicate.
        - » Determine the process that will be used to create policy and procedure documentation.
        - » Determine how policy and procedure changes will be communicated to business partners.
        - » Determine the format and timing of training for employees.
    - Identify all third-party vendors who will provide support for your organization's compliance with the rules, including your LOS, document vendor, compliance services providers, and external audit firm. Obtain confirmation from each vendor regarding which specific rules will be supported and the dates such support will begin, and identify any requirements that will need to be supported using internal resources. Update vendor management process to ensure compliance with all applicable rules.

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2. **Determine if your company/institution is or could be exempt from any of the new requirements, or has the option of complying with less-restrictive requirements.**
    - If your organization qualifies for one or more of the possible exemptions below, determine if your organization will comply with the exemption requirements.

IF	And	Then
More than half your organization's first-lien covered transactions in the prior year were secured by properties in rural or underserved areas	Your organization has assets below $2 billion, and has originated no more than 500 covered transactions in the preceding calendar year	Your organization may choose to comply with the Ability to Repay rule by originating Balloon-Payment Qualified Mortgages.
More than half your organization's first-lien covered transactions in the prior year were secured by properties in rural or underserved areas	Your organization has assets below $2 billion, and has originated no more than 500 covered transactions in the preceding calendar year	Your organization is exempt from the mandatory escrow account requirements for HPMLs, provided you and your affiliates do not maintain escrows on or beyond the second installment due date for any loans you service, with some exemptions.
Loan originated by your organization are eligible for sale to Fannie Mae, Freddie Mac, or insurance or guarantee by FHA, VA, USDA		Your organization may choose to comply with the Ability to Repay rule by originating Qualified Mortgage under the temporary Special Rules.
Your organization meets the definition of "small servicer" in the Mortgage Servicing Rule		Your organization may be exempt from some of the servicing requirements

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3. **Identify loan products you offer that have enhanced compliance requirements, or are no longer permitted, and phase such products out, if appropriate or required:**

Feature	Enhanced Compliance Requirements
Interest Only	Does not meet QM definition; must qualify under general Ability to Repay requirements.
Negative Amortization	Does not meet QM definition; must qualify under general Ability to Repay requirements. Requires homeownership counseling if the borrower is a first-time borrower.
Balloon payment	Unless creditor is small creditor serving predominately rural or underserved areas, does not meet QM definition; must qualify under general Ability to Repay requirements. Balloon payments prohibited for HOEPA loans, with specific exceptions.
Loan term greater than 30 years	Does not meet QM definition; must qualify under general Ability to Repay requirements
Prepayment Penalties	Not permitted on ARM loans; permitted for fixed-rate or step rate loans that are not HPMLs. Not permitted for HOEPA loans.
"Stated" loans	Not permitted under Ability to Repay rule. All information used in making an ability to repay determination must be verified and documented.
Mandatory arbitration agreements	Not permitted under the Loan Originator Compensation rule.
Financing of premiums or fees for credit insurance	Not permitted under the Loan Originator Compensation rule.

4. **Review loan originator compensation and qualification practices**
   - Ensure loan originator compensation agreements comply with clarified definitions of "terms of a transaction" and "proxy".
   - Review retirement and profit sharing plans to ensure compliance with new guidance.
   - If you are a broker, review commission structure to ensure compliance.
   - Review employment, training, and licensing practices to ensure compliance with loan originator qualification standards.
5. **Review pricing considerations and make required decisions**
   - Review current pricing and evaluate impact of HOEPA APR threshold. If higher numbers of loan applications will exceed the HOEPA threshold after January 10, 2014, how will that impact your business?
   - Review current fees and charges and evaluate impact of HOEPA points and fees thresholds and Qualified Mortgage 3% threshold. If fees and charges for loans originated by your organization exceed the limits after January 10, 2014, how will that impact your business?

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Planning and Design - Identify deliverables, assign tasks, and set the schedule

In addition to any deliverables identified during the project initiation phase, review the following operational considerations and plan for any deliverables:

1. **Review operational considerations – Application/Loan Setup**
   - **General disclosure Requirements:**
     - » Ensure you are prepared to provide a list of homeownership counselors to applicants for federally-related mortgage loans.
   - **Appraisals/Valuation (ECOA requirement – all first lien loans):**
     - » Determine how your organization will deliver copies of appraisals and other valuations, if you have not previously done so.
     - » Determine procedure for delivering appraisal copies to borrower if original appraisal is updated.
     - » Ensure you are prepared to provide borrowers with a notice of the right to receive a copy of any appraisal developed in connection with a loan application (within three days of application)
   - **Requirements for HOEPA Loans**
     - » Ensure your organization is prepared to identify loans subject to HOEPA coverage.
       - ◊ If your organization will not make HOEPA loans, develop policies and procedures for handling loans that are shown to exceed the thresholds.
       - ◊ If your organization will make HOEPA loans:
         - * Ensure you are prepared to meet the disclosure requirements.
         - * Develop a plan to ensure compliance with prohibited or restricted acts and practices
         - * Develop procedures for complying with the homeownership counseling requirements for HOEPA loans
   - **Requirements for HPMLs:**
     - » Ensure your organization is prepared to identify HPMLs.
       - ◊ If your organization will not make HPMLs, develop policies and procedures for processing loans that are shown to exceed the thresholds.
       - ◊ If you organization will make HPMLs:
         - * Ensure you are prepared to meet the appraisal disclosure requirements.
         - * Implement procedure for determining if the property is a “flip” and subject to enhanced appraisal requirements.

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- Implement a process for obtaining a written appraisal performed by a certified or licensed appraiser that meets the "safe harbor" requirements in the Higher-Priced Mortgage Loan Appraisal Rule
- Prepare to deliver copies of appraisals to applicants no later than three business days before closing

2. Review Operational Considerations - At underwriting:

- Determine how your organization will comply with the requirement to verify the consumer's ability to repay.
  - » Ensure procedures for verifying and documenting the consumer's ability to repay are effective at determining the consumer's repayment ability and are applied consistently. Consider creating new verification, quality control, and compliance processes and plan to make any related systems adjustments.
  - » Ensure tools are in place to perform all required calculations.
- Decide if your organization will originate only Qualified Mortgages. If yes:
  - » Will you originate all four types of Qualified Mortgages, or fewer? Develop a mechanism for determining which Qualified Mortgage type is applicable to each loan application and documenting that determination.
- Develop a plan to verify and document borrower's ability to repay a HELOC subject to HOEPA requirements (these are separate from the general ability to repay requirements for closed-end loans).

3. Review Operational Considerations - At closing/funding

- Develop a procedure for establishing escrow accounts for HPMLs.
- Ensure loan documents include the NMLS Unique Identifier.
- Establish a procedure allowing consumers to waive the right to receive a copy of the appraisal three days prior to consummation/account opening.

4. Review Operational Considerations – Recordkeeping

- Develop procedures for complying with enhanced recordkeeping requirements applicable to specific rules, as noted on the next page:

Rule	Requirement
Loan Originator Compensation	Three years
Ability to Repay	Three years after consummation
Mortgage Servicing	One year after the loan is discharged or servicing is transferred. Records must include servicing notes reflecting communication with borrower, a report of data fields relating to the borrower's account, and documents provided by the borrower.

5. **Review Operational Considerations – Routine Servicing**
    - Ensure policies and procedures are developed to support the requirements of the rule.
    - Develop a procedure for responding to consumer requests to cancel mandatory escrow accounts.
    - Develop a procedure for notifying borrowers of the first interest rate reset and providing advance notice of ARM rate changes within the required time frames.
    - Ensure prompt crediting of periodic payments when received.
    - Ensure periodic statements are provided for ARM loans.
    - Decide if periodic statements will be sent for fixed rate loans, or if a coupon book that provides key information will be provided.
    - Ensure policies regarding Lender Placed Insurance are compliant with the Servicing Rule.
    - Develop procedures for error resolution and information requests.
6. **Review Operational Considerations – Default Servicing**
    - Establish procedures for acknowledging receipt of a complete loss mitigation package in writing within 5 days. Establish procedure for notifying the borrower if the application is incomplete.
    - Ensure complete loss mitigation packages are reviewed within 30 days, if the package is received more than 37 days before a foreclosure sale. Ensure the package is reviewed for all loss mitigation options for which the borrower may be eligible.
    - Ensure borrowers are notified in writing of any loss mitigation decision, and provide a process for appealing a denial decision.
    - Ensure policies and procedures are designed so as to prohibit "dual tracking" of default borrowers.
    - Ensure continuity of contact personnel by the time a written notice is provided to a delinquent borrower, and not later than the 45th day of delinquency. The contact must continue until the borrower has made two consecutive mortgage payments in accordance with the terms of a loss mitigation agreement.

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Execution – Complete the work defined in the project plan

- Ensure your project plan accounts for all deliverables identified during the planning phase.
- Ensure your project plan allows sufficient time for development, testing, communication, and training.
- Develop a method for communicating completion of tasks, identifying road blocks, and facilitating decisions.
- Prepare and distribute policy and procedures documentation to all employees.
- Identify training needs for affected employees; implement training programs, as needed.
- Communicate policy and procedural changes to business partners.

Monitor and Control

- Identify the person or team that will regularly review project status.
- Communicate with executive team, Board of Directors, and all team members regularly about project status.
- Correct errors and address issues promptly in order to minimize risks.
- Consider auditing for compliance with new requirements on a more-frequent-than-usual basis for 90 days, to ensure that all policy, procedure, process, and systems changes are functioning as intended.

Closing

- Review preliminary audit data to ensure compliance is within established standards.
- Assign follow-up or second-phase deliverables, as needed.
- Get a good night's sleep, because the Integrated Disclosures are headed your way!

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