DEAR BUREAU: THERE ARE SOME THINGS YOU NEED TO KNOW

by JOEL HAITZ

THERE COMES A POINT IN EVERY RELATIONSHIP when you realize it’s time to truly express yourself—let your partner know who you really are. The sparks are wearing off, the butterflies in your stomach are going away and you’re spending so much time together that it’s getting harder to keep any secrets. As you work hard to make the relationship work, there are some things you want to share, but you aren’t sure when you should do it.

The mortgage industry’s relationship with the Consumer Financial Protection Bureau (CFPB) has reached the point where it’s time to open up. We (the industry) know we’re in this one for the long haul. We’ve been mimicking the bureau’s four key traits (consumer focus, inquisitiveness, data obsession and teamwork) to engender likeability and help make the relationship grow. But even with all the progress, we aren’t certain that the bureau is ready to accept us for who we really are.

Implementing the bureau’s new mortgage rules has led to some bumps and bruises and tense emotions, for both sides. Soon, the bureau will be examining how well we’re achieving compliance. With the bright lights and magnifying glass upon us, we’ll no longer be able to hide our feelings about how this process is going. Instead of opening up to the bureau face-to-face with emotions running high, we took the time to examine our feelings and put them to paper. For better or for worse, we’re ready to share. So we’ve written the following letter, because some of these things are fairly personal.

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Dear Bureau,
Here are few things we want you to know.
We’ve been married before.
We know you. You’re young, ambitious and talented, and when it comes to relationships, you’re just getting started. We in the financial industry, however, have been married to federal regulators for more than 150 years—long before Dodd-Frank Wall Street Reform and Consumer Protection Act matchmaking set up this new relationship. Since the National Currency Act initiated a framework for federal supervision in 1863, we’ve been partnered up, learning the ropes.
We’ve made mistakes along the way. But we’ve learned some relationship fundamentals.
Nobody’s perfect. Sometimes your punishments and strict demands make us think you won’t accept that. Maybe that’s in your DNA because you were created and brought into our lives with the intent to fix us. But that’s not the best way for any relationship to start. We need to accept each other for who we are and what our life experiences have been.
We accept that you are young and were raised in a different generation. As a result, you’ve made some mistakes that only years of wisdom and experience could have prevented—such as providing us with overlapping and contradictory rules, last-minute clarifications, insufficient implementation time and unassuring assurance that “good faith” efforts to comply are enough. All of which have made implementing the new mortgage rules very challenging.
We know you’re trying. But so are we—which brings us to our next relationship concern.
Sometimes we feel unappreciated after a hard day’s work.
Relationships need positive energy. When one looks for the bad, it is sure to be found—while the good is likely to be ignored. If you keep viewing us as insatiable profit seekers with no regard for consumer welfare, that’s all you’re ever going to see.
The truth is, we are an economic driver and our success is essential to the livelihood that consumers enjoy. Sometimes your pre-conceived notions seem to blind you to that, particularly when you deem a product or practice harmful to consumers while ignoring the widespread demand and potential benefits. When it comes to our efforts to comply with the new mortgage rules, it seems all we ever hear is that were not doing well enough, and that you expect more. How about a pat on the back, a “good job” once in a while? If you want to make this relationship work, we need positive feedback for our hard work.

On that note, we want to share some things we appreciate about you. You’ve helped implementation efforts immensely by providing compliance guides, summaries, videos, comparison charts and other materials. You’ve listened to our questions and concerns, and responded with helpful clarifications. Your presence has pushed us to identify new technologies and partnerships that automate compliance and mitigate risk.

Even with all of this said, we don’t know if we’ll ever fulfill your hopes and dreams. You have lofty hopes and dreams. January 2014 mortgage rules. Integrated disclosures. Home Mortgage Disclosure Act (HMDA) reporting amendments. The next wave of mortgage closing process changes from the Know Before You Owe initiative. Trying to fulfill just one of them makes us concerned about how we can possibly fulfill all the rest.

The truth is, we’re still working on the to-do list you wanted us to finish in January. With the numerous amendments and clarifications, we were left with little time to fully analyze every detail before the effective date. Now, we’re forced to continue that process while implementing rules and requirements that continue to evolve.

We’re trying to understand what you want, but some things just don’t make sense to us. How can we issue only Qualified Mortgage (QM) loans and not directly increase our fair lending and Community Reinvestment Act (CRA) risk? You sent us a letter saying we wouldn’t be punished for issuing only QM loans, but you didn’t tell us that the corresponding reduction of credit available to low-income borrowers wouldn’t hurt us, either. This isn’t just about us, rather, the consumers that were created to protect are paying the ultimate price for this confusion.

Before we wrap up this letter, there is one more thing we really need to get off our chests.

There’s someone else.

While we’re certainly committed to a long-term relationship with you, you should know that there’s someone else in our lives—the market. Its powerful force is the key to the industry’s existence and success. It’s also a key indicator of yours.

Before you came into our lives, the market already drove us to closely analyze borrowers’ ability to repay and to treat them in a fair and mutually beneficial manner. The market has been telling us for decades that the only way to make things work is to ensure that borrowers are motivated and able to seek and repay loans.

There’s still room to improve, and the work you are doing is important. But history shows that rules and regulations issued to correct a crisis often lead to the creation of the next one. Complex rules that are costly to implement will limit choices for consumers, resulting in a weaker market and more bad actors seeking to fill the demand gaps. The ability-to-repay and Qualified Mortgage rules and other January changes are driving community lenders and widely used products out of the market. If this trend is not corrected, the market won’t thrive. And the consumers you were created to protect will pay the price.

Thanks for listening. We truly are looking forward to a long and happy relationship. Let’s just keep communicating.

The relationship between the mortgage industry and the bureau has come a long way. But it still needs work to achieve its potential. By relying on relationship fundamentals learned by the industry, realizing that the bureau is creating expectations the industry may never be able to fully achieve, and understanding the role of the market, the bureau and the industry will understand each other better as they walk down the path to ongoing relationship success. The industry has opened up to the bureau. When we meet to review our implementation of the new mortgage rules, we hope the bureau will accept us for who we really are.

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