Secondary Market Development

Case Study

This case involves a community bank with retail services geared toward a particularized target market. The service offering typically only included in-house mortgage lending for existing customers.

Diverse Mortgage Lending

As has become increasingly common, the bank was pressured by its regulators to create a mortgage lending program targeting low-moderate income areas and minority borrowers. The bank was not familiar with operating a mortgage lending program in a sub-prime lending market with typically small loan values. The bank's mortgage lending volume did not support an arrangement with traditional secondary market purchasers or programming and likely would not support forming, staffing, and supporting the expense of an in-house mortgage lending operation geared toward small-dollar mortgage loans.

Farley Law™
Banking & Business

Solution

The bank identified a third-party contractor that could assist in developing a pipeline of loans to be underwritten by the bank. The loans would then be resold through a customized channel to secondary market purchasers. The bank selected loan programming that would be suitable for the areas which regulators desired to target.

As this arrangement did not include typical warehousing or secondary market sales agreements, the bank engaged our firm to review the arrangement for regulatory risks, structure the agreements to avoid regulatory issues, and reduce overall risk to the bank. Our firm worked with the bank to identify particular issues regarding RESPA, allocation of responsibility between the bank and the contractors for marketing, underwriting, and other duties, and coordination of blended legal and operational issues. A suitable arrangement and agreements were developed to comply with applicable regulatory requirements, manage risks and responsibilities arising out of the programing, and permit the bank to begin a mortgage lending program targeted at the required market areas.

Results

As a disclaimer, the firm disagrees with the regulatory approach and purported basis used to pressure any bank to engage in new lending activities. The program has begun producing leads and loans and has satisfied regulatory concerns regarding fair lending and community reinvestment act issues.

Summary

- The bank was able to adjust and retain the mortgage lending program for the bank and for the communities it served.
- The program has satisfied regulatory concerns regarding fair lending and community reinvestment act issues.
- The program has begun to produce loans and leads in a secondary revenue stream.
- The bank is less concerned about legal issues arising from the program and a secondary market agreement.
- This program may be used as a stepping stone into additional mortgage lending activities

Farley Law

Farley Law specializes in assisting banks navigate the ever-shifting legal and regulatory environment while recommending strategic business options leading to new and unrealized growth opportunities.

Banking Service Packages include:

- New Business Line Development
- Regulatory and Legal Response & Management
- Deposit Account Matters Review & Resolution
- Vendor Management

FARLEY LAW™
BANKING & BUSINESS

737.263.3574 • info@farleylawpllc.com
Plaza 7000, 2nd Floor, 7000 North Mopac, Austin, TX 78731