

Other Real Estate Owned (OREO)

Minutes

April 29, 2009

2:00 – 4:00

Introductions with brief description of OREO experience - All

Brief introductions by most of the participants included their knowledge and experience with OREO. Approximately 25 people attended the meeting. Experience with OREO ranged anywhere from many years to very minimal.

Rulemaking Process – Joanne Conrad

In very basic terms rulemaking involves filing a CR-101 (announcement on subject of rule), CR-102 (draft text of rule), CR-103 (Final text of rule) with stakeholder meetings and public hearings in between.

This is a negotiated rulemaking that will require much input and careful deliberation by the OREO task force and other stakeholders. Our goal for this rulemaking is to create a useful and sensible tool for credit unions.

B-09-03 Bulletin on OREO – Mike Delimont/All

A review of the bulletin brought on many questions and concerns by the task force:

- Are CUs required to report the assessed value of foreclosed property on the books? **No, will need to comply with NCUA appraisal regulations**
- Will this rulemaking apply to residential and commercial? **Yes**
- Deadline to sell OREO CUs has not been determined
- Some insurers will not insure OREO after 1 year.
- Does the term ASAP in bullet (2) pg 3 refer to date of foreclosure or date of OREO?
- Add to Cost of Ownership; utilities, homeowner dues and assessments, yard maintenance, irrigation dues (summer), and settlements with other homeowners.
- Will DCU be doing guidelines for seller financing?
- Can CUs sell without a realtor? **Yes**
- Competency of realtor vs appraiser for determining value.
- Questions on appraiser rules?
- Will third party be required for foreclosure? **New “Valuation Code of Conduct” document will be added to documents on DFI web for next meeting.**
- Can appraisals be ordered by credit union staff?
- Determine what environmental risks CUs are taking on with the OREO.
- What is DCU's comfort level with CUs outsourcing resources for handling OREO?
- Will there be a minimal standard for management/legal counsel of OREO in the rulemaking?
- Net worth issues may encourage CUs from disposing of OREO within one year.
- Senate Bill 5810 – Amendment to RCW 6124 Deed of Trust Act will require 60 day notice to a non-owner tenant. Rule does not apply to homeowner tenant. **DCU will coordinate with WCUL to determine if/when we will issue a bulletin**

Review List of Issues – Linda

Listed below are highlights and references mentioned during this discussion.

Part (A) Possible elements for the Rule:

1. Authority for rule and reason for the rule -
 - RCW 31.12.516(2) Powers of the Director
 - RCW 31.12426 Loans to Members
 - RCW 31.12.567 Reports
 - RCW 31.12.569 Generally Accepted Accounting Principles
2. Authority for credit Union -
 - RCW 31.12.402 (6) Acquire, lease, hold, assign, pledge, sell or otherwise dispose of interests in personal property and in real property in accordance with
 - RCW 31.12.438 (23) Exercise such incidental powers as are necessary or convenient to enable it to conduct the business of a credit union
3. Ability of DCU Director to request reports -
4. Definitions -
 - Fair Value (Utah Rule R339-6)
 - Other real estate (Utah Rule R339-6)
 - Recorded investment in the debt satisfied (Utah Rule R339-6)
 - Real estate in judgment (OTS Handbook)
 - Real estate acquired through foreclosure (OTS Handbook)
 - In-substance foreclosure (OTS Handbook)
 - "Covered Transaction" (Utah Rule & OCC Handbook)
5. Limitations for Holding OREO –
 - Continue to look for language for holding 1-5 years
6. Board approved OREO policy and board committee on OREO –
 - Continue to look for threshold either on dollar amount or number of properties
 - FDIC policy will be added to documents on DFI web for next meeting
7. Accounting –
 - Possibly stay with GAAP regulations
8. Safe and sound practice for OREO –
 - Lease loss vs walking away from debt
 - Add internal controls
 - New Valuation Code of Conduct document will be added to documents on DFI web for next meeting.
 - DCU will want to see CUs decision making on walk away vs holding OREOs

Part (B) Possible exam guidance to examiners (not part of rule):

- Provide goal analysis and guidance for all CUs
- Is one year to sell common with Banks /other states?
- What is the NCUA standard for selling OREO? **See NCUA Letter 08-CU-25**

DCU Website www.dfi.wa.gov - Rhonda

All of the OREO rulemaking documents will be posted on the DFI website. A notification email will be sent to the task force approximately one week prior to each meeting/teleconference with a link to the agenda and pertinent documents. To be added to the task force or receive the notifications only, email me at rmires@dfi.wa.gov.

Next task force Meeting: May 21, 2009 – 2-4p.m.