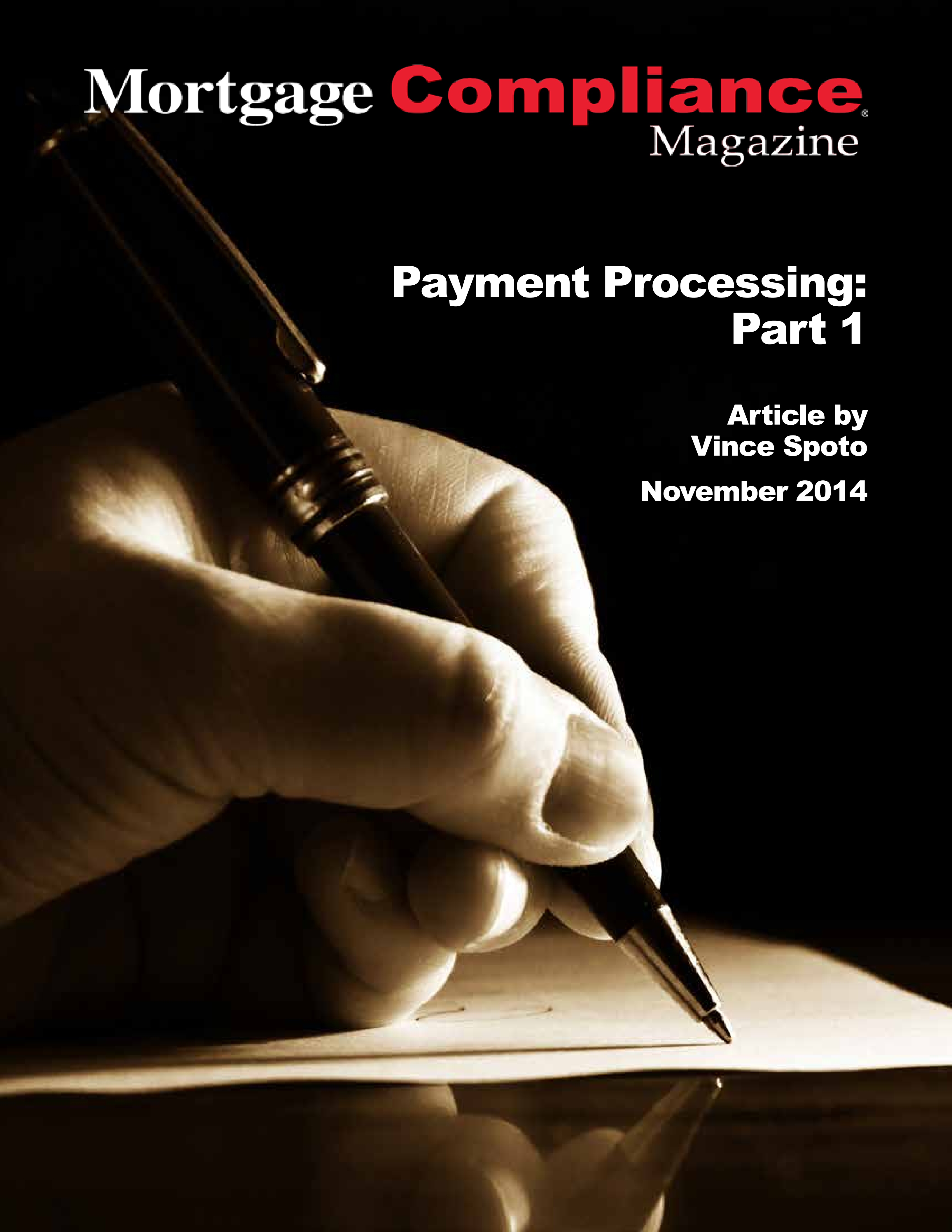
Mortgage **Compliance** Magazine



Payment Processing: Part 1

Article by Vince Spoto

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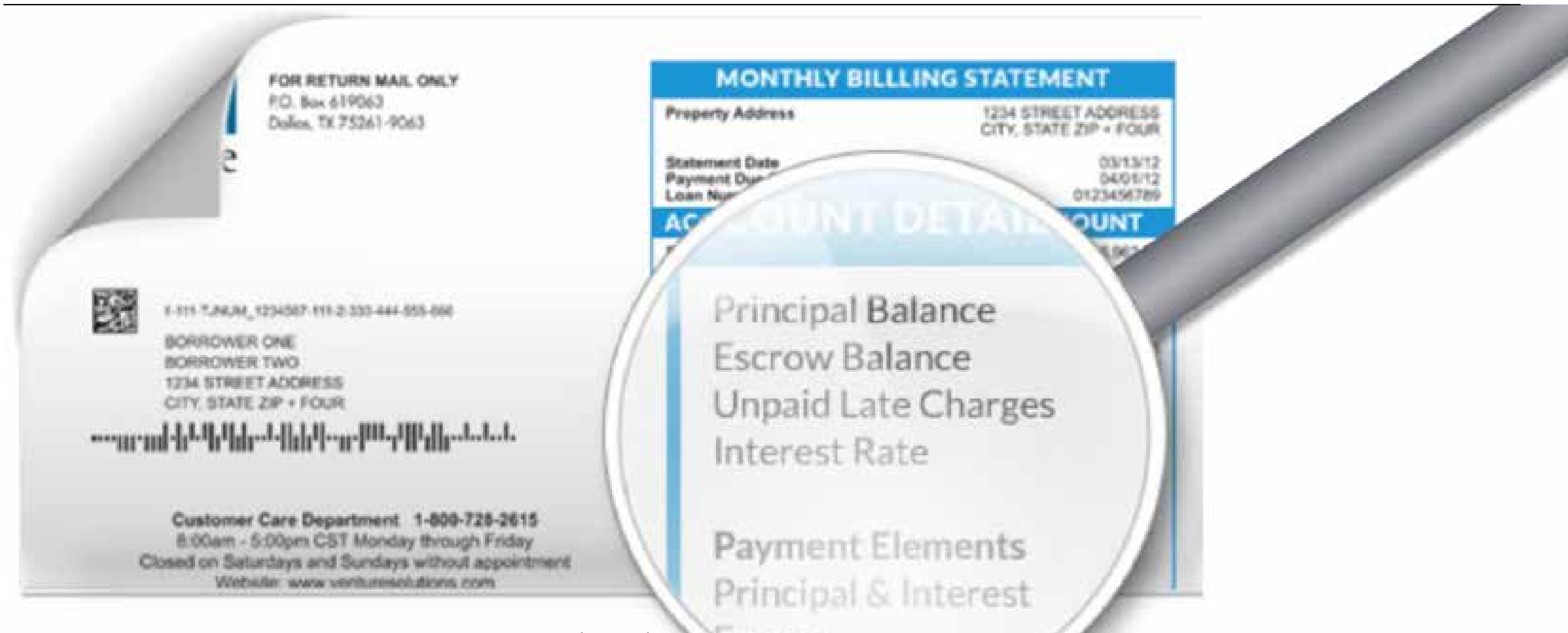

PAYMENT PROCESSING: PART 1

BY VINCE SPOTO


Vince Spoto

Regulatory guidelines and standards are designed to provide borrowers with better disclosures about their mortgage obligations and provide servicers with protocols and options.

This is the first part of a two-part series.

Timely and accurate payment processing by residential mortgage loan servicers is critical to ensure that borrower debt is properly managed, correctly administered, and that appropriate and timely borrower disclosures are made in accordance with regulatory guidelines/requirements. It is also critical that conditions of the mortgage debt be disclosed to borrowers in a concise and transparent manner.

Regulatory guidelines and standards, specifically those issued in January 2014 by the Consumer Financial Protection Bureau (CFPB), are designed to provide borrowers with better disclosures about their mortgage obligations and provide servicers with protocols and options relating to the receipt, collection and application of borrower payments. A key regulatory theme relates to increased borrower transparency and simplification of the overall borrower experience. Regulatory guidelines also provide servicers with loss mitigation protocols and options designed to assist borrowers who are having difficulty paying their mortgage debt. As one senior executive responsible for operations at a major loan servicer located in the Southwestern United States points out: "The CFPB has now made it virtually impossible for servicers to play games with borrowers. No longer can servicers ding borrowers with late fees by claiming that payments [that were sent by the borrower in time] were received late [after the 16th]." This executive goes on to point out that "compliance is king when it comes handling payments made by mortgagors."

CFPB guidelines provide some very exhaustive and detailed requirements for servicers to follow regarding proper disclosures and timely application of payments. Protocols encompassing the billing process and ranging through the proper application and timely posting of borrower payments are covered. These protocols ▷

provide a solid foundation that servicers can build upon to develop sound procedures and define related Key Performance Indicators (KPIs) to appropriately govern the payment application process.

Billing

Residential mortgage loan servicers must provide borrowers with periodic statements corresponding to each billing cycle (generally monthly for mortgage loans). Statements must be clear, concise and conspicuous, and must contain critical information appropriately categorized in order to provide borrowers with complete transparency.

Specifically, statements must include, at a minimum, a number of critical pieces of information, including: (i) payment amount due, due date and late fee particulars including late fee amount, calculation method, etc.; (ii) an explanation and allocation of the amount due (i.e. the allocation to principal, interest, escrow and total fees imposed for the total billed payment amount (and past due amounts (if applicable); (iii) an itemization of all payments made since the prior statement, application of prior payments made to principal, interest, escrow and unapplied funds (if applicable); (iv) total payments made since the beginning of the calendar year and related payment applications (including fees assessed); (v) a summary of all transaction activity that has occurred since the prior statement; (vi) a detailed summary of funds held in suspense accounts (if applicable) and an indication of what must occur in order for the funds to be applied; (vii) the servicer's toll free contact number and email address (if applicable) where borrowers may obtain information about their loan; (ix) the outstanding principal balance, current interest rate, date when the interest rate is scheduled to change (if applicable), existence of any prepayment penalties (if applicable) and housing counselor information; and (x) as applicable, default information in cases where the borrower is 45 days or more past due.

Periodic quality control reviews should be performed by the servicer to ensure billing statements sent to borrowers are both complete and contain all required information.

Periodic quality control reviews should be performed by the servicer to ensure billing statements sent to borrowers are both complete and appropriately contain all required information (as outlined previously herein), and contain information that is properly categorized in accordance with applicable regulatory guidelines. Periodic reviews should also be performed to ensure borrower statements are easy to read, understandable and fully transparent.

According to one Senior Vice President of operations at a large West Coast servicer: "Semi-annually, [we] perform[s] independent quality control reviews of all critical operations functions, including billing disclosures and payment applications. In the past, an independent QC unit at [the servicer], [that was] separate from the billing and payment group, would be performed to review all payment disclosures and payment application protocols in order to identify process shortfalls leading to regulatory compliance issues. Today, [we] utilize [the] services of a third-party vendor to perform this critical QC review along with the content of the bills sent." This servicing executive went on to indicate that a variety of critical performance measures are reviewed on a monthly basis, such as the timing in which billing statements are sent to borrowers, the reason behind unapplied payments, aging of unapplied payments, partial payments received, non-sufficient funds (NSF) activity , etc.

Additional information may be included on billing statements which are sent to borrowers, provided the added information does not confuse the borrower or obscure required disclosures. It is critical to re-emphasize that, for mortgage loans having multiple payment options, statements must show whether the principal balance will increase, decrease, or stay the same for each option listed.

Federal guidelines require periodic billing statements be delivered to borrowers (either via U.S. mail or electronically) within a 'reasonably prompt' time-frame after the payment due date or at the end of any courtesy period made available to the borrower in accordance with the previous billing cycle. In cases where electronic delivery is the method utilized, servicers must have specific written borrower authorization.

The term 'reasonably prompt' is defined by federal regulators as the 'four-day period after close of the courtesy period of the previous billing cycle.' For easy reference, mortgage payments are generally contractually due by the first calendar day of each month, with a courtesy period granted to borrowers until close of business on the 16th calendar day of the month; after the 16th, payments which are not received by the servicer are considered late, and an appropriate late fee may be assessed.

There is currently no definitive timing requirement relating to statement rendering; however, 'best practices' adhered to by other servicers in the industry show that statements are sent to borrowers generally within four days of the close of the courtesy period of the previous billing cycle – or sent within the 'reasonably prompt' four-day period as defined by federal regulators. In accordance with this logic, servicers are encouraged to develop a specific KPI - or metric - which monitors actual statement distribution against the 'reasonably prompt' four-day standard.

A sample borrower billing statement can be found at http://files.consumerfinance.gov/f/2012/02/20120213_cfpb_draft-periodic-mortgage-statement.pdf.

A 'best practice' followed by other servicers relates to the existence of a dedicated website allowing borrowers easy access for making payments.

Web-Based & Other Electronic Payment Mechanisms

In addition, a 'best practice' followed by other servicers relates to the existence of a dedicated website allowing borrowers easy access for making payments. While there is no specific regulatory requirement that such a web-based payment mechanism exists, the servicers that do have such a website provide borrowers with additional flexibility and ease in making payments. It also offers borrowers further assurance and comfort over the timeliness in which payments are received and applied. One servicing executive from an east-coast mid-sized servicer (who wished to remain anonymous for this article), was emphatic in saying that "since [we] have implemented a web portal allowing borrowers to see their accounts real-time and make payments electronically, customer service calls into the office have fallen-off sharply, and delinquencies across the portfolio have declined." Again, while having such a dedicated website available for borrowers to access their accounts and make payments electronically is not a regulatory requirement, it can further enhance transparency and simplify the borrower's experience – both of which are key regulatory themes. And, as experienced by one servicer, lead to a decline in overall delinquencies.

For mortgage debt in which periodic billing statements are required (i.e. adjustable rate mortgage (ARM) loan products, interest only loans, graduated payment mortgages, etc.), borrowers may not opt out of receipt. The periodic billing statement requirement generally does not apply to fixed rate loans, provided servicers supply borrowers with a coupon book. Here, servicers have the option of utilizing either monthly statements or coupon books. Coupon books are an acceptable alternative to monthly statements provided they contain information relating to the amount owed and the payment amount that will be applied to principal, interest, and escrow. Additionally, payment coupons must disclose the amount and timing of any late payment fee to be assessed in cases where payments are not received by a specified date. Other information that must be included in the coupon book, but not necessarily on the payment coupon itself, includes: (i) the outstanding principal balance of the loan; (ii) the loan's interest rate; (iii) any pre-payment penalties that may apply; (iv) toll-free access telephone numbers for the servicer; and (v) toll-free access telephone numbers for homeownership counselors. In addition, on an annual basis, servicers must provide borrowers with a statement of billing rights in accordance with regulatory guidelines. Servicers must also provide borrowers with accurate payoff balances no later than seven business days after receiving a written payoff balance request. MCM

- to be continued in the December Issue.

Vincent Spoto has over 25 years experience in the financial services sector. He is currently a founding Partner and Managing Director at RRMS Advisors, LLC (RRMS). He can be reached at vspoto@rrmsco.com.