FEATURE

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Strategic Relationship Success

Keeping the consumer first is best practice for any company, but how can organizations engage the customer and get on the same page?

By Mark L. Meyer

The Consumer Financial Protection Bureau (CFPB) and various other federal and state regulators are charged with the noble objective of protecting consumers in financial transactions. In the real estate settlement services world, and most particularly the home purchase space, questions persist among regulators about strategic relationships between business partners—such as mortgage companies, title providers, real estate brokers, and homebuilders—and the impact on the consumer. Properly designed and structured relationships between complementary service providers to a home purchase, however, can be one of the most important contributors to a buyer's positive experience.

The Complex Home Purchase World

A residential home purchase may well be the most complex and involved financial transaction consumers will endure. In the process, they may have to interact with 25 to 30 different people and a dozen companies: real estate, mortgage, appraisal, title, insurance, inspection, and others. Left to chance, the odds of the transaction closing smoothly, and with minimal stress, are not good. Strategic relationships between high-quality settlement service providers and business partners, however, have proven effective for establishing productive purchase and financing processes for all involved in a home purchase.

The home purchase business is the most sought-after channel for settlement service providers. It offers an ongoing flow of transaction opportunities for those who perform admirably and are accountable to their real estate and builder relationships and their buyers. Therein lies the key. Strategic relationships between business partners do not last if consumers are not well served. For example, homebuilders will drop a title and escrow company verily if their customers' transactions are not closed in a proper, timely, and courteous manner. Real estate agents will avoid a mortgage company if loan officers are hard to reach, ill-informed, or not in tune with the purchase process and status. In all cases, service providers who are not cost competitive and not deemed to provide the consumer value (a quality service for the price) will no longer be considered a preferred vendor of choice.

So how do providers and partners establish relationships engineered to last? The consumer must be put front and center in designing how the purchase process will operate. Providers and partners must work together to integrate their purchase, financing, and related processes for smooth closings and happy customers. And, of critical importance, the relationships must be structured to be compliant with Real Estate Settlement Procedures Act (RESPA), Truth in Lending Act (TILA), and all other federal and state requirements.

What Consumers Want

Beyond the obvious desire to secure a competitive interest rate at a low cost, consumers want the home purchase, financing, and related processes to be made easier to understand and simpler to perform. They want transparency and choice in what they purchase and who they use. Indeed, transparency and choice are key components of consumer protection. For example, upfront disclosure requirements provide a consumer the opportunity to compare interest rates and costs among competitors before communicating the "intent to proceed." With recent changes to regulations, originator compensation rules effectively remove the incentive for loan originators to play interest rate or closing cost games to the detriment of a consumer. Buyers also want to know what to expect throughout the purchase process. Most important, they want convenience (one-stop shopping), coordination, predictability, support, and a smooth closing at a good value. In a 2004 Weston Edwards & Associates homebuyers' survey, 91 percent of those polled said they were highly likely, likely, or somewhat likely to use the services of one-stop shopping. A 2006 CapAnalysis Group study concluded that title premiums and related settlement closing charges are not higher when affiliated businesses are involved compared to when they are not. In order to routinely achieve what consumers want, partners must integrate their business processes in a way that puts the consumer first and creates the most efficient and effective real estate settlement service experience for all parties to a purchase transaction.

> To achieve maximum results, the parties to a strategic relationship must be disciplined in planning and designing a cooperative process that will be most beneficial to all.

The Strategic Relationship Engineering Advantage

As stated earlier, strategic relationship engineering can create structures and processes to the mutual benefit of all participants to a transaction. Strategic relationships make communication more direct and convenient for all parties involved. By their nature, these structures coordinate activities that improve the timing of a transaction and the convenience of working with multiple parties throughout the process. In addition, the integration of the purchase and financing-related processes can reduce the cost of a transaction, which can be passed along to the consumer.

Strategic relationships must be in compliance with section 8 of RESPA, prohibiting the giving or accepting of fees, kickbacks, or "things of value" in exchange for referrals of customers who are purchasing settlement services such as a home mortgage. Examples of arrangements for attracting partners and integrating processes, if properly structured, include desk rentals, marketing services agreements, and Affiliated Business Arrangements (ABAs). HUD recognized the potential benefit of ABAs in its proposed RESPA regulation: "One-stop shopping may offer consumers significant benefits including reducing time, complexity, and costs associated with settlements."

In the case of a desk rental, a mortgage company may lease space from a real estate broker to place a mortgage consultant inside or adjacent to the real estate office. Being located close to the real estate agents can enhance the ease and convenience of a mortgage consultant working with the agents and their buyers.

In a marketing services agreement, a mortgage company or title company may pay a real estate broker, homebuilder, or other party for providing legitimate, actual advertising and marketing services on its behalf (e.g., messaging, branding, and advertising the mortgage company's services to potential direct customers and referral sources) measured at a fair market value. These marketing services are distinguished from a direct sales pitch to a particular buyer who is encouraged to consider use of a particular provider . . . something HUD deemed non-compensable in 2010 interpretive comments. Mortgage companies and other settlement service providers routinely pay others to market and advertise their services to the community. Marketing of a mortgage company's services through a real estate broker, builder, or similar parties who frequently come in contact with a community of prospective buyers—who may need a mortgage—can be a very cost-effective marketing approach. When a mortgage or title company can accomplish an important, routine activity in a more cost-effective manner, consumers may well benefit from more attractively priced services.

An ABA is, in layman's terms, a situation where at least two parties have common ownership of a settlement service provider. An ABA enjoys a "safe harbor" under RESPA from the referral fee prohibitions if the ownership relationships are properly disclosed, the consumer is not required to use the ABA, the profit is distributed to owners solely based upon the financial interest in the entity (real capital invested), and the entity passes a "sham analysis" offered by HUD, which considers 10 key factors in assessing the validity of the ABA. A mortgage company and real estate broker may establish a new mortgage entity, properly capitalized, licensed, established, and operating as an independent bona fide mortgage company in the marketplace. In a high-volume transaction environment, an ABA can be an excellent platform for integrating purchase and financing processes for the benefit of all.

The Integration of Purchase and Financing Processes

An integrated platform that simplifies and improves the home purchase, financing, and related processes adds value at each customer touch point. Ways to accomplish this can include:

01 Obtain consumer authorization to share key status information between the real estate broker and mortgage company, which helps trigger dependent activities and keep the process on track (this is needed for much of the following to be permitted due to financial privacy laws);

02 Coordinate buyer orientation of what to expect from both the real estate company and the mortgage company throughout the transaction;

03 Communicate key mortgage pre-approval information (e.g., cash at closing constraints, with the real estate agent, to be used in negotiating seller-paid closing costs);

04 Alert the mortgage company of the execution of the purchase agreement for immediate ordering of the appraisal;

05 Enlist real estate agent, as needed, to encourage buyer to provide documentation and respond to inquiries and requirements on a timely basis;

06 Work with title and escrow companies for the early creation of the Preliminary Settlement Statement for quick review and correction of any errors or issues to avoid closing delays;

07 Share transaction status with all parties in a systematic way throughout the process to minimize unnecessary telephone calls and emails and keep all parties on track;

08 Receive coordinated and convenient feedback from buyers regarding their experience with the providers, the value of the services, and their willingness to recommend to family and friends.

The Proof Is in the Pudding

Environments where the service relationships are unfamiliar and haphazard ultimately underperform. Most long-time industry insiders have seen home purchase processes where the home buying, financing, and related activities are well designed and planned. It follows that the most convenient, predictable, and timely closings for consumers typically came from carefully selected, complementary service providers and their partners. Real estate settlement service providers who do a good job of structuring relationships with others, such as real estate brokers and builders, are able to establish a long-term, mutually beneficial flow of business, as the partner closes more homes on time and satisfied consumers rave about their experience to others. With results like these, agents and sales representatives take note and get on board with a solution that helps them get paid quickly and generates customer buzz.

One long-time mortgage affiliate of a large, regional northwestern real estate company engineered an integrated home buying and financing platform years ago that has resulted in a 94 percent "would recommend" rating from its borrowers. These kinds of relationships are important examples to the industry of how strategic relationship engineering can work.

Walking the Talk

When a friend or family member who is in the market for a home asks this author who they should use for a mortgage company, the questions asked in response have become routine:

01 Do you have a real estate agent with whom you are pleased?

02 Does the agent have a strategic relationship with a mortgage company?

03 Does the agent like the mortgage company, the competitiveness of its rates, and the ease of the process?

If the answer to each of these questions is "yes," then this author makes the following suggestions:

01 Apply with that mortgage company.

02 Use the 10-day shopping period to confirm the interest rate and cost is competitive.

03 Commit to proceed if you like what you see and hear.

Yes, We Can

Complementary relationships, among companies with common goals, objectives, and motivations can lead to the most effective and efficient solutions. To achieve maximum results, the parties to a strategic relationship must be disciplined in planning and designing a cooperative process that will be most beneficial to all. Consumers should shop for competitive interest rates and costs, while weighing the expected levels of service from competing providers to assess value (quality of the service for the price). Integration of home purchase and financing processes is one of the most effective ways to provide value to the consumer and all parties to a transaction. The consumer, agent, broker, mortgage company, and all other participants in a smooth and timely home closing are the winners. **M**