Experis Finance
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Financial Institution Compliance Update

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This communication is designed to provide you with quick snapshots and timely perspective on recent regulatory developments.

CFPB Revises Mortgage Examination Manual

Background:
In our November 2013 update, we gave an overview of several new Mortgage Servicing Rules scheduled to go into effect in January 2014. See the table below for a brief listing of those rules and their respective effective dates.

Regulation(s) Revision	Effective Date of Revisions
Ability-to-Repay and Qualified Mortgage Standards (Regulation Z)	Applies to all applications received on or after January 10, 2014.
High-Cost Mortgage and Homeownership Counseling (Regulation Z and Regulation X)	Applies to all applications received on or after January 10, 2014.
Mortgage Servicing Rules (RESPA) (Regulation X) (TILA) (Regulation Z)	January 10, 2014
ECOA Valuations for Loans Secured by a First Lien on a Dwelling (Regulation B)	Applies to all applications received on or after January 18, 2014.
TILA Appraisals for Higher-Priced Mortgage Loans (Regulation Z)	January 18, 2014
Loan Originator Compensation Requirements (Regulation Z)	January 1, 2014 (loan originator compensation) January 10, 2014 (financing credit insurance and

	including loan originator name/NMLSR ID on loan documents)

Last month, the Consumer Financial Protection Bureau (CFPB) released updates to both the mortgage origination and the mortgage servicing exam procedures. The following sections highlight the changes to the CFPB Supervision and Examination Manual.

Mortgage Origination Examination changes include updates to the following modules:

- **Module 1 – Company Business Model** now includes a determination if: an entity has established a program to verify and consider a borrower's ability to repay the mortgage; the entity makes qualified mortgages to fulfill its obligation to consider ability to repay; the entity has eliminated certain contractual provisions for mandatory arbitration, waiver of certain legal rights, or provisions for financing credit insurance premiums; and policies and procedures are established for: a) ensuring compliance with loan originator qualification requirements, b) preventing prohibited payments to loan originators, prohibited steering arrangements, and requirements for loan originator NMLSR ID's on loan documents, and c) recording HMDA reportable transaction on a Loan/Application Register within 30 calendar days after the end of each calendar quarter.

- **Module 2 – Advertising and Marketing** now includes assessing compliance with FCRA prescreening obligations and determines if the entity provides timely, clear, and understandable information if the entity offers or receives compensation from those offering reverse mortgages.

- **Module 3 – Loan Disclosures and Terms** now includes determinations and assessments of compliance with: RESPA List of Homeownership Counseling Organizations requirements; RESPA requirements for providing notice regarding the transfer of loan servicing; compliance with TILA disclosures including the right to rescind for non-purchase money loans secured by a principal dwelling; required ECOA notices of the right to receive a copy of all written appraisals (if secured by a first lien on a dwelling); requirements for disclosure of credit scores; Regulation Z requirements for high-cost or higher-priced mortgages; and requirements that prohibit an entity from financing premiums or fees for credit insurance.

- **Module 4 – Underwriting, Appraisals, and Loan Originators** now includes determinations if the entity: meets the requirement to consider ATR (Ability to Repay) for consumer-purpose, closed-end loans secured by a dwelling, and verified and maintained records of information relied upon; meets the ATR requirements by making loans that meet the requirement for qualified mortgages; makes standard qualified mortgages and if so, calculates debt to income ratios appropriately; has loan files which contain loan documentation, including income documentation, that has been altered or forged; provides copies of appraisals and other written valuations for loans secured by a first lien dwelling; originates higher-priced mortgages that are not qualified mortgages and if so, determines if the entity complies with appraisal requirements; is registered or licensed as required by state and federal laws (including individual loan originators); complies with state law qualification requirements for legal existence and foreign qualification, and ensures its loan originators are licensed and/or registered under the SAFE Act and state law; and, obtains criminal background check, credit report, and information about administrative, civil or

criminal findings, and provides periodic training for those loan originators not licensed or required to be licensed.

- **Module 5 – Closing** now includes a determination if the entity allows borrowers to choose the title insurer or requires use of an affiliated provider and adds a review and comparison of subsequent GFEs and TIL disclosures with final HUD-1 settlement statements and final TIL disclosures for evidence of "bait-and-switch" tactics (interest rate, points, closing costs, loan product, or loan features).

Mortgage Servicing Examination changes include updates to the following modules:

- **Module 1 – Servicing Transfers, Loan Ownership Transfers, and Escrow Disclosures** now includes steps to determine servicer efforts to transfer ACH payments and make disclosures to avoid missed or duplicate mortgage payments by the consumer; and if the entity, when receiving transfers of servicing, complies with loss mitigation agreements entered into by the borrower and the prior servicer.

- **Module 2 – Payment Processing and Account Maintenance** now includes a determination if the entity: complies with Regulation Z for closed end mortgages secured by the consumer's principal dwelling; offers bi-weekly payment plans as part of its additional products and services (if so, do the bi-weekly payment plan solicitations clearly explain terms and conditions, including the timing of crediting of payments); has policies and procedures in place to address other laws (for example, the Servicemembers Civil Relief Act (SCRA); complies with periodic statement requirements for Closed End Mortgages and Home Equity Plans; complies with adjustable rate mortgage disclosures (Initial Rate Changes and Rate Adjustments Resulting in Payment Changes) and complies with the record retention and servicing file provisions of Regulation X.

- **Module 3 – Consumer Inquiries, Complaints and Error Resolution Procedures** now includes an assessment of call center personnel training through review of live and taped calls; assesses compliance with Regulation X, Notice of Error Provision, including maintaining policies and procedures; and assesses compliance with Regulation X, Written Information Request Provision, including maintaining policies and procedures.

- **Module 4 – Maintenance of Escrow Accounts and Insurance Products** now includes an assessment of compliance with Regulation X, Timely Payments, and Force-Placed Insurance provisions.

- **Module 5 – Credit Reporting** has added emphasis on accurate reporting of short sales and loan modification outcomes.

- **Module 7 – Collections and Accounts in Bankruptcy** now includes a determination if the entity: properly identifies accounts in active bankruptcy to ensure proper protection from foreclosure or collections are provided; notifies the debtor of total amount due (principal, interest, fees, expenses, other charges, etc.), and provides the debtor with an escrow account statement as of the date the debtor filed for bankruptcy; and provided notice of any changes to payment amount due for consumers filing a Chapter 13 bankruptcy are provided to the debtor, debtor's counsel, bankruptcy trustee, and the court before the new payment amount is due.

- **Module 8 – Loss Mitigation, Early Intervention, and Continuity of Contract** now

includes an assessment of: policies and procedures for considering types of income (applicant or applicant's spouse); policies and procedures for servicing loans held by borrowers with limited English proficiency (identifying borrowers that may require non-English assistance, providing an option for calls in a language other than English, providing dedicated customer service personnel, and providing translation of documents); compliance with Regulation X, Early Intervention Requirements (live contact and written notice provisions); compliance with Regulation X, Continuity of Contact Requirements (Policies and Procedures and Functions of Servicer Personnel provisions); and compliance with Regulation X, Loss Mitigation Requirements (Policies and Procedures, receipt, evaluation, and denial of a loss mitigation application, borrower response, and appeal process provisions).

- **Module 9 – Foreclosures** now includes an additional emphasis on comparison of foreclosure filing dates reflected in the entity's records to dates identified in public records; with respect to Dual Tracking, assessment of compliance with Regulation X (Prohibition on Foreclosure Referral, Prohibition on Foreclosure Sale, Small Servicer Requirements provisions), and Policies and Procedures requirements; determines if the entity has policies and procedures in place to address other laws (for example, the Servicemembers Civil Relief Act (SCRA); and evaluates the entity's process for informing customers about charge offs or lien releases but not their related debts prior to full repayment of the loan.

What steps your organization should take to prepare for these changes and for the examination?

In December 2013, the CFPB issued the 2013 CFPB Dodd-Frank Mortgage Rules Readiness Guide (version 2.0) to assist financial institutions in their compliance efforts. Some of the suggestions in the "Readiness Questionnaire" section of this guide include:

1. Obtain, review, and become familiar with the final rules.
2. Determine if the products or services your institution offers are subject to the revised rules for mortgage servicing and origination.
3. Determine if you service mortgage loans or own the servicing rights to mortgage loans.
4. Determine if you qualify for exemptions as a Small Entity.
5. Perform a gap analysis to determine which processes need to change in response to the new rules. Be sure to consider business, operational and automated processes in your analysis.
6. Identify parties responsible for addressing the results of your gap analysis. Establish and monitor a project plan with target dates for completely addressing all gaps.
7. Update your policies and procedures, reporting, audit plans, and compliance programs to reflect the revised rules.
8. Develop and conduct training to inform employees (and third party service providers as appropriate) of the new rules and the impact to their responsibilities.
9. Involve your internal audit, compliance and legal counsel in the development of new processes, policies, and procedures.
10. Conduct your own "pre-exam" review to identify potential areas of weakness.
11. Discuss these changes with any applicable third party service providers and determine if they have plans to update their practices to reflect the new rules. If not, determine how you will ensure compliance.

These rule changes and examination manual revisions may seem overwhelming. However, by becoming familiar with the changes and how they affect your entity, you can be better prepared

to comply with the new rules and for your next examination. If you have any questions regarding these changes or how to prepare for the examination, contact your local Experis Finance professional or email us at knowledge@experis.com. To review our previous Financial Institution Compliance update, visit: Volker Rule: Overview of requirements and what steps banking entities must take to ensure compliance.

If you have specific questions regarding the regulatory content and commentary of this message, please contact knowledge@experis.com.

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100 Manpower Place
Milwaukee, WI 53212

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