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

What's New with the Mortgage Servicing Rules?

New Mortgage Servicing Rules are scheduled to go into effect in January 2014. Even though the implementation date is confirmed, and Financial Institutions have been attempting to prepare for these changes, the Rules themselves continue to change and evolve. In the following sections, we will share the many modifications that have been made and practical tips on what you can do to prepare for these changes.

Changes to the Ability to Repay and the Qualified Mortgage Rule

In June 2013, the Consumer Financial Protection Bureau (CFPB) published changes to the Ability to Repay/Qualified Mortgage Rule (ATR/QM). Under Regulation Z, a creditor is usually prohibited from making a mortgage loan unless the creditor has determined that the consumer will be able to repay the loan. The June 2013 ATR/QM concurrent Final rule provides for an exemption to these requirements for:

- Creditors with certain designations.
- Loans pursuant to certain programs.
- Certain non-profit creditors.
- Mortgage loans made in connection with certain Federal emergency economic programs.

Under this Final rule, the annual percentage rate (APR) threshold for Small Creditor and Balloon-Payment QMs to be regarded a higher priced loan increased from 1.5 percentage points above the average prime offer rate (APOR) on first lien loans to 3.5 percentage points above APOR. The rule modifies the requirements regarding the inclusion of loan originator compensation in the points and fees calculation. The Final rule clarifies how eligibility will be determined for QMs under

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the temporary provision allowing QM status for loans eligible for purchase, guaranty, or insurance by the Government Sponsored Enterprise's or certain federal agencies. The final rule also clarified how debt and income will be determined under appendix Q for the purpose of meeting the 43% Debt to Income (DTI) requirements under the general QM provision.

Changes to Regulation B – Equal Credit Opportunity Act

In September 2013 the CFPB announced two "final rules" with amendments and clarifications to the Mortgage Servicing Rules. The first of the amendments was a "minor" technical change to Regulation B and the other amendments pertain to Higher Priced Mortgage Loans and establishing Escrow Accounts for these loans. They also clarified definitions for financing insurance premiums and "Loan Originator." Below is the list of amendments and clarifications that the CFPB have made:

- Added an exemption for all small creditors, including those that do not operate predominantly in rural or underserved counties, from a new ban on high-cost mortgages featuring balloon payments as long as the loans meet certain restrictions. The definitions of "rural" and "underserved" will continue to be reviewed by CFPB over the next two years.
- Added a temporary exemption for small creditors to continue qualifying for an exemption from a requirement to maintain escrows on certain higher-priced loans. The study for this change continues.
- Clarified that in connection with the prohibition on creditors financing credit insurance premiums with certain mortgage transactions, credit insurance premiums are considered "financed" by a creditor when the creditor allows the consumer to defer payment of the premium past the month in which it is due. Further explanation is provided regarding how the rule applies to "level" or "levelized" premiums where the monthly premium is the same each month rather than decreasing along with the loan balance.
- Clarified the definition of "Loan Originator" under Regulation Z.
- Explained the points and fees thresholds and loan originator compensation rules for manufactured housing employees under the Ability-to-Repay rules and clarified which of those employees may be considered loan originators.
- Revised the effective date of the loan originator compensation rules to January 1, 2014 rather than January 10, 2014.

Amendments to Regulation B, Regulation X and Regulation Z

On September 13, 2013, CFPB finalized a rule amending the 2013 Mortgage Rules under the Equal Credit Opportunity Act (Reg. B), Real Estate Settlement Procedures Act (HUD Regulation X), and the Truth in Lending Act (Reg. Z). The amendments were in connection with a proposed rule that the CFPB issued on June 24, 2013. The following items are part of this amendment:

- Clarified the scope of activities prohibited during the 120-day ban on foreclosure referral.
- Addressed the process for correcting mistakes that might occur when servicers perform initial completeness evaluations of loss mitigation applications, but later discover the application was incomplete.
- Facilitates the ability of servicers to offer short-term forbearance plans.
- Clarified the definition of loan originator.
- Facilitates lending by certain small creditors, including those predominantly operating in rural or underserved areas.
- Clarified application of the prohibition on creditors financing credit insurance premiums.
- Revised the effective dates of several provisions of the Loan Originator rule to January 1, 2014.

October 15, 2013 Interim Final Rule

On October 15, 2013, the CFPB issued a bulletin and interim final rule to provide further explanation on the following three servicing issues:

- Home retention efforts after borrower dies.
- An early intervention requirement to contact delinquent borrowers.
- Interplay between the servicing rules, bankruptcy rules, and the Fair Debt Collection Practices Act (FDCPA).

The rule clarifies regulations that implement provisions of the Dodd-Frank Act requiring consumers to receive housing counseling before taking a high-cost mortgage. The rule also specifies which federally required disclosure must be used as a basis for counseling for a small subset of closed-end loans that are not subject to RESPA requirements.

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

January 1, 2014 is fast approaching and the CFPB still has other proposals for amendments to these rules that have not yet been finalized. The rules are constantly changing and it is critical that you keep current with the updates as they are published. Keep the following considerations in mind during the implementation of the New Mortgage Rules:

- Consult with legal counsel or your compliance officer to understand your obligations under all of these new rules.
- For each part of the new rules you should identify affected products, departments, and staff.
- Identify the business process, operational, and technology changes that will be necessary for compliance.
- Identify the potential impact on key service providers or business partners.
- Determine training needs.
- Consider all of the Title XIV rules.
- Get started – Do not wait.

Although the rules continue to evolve, do not wait until January to begin to prepare for these changes. Your organization should already be in the process of meeting with your vendors to ascertain that they will be ready to assist you in complying with the New Mortgage Servicing Rules in January 2014.



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