

Helping Credit Unions  
Serve, Grow and Remain Strong.

# CFPB Mortgage Amendments Get Caught Up!

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# Agenda

Helping Credit Unions  
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- HPML Appraisal Requirements
- High Cost Mortgage
- QM Points and Fees
- QM Cure Provision
- HPML Escrow Requirements
- HMDA Revisions
- Loan Estimate Form
- Closing Disclosure
- Restriction on Fees
- Escrow Closing Notice
- Partial Payment Disclosure
- Integrated Mortgage Disclosures – Recent Final Rules
- HMDA Proposed Revisions
- Mortgage Servicing Proposed Revisions



# HPML Appraisal Requirements



# HPML Appraisal Requirements

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## Effective January 1, 2015

### Higher-Priced Mortgage Loan (HPML)

- Adjusted exemption threshold increased from \$25,000 to **\$25,500**.

*Exemption threshold for smaller loans adjusted based on annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) that was in effect on the preceding June 1.*



# HPML Appraisal Requirements

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## Higher-Priced Mortgage Loans (HPML)

A high-priced mortgage loan (HPML) is a consumer credit transaction secured by the consumer's principal dwelling with an APR that exceeds the APOR by:

- 1.5 or more percentage points for a first lien (non-jumbo)
- 2.5 or more percentage points for a first lien jumbo loan\*;
- 3.5 or more percentage points for a subordinate lien

*\*A loan is a jumbo loan when the principal balance exceeds the limit in effect as of the date the transaction's rate is set for the maximum principal obligation eligible for purchase by Freddie Mac.*



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# HPML Appraisal Requirements

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## Loans **EXEMPT** from appraisal requirements:

- Qualified Mortgages (QMs)
- Reverse mortgages
- Bridge loans (for 12 months or less and intended to be used to acquire a new principal dwelling)
- Loans for initial construction of a dwelling (not limited to loans of 12 months or less)
- Loans secured by new manufactured homes
- Loans secured by boats, trailers, and mobile homes loans



# HPML Appraisal Requirements

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**Three NEW Exemptions were added after the final rule was adopted (January 2014):**

- **Extensions of credit of \$25,500 or less**
- Exemption for Certain Refinancings
  - “Streamlined” refinancings
- Transactions secured in whole or in part by a manufactured home
  - Effective July 18, 2015

\* Transactions secured by an existing (used) manufactured home and land will **NOT** be exempt from the rules. \*



# HPML Appraisal Requirements

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## Appraisal Requirements:

- Disclose to members within three business days after receiving the members' applications that they are entitled to a free copy of any appraisal the credit union orders and also they can hire their own appraiser at their own expense for their own use.
- Obtain a written appraisal performed by certified or licensed appraiser in conformity with the USPAP and Title XI of FIRREA and its implementing regulations.
- Have the appraiser visit the interior of the property and provide a written report.
- Deliver copies of appraisals to applicants no later than three business days before consummation.





# HOEPA Coverage – High Cost Mortgage



# HOEPA Coverage

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## High Cost Mortgage – Points and Fees Test

### Effective January 1, 2015

- A transaction is high-cost if its points and fees exceed:
  - 5% of the total loan amount for a loan greater than or equal to **\$20,391**
  - 8% of the total loan amount or **\$1,020** (whichever is less) for a loan amount less than **\$20,391**
- What is included in points and fees calculation?
  - Closed end – same as for QM/ATR rule.
  - Open end – same as closed-end, but also include participation fees, fees you may charge for draws (assuming at least 1 draw).



# HOEPA Coverage

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## High-Cost Mortgage

If you determine you have a high cost mortgage:

- Specific disclosure requirements
- Restriction of transaction terms
- Restrictions on fees and practices
- Ability-to-repay requirements
- Pre-loan counseling requirement



# Qualified Mortgages (QM) – Points and Fees Threshold



# QM - Points and Fees

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## Effective January 1, 2015

For a loan to be a QM, the points and fees cannot exceed:

Loan Amount	Points and Fees Limit
\$101,953 or more	3%
\$61,172 - \$101,952.99	\$3,059
\$20,391 - \$61,171.99	5%
\$12,744 - \$20,390.99	\$1,020
\$12,743.99 or less	8%



# QM- Points and Fees

To calculate the points and fees you will add together the amounts paid in connection with the transaction including:

## 1. Finance charges

– Charges that can be excluded:

- Interest or time-price differential
- Mortgage insurance premiums (MIP)
  - Federal or State government sponsored MIP (up front and annual FHA premiums, VA funding fees, etc.)
  - PMI premiums (exception for FHA loans)
- Bona fide third party charges not retained by the creditor, LO or affiliate of either



# QM - Points and Fees

## 1. Finance charges (cont'd):

- Charges that can be excluded:
  - Bona fide discount points
    - Exclude up to 2 points IF the interest rate before the discount does not exceed the APOR for a comparable transaction by more than 1% point
    - Exclude up to 1 point IF the interest rate before the discount does not exceed the APOR for a comparable transaction by more than 2% points.

## 2. LO Compensation

- Include compensation paid directly or indirectly by a member or a creditor to a loan originator OTHER than compensation paid by a mortgage broker, creditor or retailer of manufactured homes to an employee.



## 3. Real Estate Related Fees

### – Charges can be excluded **IF:**

- The charge is reasonable;
- The credit union receives no direct or indirect compensation in connection with the charge; and
- The charge is not paid to an affiliate of the credit union.

If one or more of those conditions is NOT satisfied you must include these charges, even if they would be excluded from the finance charge:

- Fees for title examination (abstract of title, title insurance, etc.)
- Fees for preparing loan-related docs (deeds, mortgages)
- Notary and credit report fees
- Property appraisal or inspection fees
- Amounts paid into escrow (that are not otherwise included in finance charge)





## 4. Premiums for credit insurance (life, accident, credit property)

- Include for these types of insurance that are payable at or before consummation even if they are rolled into the loan amount (if permitted by law)
- **No need to include** if paid after consummation (monthly premiums)
- **No need to include** premiums for life, accident, health or loss of income insurance if the member (or another person designated by the member) is the sole beneficiary of the insurance.



# QM - Points and Fees

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5. Maximum Prepayment penalty

6. Prepayment penalty paid in a refinance



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# Qualified Mortgage – Cure Provision



# Points and Fees Cure

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## Effective November 3, 2014

If Points and Fees exceed thresholds, still not precluded from being a QM if:

- The loan otherwise meets the requirements of a QM;
- Fees are refunded within 210 days after consummation and prior to:
  - Any action by the member;
  - Written notice from the consumer; or
  - Being 60 days past due;
- Policies and procedures are in place for post-consummation review.



# Points and Fees Cure

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## Points and Fees Refund

Should be an amount not less than the sum of:

- Dollar amounts by which the points and fees exceed the thresholds; and
- Interest on the dollar amount using the contract interest rate applicable during the period from consummation until the payment is made to the member.



# HPML Escrow Requirements



# HPML Escrow Rules

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## Escrow Rules - TILA

Effective January 1, 2015

Credit unions must establish and maintain escrow accounts for first-lien higher-priced mortgage loans for at least **5 years**.

### ▪ Small Creditor Exemption:

- More than half of loans made to members in rural or underserved counties.
- Your credit union, together with affiliates do not originate more than 500 first lien covered transactions in the preceding calendar year.
- Less than **\$2.060bn** (from \$2.028bn) in assets.
- The credit union and affiliates cannot maintain escrows on any loans serviced.



# Home Mortgage Disclosure Act (HMDA)

## HOME MORTGAGE DISCLOSURE ACT NOTICE

The HMDA data about our residential mortgage lending are available for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, and income of applicants and borrowers; and information about loan approvals and denials.

Inquire at this office regarding the locations where HMDA data may be inspected.





# HMDA Thresholds

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## Effective January 1, 2015

Asset-size exemption threshold was increased to **\$44 million** from \$43 million.

Credit unions with assets of \$44 million or less as of December 31, 2014 are exempt from collecting data in 2015.



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# Loan Estimate



# Loan Estimate Disclosure

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Loan Estimate - replaces early TILA and GFE disclosures

- Timing - borrowers must receive within 3 **business days** of **application**.
  - **Business day** for the Loan Estimate – is a day on which the credit union's offices are open to the public for carrying out substantially all of its business functions.
  - An **application** consists of the submission of:
    - The applicant's name, income, social security number to obtain a credit report, the property address, an estimate of the value of the property; and the mortgage loan amount sought.
  - *Even if the credit union requires more information to underwrite the loan, the 3 days begins with the receipt of the above information.*



# Closing Disclosure



# Closing Disclosure

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**Closing Disclosure** – replaces final TILA and HUD-1 disclosures

- **Timing** - borrowers must receive **three business days before consummation**.
  - Credit unions may estimate disclosures when actual term or cost is not reasonably available – must be in good faith and due diligence used.
  - **Consummation** – occurs when the member becomes contractually obligated to the credit union on the loan (usually closing).
  - **Business day** – for purposes of the closing disclosure, means all calendar days except Sundays and the legal public holidays (5 USC 6103(a)).



# Restriction on Fees



# Prohibited Activities

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**Prohibited Activities** – The credit union **cannot impose a fee** on a borrower in connection with an application for a mortgage transaction until the borrower **has received the Loan Estimate and** indicated an **intent to proceed**.

- **Restriction on fees includes:**

- Application fees;
- Appraisal fees;
- Underwriting fees; and
- Other fees imposed on the borrower.

- **Exception** – for a bona fide reasonable fee for obtaining a **credit report**.



# Intent to Proceed

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**Intent to proceed** – when the borrower communicates that they wish to proceed after the Loan Estimate has been delivered.

- May include:
  - Oral communication in person immediately upon delivery of the Loan Estimate;
  - Oral communication over the phone, written communication via email, or signing a pre-printed form after receipt of the Loan Estimate.
- The credit union **must document the communication** to satisfy record retention requirements.





# Escrow Closing Notice



# Escrow Closing Notice

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**Escrow Closing Notice** – must be provided prior to cancelling an escrow account to any member who established an escrow account in connection with **a closed-end consumer credit transaction secured by a first lien on real property.**

- **Consumer Requested Cancellation** – Notice must be provide no later than **3 business days** before closure (*closing disclosure definition*).
- **Not Consumer Requested Cancellation** – Notice must be received by the borrower **no later than 30 business days** before the closure.
- **Exceptions** to Escrow Closing Notice Requirement:
  - Escrow account was established solely in connection with the borrower's delinquency or default.
  - Underlying debt obligation is terminated, including repayment, refinancing, recession, and foreclosure.

\* Model form (H-29) in appendix H to Regulation Z.



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# Partial Payment Disclosure



# Partial Payment Disclosure

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**Mortgage Servicing Transfer Notice** – mortgage transfer notices when ownership of a mortgage loan is transferred needs to now include information related to the **partial payment policy** applicable to that loan.

- **Post-consummation** and required only for **closed end consumer credit secured by a dwelling or real property**.
- **Partial Payment Disclosure** – Requirements of content in model form (H-25) in appendix H or Regulation Z.



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# ~~Proposed~~ Amendments to the “Final” Rule – Integrated Mortgage Disclosures



# The Final, Final Rule?

Expect to have revisions to these rules prior to August 1, 2015. Here is what is **proposed**

## **FINAL:**

- When rate is locked, revised loan estimate must be provided no later than the **three business day** (as opposed to the date the rate is locked).
- Construction loans – proposal would add a new provision allowing credit unions to include a statement on the Loan Estimate Form to preserve the ability for transactions expected to settle more than 60 days after the initial Loan Estimate, the ability to provide the borrower with a revised loan estimate.



# Home Mortgage Disclosure Act (HMDA) **Proposed** Revisions

## HOME MORTGAGE DISCLOSURE ACT NOTICE

The HMDA data about our residential mortgage lending are available for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, and income of applicants and borrowers; and information about loan approvals and denials.

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# HMDA **Proposed** Revisions

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- Reporting for all dwelling-secured loans generally (whether for home purchase, home improvement or refinancing).
- Loan volume reporting threshold of 25 covered loans (CUs with less not required to report).
- CUs reporting over 75,000 covered loans would be required to report quarterly instead of annually.
- Revisions to existing data points, including optional to mandatory.





# HMDA **Proposed** Revisions

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## ▪ 11 new data points:

- Total points and fees
- Prepayment penalty term
- Introductory interest rate
- Non-amortizing features
- Loan term
- Application channel
- Universal loan ID
- Loan originator number
- Property value
- Parcel number
- Age and Credit Score



# Proposed Amendments to the “Final” Rules – Mortgage Servicing



# Proposed Revisions

## Mortgage Servicing Rules

Comments received on or before **March 15, 2015.**

### Successor in interest

- All mortgage servicing rules apply to successors in interest once a servicer confirms that person's identity and ownership interest in the property;
- Guidance to confirm successor in interest status;
- Rules apply to all successors in interest who acquire an ownership interest in transfer, protected by acceleration and foreclosure.



# Proposed Revisions

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## Delinquency

- Definition added: a borrower and a borrower's mortgage loan obligation are delinquent beginning on the date a periodic payment sufficient to cover principal, interest, and, if applicable, escrow, becomes due and unpaid, until such time as the outstanding payment is made.



# Proposed Revisions

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## Requests for Information

- Amendments would change how a servicer must respond to requests for information for loans in trust where Fannie Mae or Freddie Mac is the trustee, investor or guarantor.



# Proposed Revisions

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## Force-placed Insurance

- Amendments to the required disclosures when the credit union wants to force-place when the borrower has insufficient, rather than expiring or expired, hazard insurance on the property.
- Other technical edits are being proposed to the model forms such as the ability to add the mortgage loan account number on the model form.



# Proposed Revisions

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## Early Intervention

- Clarification on the early intervention live contact obligations and written early intervention notice obligations.
- Proposal to require servicers to provide written early intervention notices to certain borrowers who are in bankruptcy or invoked cease communication rights under FDCPA.



# Proposed Revisions

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## Loss Mitigation

- Require servicers to meet the loss mitigation requirements more than once in the life of the loan (borrowers who are current after delinquency);
- Modify existing exception to 120 day prohibition on foreclosure filing to allow servicer to join action of senior lienholder;
- Clarify flexibility in setting a date to return documents and information to complete an application, must maximize borrower protections.





# Proposed Revisions

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## Loss Mitigation

- A servicer is not relieved of its obligations because the foreclosure counsel's actions or inaction caused a violation.
- If a complete loss mitigation is received, the servicer must promptly instruct counsel not to make a dispositive motion for foreclosure judgment or order of sale; take reasonable steps to avoid a ruling when one is pending, or delay a foreclosure sale until conditions are satisfied.



# Proposed Revisions

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## Loss Mitigation

- Written notice requirements for servicers when a complete loss mitigation application is received.
- Clarify how to handle information not in the borrower's control, provide written notification if third party information is missing at 30 day mark.



# Proposed Revisions

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## Loss Mitigation

- Permits short-term repayment plan based upon evaluation of an incomplete application.
- Servicers can stop collection documents if borrower is ineligible for that option.
- Clarify how loss mitigation procedures and timelines apply to a transferee servicer that receives a mortgage loan for which there is a loss mitigation application pending.



# Proposed Revisions

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## Prompt Payment Crediting

- How to treat payments for temporary loss mitigation programs or permanent loan modifications.

## Periodic Statements

- Disclosure requirements for borrowers in temporary loss mitigation programs or permanent modifications and for borrowers who have filed for bankruptcy.
- Exempt servicers from periodic statement for charged-off mortgage loans if no additional fees or interest on the account will be charged and servicer provides a final periodic statement.



# Proposed Revisions

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## Small Servicer

- Exclude certain seller-financed transactions from being counted toward the 5,000 limit.
  - Loans voluntarily serviced for a non-affiliate of the servicer.
  - Typically the servicer would not be the creditor or assignee and therefore would not be excluded from the rule.



# Questions???

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