



Consumer Financial
Protection Bureau



IMPENDING CHANGES TO MORTGAGE LENDING

Overview

Escrow Requirements – Reg. Z

High Cost Mortgage and Counseling - Reg. Z & X

Ability to Repay & Qualified Mortgages – Reg. Z & X

Mortgage Servicing – Reg. Z & X

Loan Originator Compensation – Reg. Z

Copies of Appraisals – Reg. B

**ESCROW
REQUIREMENTS
UNDER
TILA**

6/1/2013

Escrow Requirements

Amends:

**Truth in Lending
(Regulation Z)**

Escrow Requirements

Must establish an escrow account for “higher-priced mortgage loan” and maintain it for 5 years.



Escrow Requirements

**Higher-priced mortgage loan:
Closed end consumer credit
transaction secured by a members
principal dwelling with an annual %
that exceeds the average prime offer
rate.**

Escrow Requirements

Higher-priced mortgage loan:

- 1.5% - First lien that does not exceed
max principal obligation limit**
- 2.5% - First lien that does exceed limit**
- 3.5% - Subordinate liens**

Escrow Requirements

Small Creditor Exemption:

- Make more than half first-lien mortgages in rural or underserved areas;
- Have an asset size less than \$2 billion; Together with its affiliates, have originated 500 or fewer first-lien mortgages during the preceding calendar year; **AND**
- Together with its affiliates, not escrow for any mortgage it or its affiliates currently services, except in limited instances.

Escrow Requirements

Rural & Underserved Area?

- Safe harbor for relying on the CFPB's list of counties that qualify as rural or underserved.

“The Bureau will post on its public Web site the applicable lists for each calendar year by the end of that year.” (pg. 4756)

Escrow Requirements

Small Creditor Exemption does not apply to mortgages originated for forward commitment.



**HIGH COST
MORTGAGE AND
COUNSELING
AMENDMENT
REG. Z & REG. X**

1/10/2014

Escrow Requirements

Amends:

**Truth in Lending
(Regulation Z)**

&

**Real Estate Settlement Procedures Act
(Regulation X)**

High Cost Mortgage & Counseling

Expands loans covered by HOEPA -

- Consumers principal dwelling
- **AND**
- Purchase money mortgages
- Refinances
- Closed-end home equity loans
- Open-end credit plans
- Home Equity Lines of Credit

High Cost Mortgage & Counseling

Exemptions:

- Reverse mortgages
- Construction loans
- Loans originated by Housing Finance Agencies
- Rural Housing Service loans by USDA



High Cost Mortgage & Counseling

Loan is a High-cost Mortgage if:

- **APR exceeds the Average Prime Offer Rate by more than 6.5% for first lien, or 8.5% for first lien for less than \$50,000**
- **APR exceeds 8.5% for subordinate liens**
- **Points + fees exceed 5% of total transaction or lesser of 8% or \$1,000 for loans less than \$20,000**
- **Loan documents permit a prepayment penalty after 36 months**

High Cost Mortgage & Counseling

If a Loan is a High-cost Mortgage:

- **Balloon payments are banned**
- **Cannot charge prepayment penalties**
- **Cannot finance points + fees**
- **Late fees restricted to 4% of past due payment**
- **Restriction on payoff statement fees**
- **No loan modification fee**
- **No loan payment deferral fee**

High Cost Mortgage & Counseling

If a Loan is a High-cost Mortgage:

- Must assess a members ability to repay
- Cannot recommend or encourage default
- Counseling requirement



High Cost Mortgage & Counseling

Counseling Requirement:

- Provide a list of homeownership counseling organizations within 3 business days after application
- First time borrower must receive counseling if loan permits negative amortization
- Members with high-cost mortgage loans must provide proof of counseling

**ABILITY TO REPAY
AND QUALIFIED
MORTGAGE
STANDARDS
REG. Z**

1/10/2014

Escrow Requirements

Amends:

**Truth in Lending
(Regulation Z)**

Escrow Requirements

Amendment Introduced....

**On the day the final rule
was released.....?**

Escrow Requirements

Can anyone say.....

“IRT all over again!”

Ability to Repay

Must consider 8 underwriting factors:

- (1) Current or reasonably expected income or assets;**
- (2) Current employment status;**
- (3) Monthly payment on the covered transaction;**
- (4) Monthly payment on any simultaneous loan;**
- (5) Monthly payment for mortgage-related obligations;**
- (6) Current debt obligations, alimony, and child support;**
- (7) Monthly debt-to-income ratio or residual income; and**
- (8) Credit history**

Must use reasonably reliable third-party records to verify the information they use to evaluate the factors.

Ability to Repay

Dodd-Frank Act provides that “qualified mortgages” are entitled to a presumption that the creditor making the loan satisfied the ability-to-repay requirements.



Ability to Repay

A Qualified Mortgage is not:

- A no-doc loan;
- Interest only payments;
- Negatively amortizing;
- A balloon loan;
- Terms exceeding 30 years; or
- Points and fees exceed 3% of the loan amount

Although certain "bona fide discount points" are excluded for prime loans.

Ability to Repay

Qualified Mortgage Requirements:

- Monthly payments must be calculated on the highest payment that will apply in the first five years of the loan; **and**
- Members have a total debt-to-income ratio less than or equal to 43%.

Ability to Repay

Qualified Mortgage DTI Requirements:

From Appendix Q

Ability to Repay

Other Qualified Mortgage Requirements:

**Temporary category of qualified mortgages –
More flexible underwriting requirements (*so long as they satisfy the general product feature prerequisites for a qualified mortgage*)**

Eligible to be purchased, guaranteed or insured by either (1) the GSEs while they operate under Federal conservatorship or receivership; or (2) the U.S. Department of Housing and Urban Development, Department of Veterans Affairs, or Department of Agriculture or Rural Housing Service.

Ability to Repay

Other Qualified Mortgage Requirements:

Temporary provision will phase out over time as the various Federal agencies issue their own qualified mortgage rules.....???

and if GSE conservatorship ends,

and in any event after seven years.

Ability to Repay

Rural Balloon-Payment Qualified Mortgages:

Certain balloon-payment loans are qualified mortgages if they are originated and held in portfolio by small creditors operating predominantly in rural or underserved areas.

Must have:

A term of five years or more;

Fixed interest rate; and

Meet underwriting standards....

Debt to income must be considered but is not subject to the 43% requirement.

Ability to Repay

Are you a small servicer?

Credit Unions are only eligible to make rural balloon-payment qualified mortgages if:

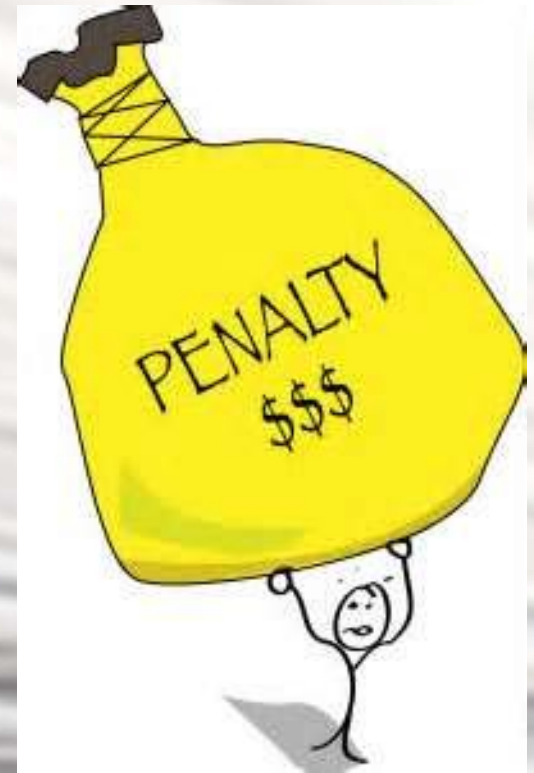
- Originate at least 50 percent of their first-lien mortgages in counties that are rural or underserved;
- Less than \$2 billion in assets; **and** (along with their affiliates)
- Originate no more than 500 first-lien mortgages per year.

The Bureau will designate a list of “rural” and “underserved” counties each year.

Ability to Repay

Prepayment Penalties?

Only if credit union offers an alternative loan without penalties and the loan type is a fixed rate qualified mortgage.



Ability to Repay

Amendment

**Mortgage originator compensation in points and fees,
Exemptions for certain types of lenders – small
creditors,
Refinancing and the Ability to Repay,
Balloon loans, and
Further definitions for “qualified mortgages”.**

**MORTGAGE
SERVICING
UNDER
REG. Z & REG. X**

1/10/2014

Escrow Requirements

Amends:

**Truth in Lending
(Regulation Z)**

&

**Real Estate Settlement Procedures Act
(Regulation X)**

Mortgage Servicing

Small Servicer Exemption

Service fewer than 5,000 mortgage loans

Service only mortgage loans they or an affiliate originate and own

Mortgage Servicing

Periodic Billing Statements

- **Payment currently due**
- **Past payments**
- **Application of payments**
- **Fees imposed**
- **Transaction activity**
- **Loan servicer contact information**
- **Housing counselor contacts**

Does not apply to fixed rate loans if servicer provides a coupon book.

Mortgage Servicing

ARM Interest Rate Adjustments

Notice between 210 and 240 days before the first payment due date after the rate adjusts.

Notice must contain an estimate of the new rate and payment.

Notice between 60 and 120 days before payment is due if the payment changes.

Annual ARM Notice is no longer required.



Mortgage Servicing

Prompt Payment Crediting

- Servicers must credit payments from members as of the day of receipt.



Mortgage Servicing

Prompt Payment Crediting

Hold that thought.....

Partial payments must be held in a suspense account until the amount covers a periodic payment – then it can be applied to the members account.



Mortgage Servicing

Payoff Statements

Provide accurate payoff balance within 7 days of a members written request.

Mortgage Servicing

Force Placed Insurance

Can't charge for force placed insurance unless:
Notice to member 45 days before charging
Notice to the member at least 15 days before charging (and no sooner than 30 days after the initial notice).

If member provides proof of coverage CU must refund member for overlapping periods.

Small servicer exemption..... Depends on your view.

Mortgage Servicing

Force Placed Insurance

If the members hazard insurance is escrowed...
CU must continue that coverage and can
advance funds from the escrow account to do
so.



Mortgage Servicing

Error Resolution Procedures

Acknowledge complaints and error resolution requests within 5 days.

Conduct an investigation

Provide notification of investigation results and correction within 30 to 45 days.

Provide member with information or explanation.

Mortgage Servicing

Policies & Procedures

- Provide accurate timely information to members
- Evaluate loss mitigation applications
- Provide oversight and compliance of service providers
- Facilitate transfer of information
- Written error resolution and information request procedure
- Record retention

Small servicer exemption.

Mortgage Servicing

Loan Servicing Documentation

- Servicers are required to maintain certain documents and information for each mortgage loan that allows a “servicing file” to be compiled in 5 days.

Small servicer exemption.

Mortgage Servicing

Delinquent Members

- **Live contact with borrower by 36th day of delinquency.**
- **Inform member “loss mitigation options may be available.”**
- **Written notice of loss mitigation options before 45th day of delinquency.**

Small servicer exemption.

Mortgage Servicing

Delinquent Members

- Provide access to employees to assist with loss mitigation options.
- Personnel must be assigned to delinquent member by 45 day notice.
- Employee should have information and be accessible by phone.

Small servicer exemption.

Mortgage Servicing

Loss Mitigation

If member applies for loss mitigation option:

- **Acknowledge receipt of application in writing within 5 days.**
- **Inform if application is complete – or what additional information is needed.**
- **Exercise diligence in obtaining documentation and information to complete application.**

Small servicer exemption.

Mortgage Servicing

Loss Mitigation

For a complete loss mitigation application received more than 37 days before a foreclosure sale, the servicer is required to evaluate the borrower, within 30 days, for all loss mitigation options for which the borrower may be eligible in accordance with the investor's eligibility rules, including both options that enable the borrower to retain the home (such as a loan modification) and non-retention options (such as a short sale).

Small servicer exemption.

Mortgage Servicing

Loss Mitigation

CU must provide member with written loss mitigation determination:

- Explanation
- Inputs used to make Net Present Value calculation
- Basis for denial

Member can appeal decision as long as it is 90 before a foreclosure sale.

Small servicer exemption.

Mortgage Servicing

Foreclosure

Loan must be 120 days past due before CU can send foreclosure notice or file.

If member submits loss mitigation application before CU has sent first foreclosure notice or filing - cannot begin foreclosure process until:

- CU informs member no loss mitigation options are available (and appeals are exhausted);
- Member rejects loss mitigation offers; **or**
- Borrower fails to comply with loss mitigation option terms.

Mortgage Servicing

Foreclosure

If member submits loss mitigation application more than 37 days before foreclosure sale - cannot conduct sale until:

- CU informs member no loss mitigation options are available (and appeals are exhausted);
- Member rejects loss mitigation offers; **or**
- Borrower fails to comply with loss mitigation option terms.

**LOAN
ORIGINATOR
COMPENSATION
REG. Z**

1/10/2014

Escrow Requirements

Amends:

**Truth in Lending
(Regulation Z)**

Loan Originator Compensation

MLO cannot receive compensation based on the terms of the transaction.

MLO cannot receive compensation based on the interest rate of a loan or on the fact that the loan officer steered a consumer to purchase required title insurance from an affiliate of the credit union.

Loan Originator Compensation

No Dual Compensation

If MLO receives compensation from the member in connection with a mortgage loan – he/she cannot receive compensation from the credit union or another person for the same transaction.



Loan Originator Compensation

MLOs' must be registered or licensed according to the Secure and Fair Enforcement of Mortgage Licensing Act.

MLO's must provide their unique identifier # on loan documents along with their name.

Loan Originator Compensation

I know this has been an unbearable long presentation.....

But pay attention here.



Loan Originator Compensation

Binding arbitration requirements are prohibited.

It also prohibits the application or interpretation of provisions of such loans or related agreements so as to bar a consumer from bringing a claim in court in connection with any alleged violation of Federal law.



Loan Originator Compensation

Credit Insurance

Prohibits the financing of any premiums or fees for credit insurance (such as credit life insurance) in connection with a consumer credit transaction secured by a dwelling, but allows credit insurance to be paid for on a monthly basis.

**COPIES OF
APPRAISALS
UNDER
REGULATION B**

1/18/2014

Escrow Requirements

Amends:

**Equal Credit Opportunity Act
(Regulation B)**

Copies of Appraisals

Credit Union must furnish copies of appraisals and other written valuations to members for their first lien loans secured by a dwelling.



Copies of Appraisals

Notify members within 3 days of application of their right to receive a copy of appraisal.

Provide copy of appraisal promptly upon completion or 3 days prior to loan closing.

Members can waive 3 day timing requirement.

CU cannot charge for the appraisal copy.

CFPB



**The Bureau
without a
Director?**

CFPB without Director?

Three National Labor Relations Board appointments
– Overturned (1/25/2013)

Cordray appointed the same way.....

CFPB without Director?

- Write rules regarding any CFPB consumer laws;
- Propose new regulations;
- Finalizing regulations;
- Conduct examinations enforce orders against credit unions with assets of greater than \$10 billion; and
- Take over consumer protection issues related to RESPA and certain consumer rules previously under the authority of the Federal Trade Commission.

cfpb?

Consumer Financial
Protection Bureau



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**Thank
You!**

