

# Federal and State Law Updates

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# State Law Update



# Advocacy 101

- **What is Advocacy?**
  - **Political Involvement**
  - **Relationship Building**
  - **Education**
  - **Issue Identification & Prioritization**
  - **Issue Communication**
  - **Grassroots Action**
  - **Active Lobbying**



# Advocacy 101

- **Who Advocates for MCUL?**
  - Credit Union Officials & Volunteers
  - Chapter Leaders & Legislative Forum Members
  - MCUL Senior Management
  - MCUL Government Relations Team
  - Industry Partners
  - CUNA (Federal Issues)



# Advocacy 101

- **What Types of Issues Does MCUL Engage In?**
  - **Regulatory Comment Calls, and Letters**
  - **Promoting or Defending Against Legislation**
  - **Education on Credit Unions and the CU Difference**
  - **Financial Literacy**
  - **Influencing a Better Regulatory and Political Climate**
  - **Educating Credit Unions on the Political Process and the Need for Political Involvement**
  - **Assisting Credit Unions with Better Regulatory Interactions**



# Grassroots Advocacy

- **MCUL Chapters and CUs engaged in over 40 advocacy events in 2012.**
  - **CUNA GAC and Hike the Hill**
  - **State GAC**
  - **Chapter Legislative Breakfasts and Annual Meetings**
  - **Issue Meetings and Political Meetings**
  - **Targeted Events**



# Why is Advocacy Important?

**6,888 Credit Unions in the US**

**14,069 Financial Institutions**

**7,181 Banks in the US**



**Regulations.gov Docket Info**

**Docket Number**

CFPB-2012-0034

**Docket Name**

2012 Real Estate Settlement  
Procedures Act (Regulation X)  
Mortgage Servicing Proposal

**Docket RIN**

3170-AA14

**Public Comments**

159 comments

**Supporting/Related Materials**

ICF International Report  
SBREFA Report on Mortgage Loan  
Servicing

**Regulations.gov Docket Info**

**Docket Number**

CFPB-2012-0033

**Docket Name**

2012 Truth in Lending Act  
(Regulation Z) Mortgage Servicing  
Proposal

**Docket RIN**

3170-AA14

**Public Comments**

178 comments

**Supporting/Related Materials**

ICF International Report  
SBREFA Report on Mortgage Loan  
Servicing

**12 CFR Part 741**

*Maintaining Access to Emergency Liquidity  
Date Board Issued – 7/24/2012*

*46 Comments*

*Including:*

*American Bankers Association  
Council of FHL Banks*





# 2012 Success In Advocacy

- **Small Claims Court Threshold** –SB 269 raises the SCC filing threshold from \$3,000 to \$5,000 immediately, and later to \$7,000. This enables CUs to avail themselves of the more cost effective SCC process more frequently, avoiding lawyer fees and higher court costs for debt collection. (State SB 269 by Sen. Tonya Schuitmaker (R-Lawton)).
- **Troubled Debt Restructuring (TDR) Rule** – MCUL raised specific items to NCUA with regard to the treatment, tracking and reporting of troubled debt restructurings (TDR), and the NCUA responded with rulemaking that reflected and addressed our concerns.
- **National Mortgage Settlement** – Allocations for \$97 million in funding available to Michigan from the national foreclosure settlement. The final allocations reflected MCUL's urging to fund counseling and refinancing assistance, among other critical proactive reforms, that will assist homeowners retain their homes and enable homebuyers to purchase and renovate properties. (State HB 5015 by Rep. Chuck Moss (R-West Bloomfield)).



# 2012 Success In Advocacy

- **Equity Investment Authority** – the OFIR Commissioner recently approved a new Order allowing credit unions equity investment authority through a CUSO structure, utilizing the MCUA statutory wildcard provision to do so.
- **Reauthorization of Grand Raffle License** – the Charitable Gaming Division (CGD) of the Michigan Lottery Bureau (MLB) undertook a review of qualified organizations eligible to receive a raffle license, in order to purge those organizations that may not be appropriate recipients. The reviewer identified MCULLAF as a potentially inappropriate entity, and MCUL worked with the CGD and the MLB Commissioner successfully defend continued qualification of MCULLAF.



# Specific State Issues for 2013

- Foreclosure Process
- Blight
- Vehicle Titling - Fraud Prevention
- Merchant Checkout Fees
- Homestead Exemption
- Real Estate Document Copies
- POD Legislation
- Other Issues





# Foreclosure Process

- 90 Day Law Reform

Reauthorized in 2012

Scheduled to sunset June 30, 2013

- Additional 90 days pre-foreclosure workout process
- No exemption of small servicers

Conflicts with CFPB and Mortgage Servicing Rules  
effective January 2014



# Foreclosure Process

- In addition to the 90-Day Law, MCUL will work on at least two foreclosure related measures:
  - PRE (Homestead Exemption): current law purports to let FI's retain the PRE, but require payment of identical mills through alternate statutory language. HB 4135 (Rep. Frank Foster) has been introduced to eliminate the payment requirement.
  - Legislation is expected that will reduce the statutory redemption period by 120 days in the foreclosure process.





# Blight

- SB 35-39 has been introduced as a measure to combat urban blight violations.
  - Authority to issue violations
  - Impose sanctions
  - Civil & criminal penalties

*A tentative agreement has been reached to exempt financial institutions.*





# Urban Blight

- In addition to the package on penalties, Sen. Virgil Smith (D-Detroit), will work with the Snyder Administration on other aspects, including scrap metal regulation to address metal stripping, “squatter” issues, and abandoned properties.
- Scrap metal regulation discussions will begin in February, and MCUL will participate in workgroups related to abandoned property and “squatters”.



**STATE OF MICHIGAN**  
**CERTIFICATE OF TITLE**

VEHICLE IDENTIFICATION NUMBER: 5Y2SL62803Z  
 TITLE NUMBER: 111Y292  
 WEIGHT/FEE CATEGORY: 16

YEAR: 2003  
 MAKE: PONTIAC  
 MODEL: VIBE  
 BODY STYLE: STA-WAGON

ISSUE DATE: 10/20/2010  
 ODOMETER: 088000  
 ODOMETER BRAND: \*ACTUAL MILEAGE\*

SECRETARY OF STATE

**NO SECURED INTEREST ON RECORD**

**Title Assignment by Seller**

State and federal laws require the seller(s) to indicate mileage when ownership is transferred. Failure to complete or providing false information may result in civil liabilities, fines and/or imprisonment. **ANY ALTERATION, ERASURE, FALSE STATEMENT, FORGERY OR FRAUD VOIDS THIS TITLE AND IS A CRIME.**

I warrant that the ownership of the vehicle described on Certificate of Title has been transferred to the following purchaser(s) and is free of all previous liens:

Printed Name of Purchaser(s)	City	Date of Sale	Selling Price
Purchaser's Street Address		State	Zip

I (we) certify that the odometer reading is:  actual mileage  not actual mileage. **WARNING ODOMETER DISCREPANCY**  and that to the best of my knowledge the odometer mileage is:  does not exceed mechanical limits of odometer (odometer has rolled over)  exceeds mechanical limits of odometer (odometer has rolled over)

Signature of Seller(s): \_\_\_\_\_  
 Seller's Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Printed Name of Seller(s): \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Date of Assignment: \_\_\_\_\_

Printed Name of Purchaser(s): \_\_\_\_\_  
 Address: \_\_\_\_\_

**\*\* NOTICE TO SELLERS \*\***  
 Sellers must keep a receipt or photocopy of the reassigned title for their records for 18 months or accompany the purchaser to a Secretary of State Office.

669657099

**DO NOT ACCEPT TITLE SHOWING ANY ERASURES, ALTERATIONS OR MUTILATIONS**

If there is a lien holder listed on your title, the title must be signed off. If the title is not signed by the lien holder an original lien release will be needed. Any erasures, scratches, white marks, or white out will VOID the title.



# Vehicle Titling – Fraud Prevention

- Credit unions in several areas have indicated that incidents of “title washing” and other forms of fraud related to vehicle loans are increasing, in frequency and organization.
- Michigan’s paper-based system and current title holding system are contributing to the problem.



# Vehicle Titling – Fraud Prevention

- The Secretary of State (SOS) is expected to:
  - Move Michigan toward full electronic and centralized titling;
  - Holding of titles; and
  - Implement electronic VIN tracking.
- MCUL will work in tandem with the SOS to support these efforts.





# Merchant Checkout Fees

- On January 27, a settlement between VISA and MasterCard and retailers allows merchants to charge a “checkout fee” to make up costs related to acceptance of credit cards.
- Ten states (CA, CO, CT, FL, KS, MA, ME, NY, OK, TX) have enacted prohibitions on similar fees, in various forms.



# Merchant Checkout Fees

- HB 4195 has been introduced to prohibit surcharges on gasoline purchases (*by Rep. David Nathan, D-Detroit*).
- At least two Senate members and one additional House members have expressed interest in introducing legislation to prohibit checkout fees, and MCUL will work with all sponsors to support a similar prohibition.







# Homestead Exemption

- Legislature working to resolve timing issue with homestead exemption.
- HB 4135 introduced to extend homestead exemption for up to three years for financial institutions who come into possession of a homesteaded property through foreclosure (by Rep. Frank Foster, R-Petoskey).





# Real Estate Document Copies

- In 2009, a U.S. Bankruptcy Court Judge decided in *Neal v. Public Service Credit Union* that a copy of an original instrument along with a verified affidavit does not satisfy the necessary requirements for recording a real estate conveyance because it does not contain the original signatures as required by statute.



# Real Estate Document Copies

- This legislation:
  - Protects the lender in case of lost documents
  - Since mortgage copies are effectively recorded within the meaning of the Michigan recording statutes, under this legislation, the lender remains a secured creditor.
  - Save credit unions time and money by moving to electronic copies of documents.





# POD Legislation

- 2012 Legislation introduced to require PODS when people were evicted from real property.
- Renters were carved out leaving instances of foreclosure.
- MCUL fought to defeat this, but it may be reintroduced in 2013.



# Other Legislative Issues



## Other Issues

- UCC Articles 3, 4, 4A – Legislation may be introduced to update MI's UCC dealing with deposits and negotiable instruments, and funds transfers, based on nationally recommended revisions.
- Defensive issues on Condo Lien Super Priority still remain.
- In light of other states' tax battles, MCUL will remain vigilant on CU tax status challenges at the state level.





# NCUA 2013 Actions



# NCUA 2013 Actions

- **Small Credit Union**
- **Low Income Designation**
- **Secondary Capital Accounts**
- **Investment & Deposit Activity**
- **Rural Districts**



# NCUA Proposed Actions

- Fixed Assets
- Examination Issues



# Small Credit Union Rule

Small credit union threshold

Raised



**\$50 Million**



# Small Credit Union Rule

**NCUA changes asset threshold because:**

- **Outdated**
- **Ease regulatory burden**
- **Industry asset growth & Consolidation**
- **Avoids additional risk to the NCUSIF**



# Small Credit Union Rule

## Regular threshold review:

- **Initially in 2 years**
  - **2015**
- **On 3 year NCUA review rotation**
  - **2018, 2021, 2024.....**



# Small Credit Union Rule

## Complex Credit Union:

- For 2,400 additional credit unions

Risk based net worth (alone)  $\neq$  Prompt corrective action



# Small Credit Union Rule

## Interest Rate Risk Rule:

**An additional 992 credit unions no longer have to comply with the Interest Rate Risk Rule (IRR) and adopt and implement an IRR policy.**





# Small Credit Union Rule

## NCUA Office of Small Credit Union Initiatives:

### Formed to:

- foster credit union development
- facilitate expansion of credit union services
- coordinate efforts with third-party organizations,
- improve the viability and successful operation of credit unions.

The screenshot shows the website for the National Credit Union Administration's Office of Small Credit Union Initiatives. The header includes the NCUA logo and navigation links: About NCUA, Credit Union Data and Applications, Credit Union Resources and Information, Regulations, Publications and Reports, and News, Media and Events. The main content area is titled "Office of Small Credit Union Initiatives" and contains a blue box with the following text: "The Office of Small Credit Union Initiatives (OSCUI) supports the success of small credit unions through training, consulting, grants and loans, and partnership opportunities. OSCUI recognizes the unique role small, low-income designated, and new credit unions play in the lives of their members and communities. We are committed to helping these credit unions not only survive, but thrive." Below this text are four icons with corresponding descriptions: 1. Consulting: An icon of tools (wrench, screwdriver, hammer) with the text "OSCUI provides free consulting services." 2. Grants and Loans: A green icon with a white dollar sign with the text "OSCUI provides loans and grants to low-income designated credit unions." 3. Training: An icon of an open book with the text "OSCUI sponsors free training for credit unions throughout the country." 4. Partnerships and Outreach: An icon of two hands shaking with the text "OSCUI identifies non-NCUA programs and services for credit unions."



## Low Income Designation

**What is a low income designation CU?**

**Majority of CU membership consists of “low-income” members whose family income is 80% or less than the total median earnings for the metropolitan area.**



# Low Income Designation

Acceptance period extended from:

**30 Days**

to

**90 Days**



# Low Income Designation

## The Process

- NCUA evaluation and letter of opportunity
- Request a review and submit information to demonstrate eligibility

***State Chartered Credit Unions can qualify too...***



# Low Income Designation

**The label..... I'm concerned about our credit union members being labeled "low-income".**

*NCUA states: "If the majority of your members are low-income, your credit union probably needs more support to meet their needs. Availing your credit union of the full range of benefits to help meet your members' needs is responsive and, we think, a good business decision."*



# Low Income Designation

## Low income designation benefits:

- **Member business lending cap exemption**
- **Non-member deposit acceptance**
- **Authorization to accept secondary capital**
- **Eligible for Community Development Revolving Loan Fund**



## Secondary Capital

**Secondary Capital is a “subordinated” loan.**

**This means that, in the event of liquidation, all other debt owed by a credit union must be repaid before the secondary capital loan is repaid. Although it is a loan, it counts as net worth for regulatory purposes, because it is available to cover any insolvency of the credit union.**



# Secondary Capital

**According to NCUA Rules and Regulations [Section 702.2(f)], a low-income designated credit union may count Secondary Capital loans as part of Net Worth when calculating the Net Worth-to-Total Assets ratio for compliance with Prompt Corrective Action (PCA). A deposit, on the other hand, will increase assets and not increase net worth, therefore lowering the Net Worth to Total Assets ratio.**





# Investment & Deposit Activity

**Federal credit unions can invest in:**

**Treasury Inflation Protected Securities (TIPS)**



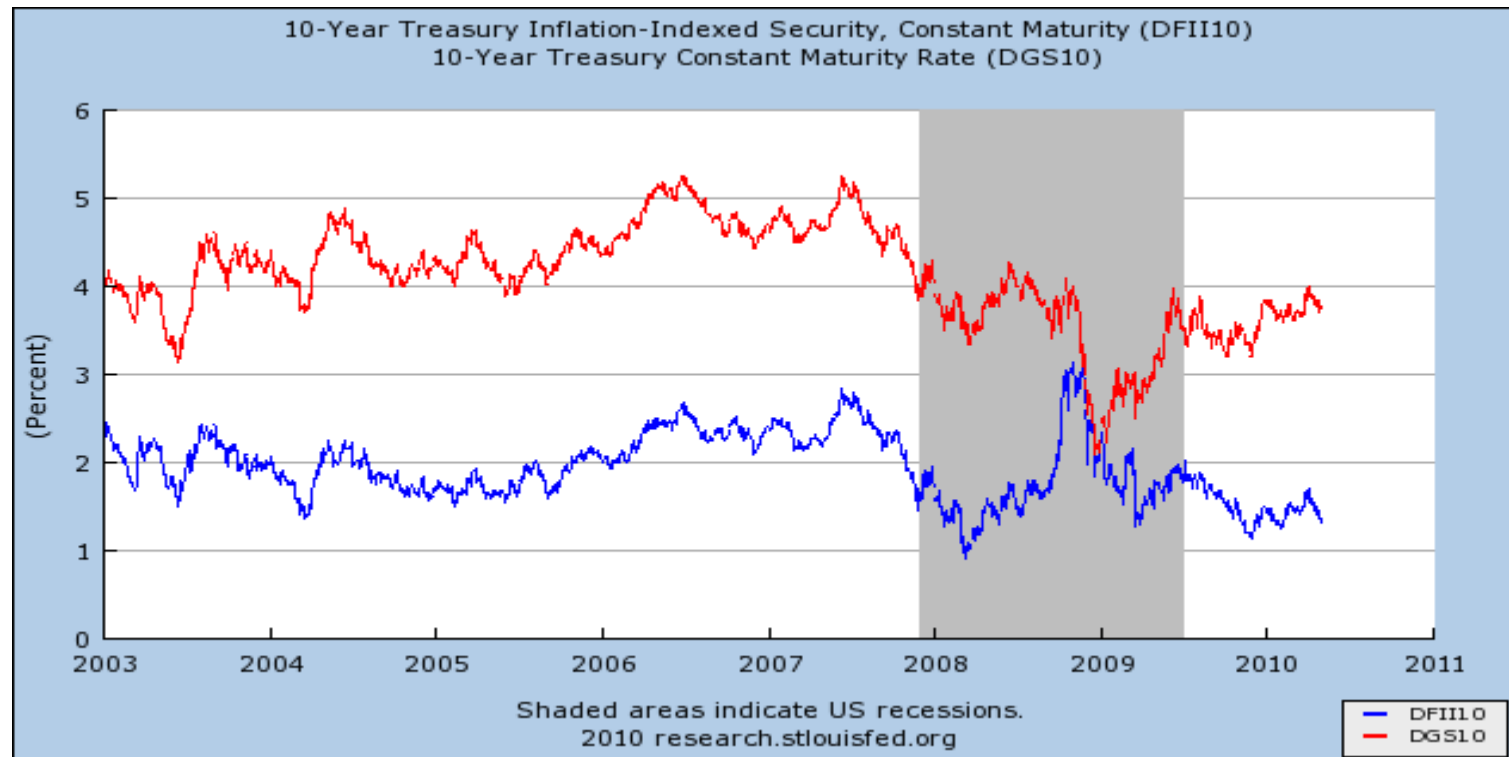
# Investment & Deposit Activity

## Treasury Inflation Protected Securities (TIPS):

- **Securities issued by the U.S. Department of Treasury**
- **Provide protection against inflation...**



# Investment & Deposit Activity



# Investment & Deposit Activity

## Treasury Inflation Protected Securities (TIPS):

- **Principal amount of TIPS increases with inflation and decreases with deflation (as measured by the Consumer Price Index)**
- **Pay interest 2x a year at a fixed rate**
- **Interest payment rise with inflation and fall with deflation**



# Credit Ratings

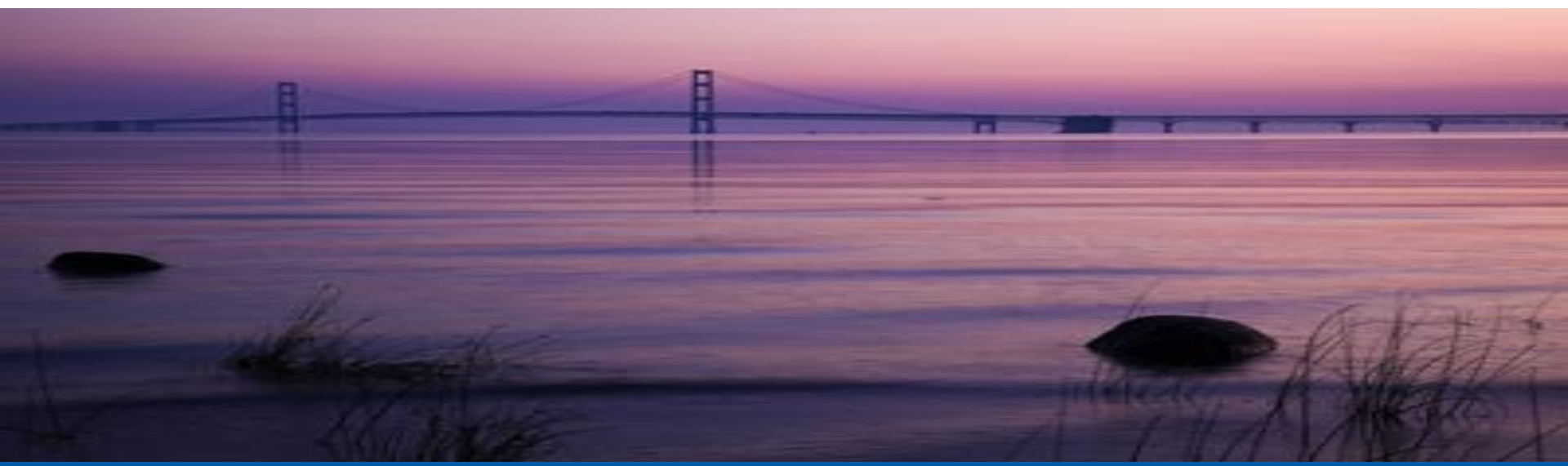
**Credit Ratings no longer permitted to be used as a standard for creditworthiness (June 11, 2013):**

- Requirement set forth in Dodd-Frank.
- Evaluate based on: credit spreads, securities-related research, internal or external credit risk assessments, default statistics, inclusion on index, credit enhancements, price and yield consistencies and asset class-specific factors.



# Rural Districts

**In the 2009 proposal, the NCUA Board proposed to define the term “rural district” to help extend credit union services to individuals living in rural America without adequate access to reasonably priced financial services.**



# Rural Districts

**Maximum threshold for rural district field of membership populations increases to 250,000 – from 200,000.**

**The rural district can not exceed 3% of the state's total population.**



# Fixed Assets

The Federal Credit Union Act authorizes credit union to purchase, hold and dispose of property necessary or incident to its operations.





## Fixed Assets

**A federal credit union may only invest in property it intends to use to transact credit union business or in property that supports its internal operations or serves its' members.**



# Fixed Assets

## Proposed Improvements:

- **Uses plain language to update the language;**
- **Reorganizes the rule and provides a new introduction;**



# Fixed Assets

## Proposed Improvements:

- **Definitions**

- *Clarify the provision in the fixed assets rule that requires an FCU to **partially occupy unimproved** property acquired for future expansion within 6 years.*



# Fixed Assets

## Proposed Improvements:

- **Partially occupy**
  - ***NCUA will consider an FCU in compliance only if the FCU has completed the improvements to a sufficient extent that the FCU is occupying a meaningful portion of the premises consistent with its usage plan.***



# Fixed Assets

## Proposed Improvements:

- **Unimproved**
  - ***NCUA will consider improved land as unimproved for purposes of the fixed assets rule if the improvements, even if functional and intrinsically valuable, serve no purpose for the FCU's planned use of the property.***



# Fixed Assets

## Proposed Improvements:

### ■ Waiver Process

- 1. The FCU's obligations when submitting a waiver request;***
- 2. NCUA's obligations in reviewing a waiver request; and***
- 3. Any other applicable conditions for a waiver.***



# Examination Issues

- Effective management of interest rate and liquidity risk;
- Concentration risk controls;
- Measuring and managing technology risks;
- Sufficient internal controls to deter and mitigate fraud, errors or other operational problems; and
- Adequate supervisory committee and audit functions for the credit unions size and complexity.



# Examination Issues



## Examination Issues in 2013

March 27, 2013 at 2:00 pm ET / 11:00 am PT

### Examination Issues in 2013

Event Date: 03/27/2013 02:00 PM Eastern Daylight Time

What all credit unions can expect during their NCUA exam according to the recently released letter to credit unions.





# CFPB Regulations



# Escrow Requirements

## TRUTH IN LENDING - REGULATION Z



# Escrow Requirements

Effective June 1, 2013

- Requires escrow accounts to be maintained for 5 years (rather than the current 1 year) for “higher priced” mortgages loans (HPMLs).
- “Small creditors” can exempt “eligible transactions”.
  - *Eligible Transactions*: HPMLs held in the institution’s own portfolio to maturity or HPMLs being sold under a pre-existing purchase agreement to an investor who also meets the exemption eligibility criteria.



# Escrow Requirements

## “Small Creditor” Exemption for “eligible transactions”:

*Who is a small creditor?*

- Assets under \$2 billion
- Originated (with affiliates) no more than 500 first lien mortgages in the preceding calendar year;
- Make more than half first-lien mortgages on properties in rural and underserved areas **AND**
- Does not escrow for any mortgage that it or its affiliates currently services and will not escrow for any after 6/1/13 (unless your only escrows were to comply with HPML requirements)



# Ability to Repay

## TRUTH IN LENDING - REGULATION Z



# Ability to Repay Requirements

Effective January 10, 2014

At a minimum creditors 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

## Qualified Mortgage Requirements:

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



# Ability to Repay

**Second, *temporary* category of qualified mortgages (over 43% debt to income ratio):**

- Need to satisfy the general product feature prerequisites for a qualified mortgage and also satisfy the underwriting requirements of and;
- 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.
- This 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 7 years.





# Ability to Repay

## A Qualified Mortgage is not:

- A no-doc loan;
- Interest only payments;
- Negatively amortizing;
- *A balloon loan (\*Rural Balloon Payment);*
- 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.*

*\*Exception*



# 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

## Small Servicer Exemption:

### 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.

### Other criteria:

- *Creditors must generally hold the loans in portfolio for three years in order to maintain “qualified mortgage” status.*
- *Loans are only eligible if they have a term of at least 5 years, fixed-interest rate, and meet certain basic underwriting standards (not subject to the general 43%, but debt-to-income must be considered.*



## New QM Category – May 29, 2013

Hot off the press – the CFPB amended the ability-to-repay requirements to provide a third category of QMs. Here are the requirements:

- Meet the small servicer exemption (\$2bn or less in assets, together with affiliates originate 500 or fewer first lien – previous calendar year).
- Loans must be held in portfolio for at least 3 years.
- Loans must conform to all requirements under the general definition of QM, except 43% DTI ratio.



# Loan Originator Compensation

## TRUTH IN LENDING - REGULATION Z



# Loan Originator Compensation

**Effective January 10, 2014**

- MLO can not receive compensation on any of the mortgage loans' terms or conditions or proxy for any loan term or condition.
- No Dual Compensation – if the MLO receives compensation from the borrower in connection with a mortgage loan, s/he cannot receive compensation from their organization or another person for the same transaction.



# Loan Originator Compensation

MLO's must be registered according to the SAFE Act.

MLO's must include their name and NMLS ID on the following loan documents:

- Credit application
- Note or loan contract
- Security instrument

*Generally include on documents that require a member's signature.*



# Mandatory Arbitration Clauses

**Effective June 1, 2013**

**Prohibition** on mandatory arbitration clauses and waivers of certain consumer rights (for consumer credit transaction secured by a dwelling, including HELOCs):

- No terms that require arbitration
- No language to bar a consumer from bringing a claim in court in connection with any alleged violation of Federal law.

*(under Loan Originator Compensation Amendments)*





# Credit Insurance

Effective ~~June 1, 2013~~ **January 10, 2014**

**Prohibition** on financing single-premium credit insurance (such as credit life, credit disability) in connection with a consumer transaction secured by a dwelling, including HELOCs.

- *This does not apply to credit insurance for which premiums or fees calculated and paid in full on a monthly basis.*

*(under Loan Originator Compensation Amendments)*



# High Cost Mortgage & Counseling

**REGULATION Z**  
**REGULATION X**



# Regulation Z

## High Cost Mortgages

Effective January 10, 2014

Expanded loans covered by HOEPA (Home Ownership and Equity Protection Act)

- Consumers principal dwelling **AND**
- Purchase money mortgages
- Refinances
- Closed-end home equity loans
- Open-end credit plans (HELOCs)



# Regulation Z High Cost Mortgages

## Exemptions:

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



# Regulation Z

## High Cost Mortgages

### 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
  - Must assess a borrowers ability to repay for HELOCs\*
  - Cannot recommend or encourage default
  - Counseling requirement
- \*Ability to repay is already a requirement for other closed end transactions with the new ability to repay amendments.



# Reg Z and Reg X Home Ownership Counseling

## Counseling Requirement:

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



# Mortgage Servicing

**REGULATION Z**  
**REGULATION X**



# Regulation Z - Mortgage Servicing

**Effective January 10, 2014**

- **Periodic Billing Statements**

A servicer of a transaction shall provide, for each billing cycle a periodic statement. Requirements and samples are included in the proposed regulation.

**Exemptions:**

- **Small Servicers - Services 5,000 or fewer mortgage loans and service only mortgage loans that they or an affiliate originated or own.**
- If a loan coupon book (that includes specific information outlined in the proposed reg) is provided for fixed rate loans.





# Regulation Z - 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.*

*Sample forms are provided in the proposed regulation.*



# Regulation X - Mortgage Servicing

- **Prompt Crediting and Payoff Statements**

- **Force Placed Insurance**

Can't charge for force placed insurance unless:

- Initial notice to borrower 45 days before charging
- Second notice to the borrower at least 15 days before charging (and no sooner than 30 days after the initial notice).

If borrower provides proof of coverage borrower must be refunded for overlapping periods.

- If there is an escrow account, servicer must continue homeowners insurance, rather than force-placing, even if funds must be advanced to do so.

*Sample notices are available in the proposed reg.*



# Regulation X - 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 borrower with information or explanation.



# Regulation X - Mortgage Servicing

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



# Regulation X - Mortgage Servicing

- **Delinquent Borrowers**
  - Live contact with borrower by 36<sup>th</sup> day of delinquency.
  - Inform borrower “loss mitigation options may be available.”
  - Written notice of loss mitigation options before 45<sup>th</sup> day of delinquency.
- **Have reasonable policies and procedures to:**
  - Provide access to employees to assist with loss mitigation options.
  - Personnel must be assigned to delinquent borrower by 45 day notice.
  - Employee should have information and be accessible by phone.

## *Small Servicer exemption*

*Sample language is available in the proposed regulation.*



# Regulation X - Mortgage Servicing

## Loss Mitigation

If borrower submits an application for a 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*



# Regulation X - 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*



# Regulation X - Mortgage Servicing

## Loss Mitigation

Servicer must provide borrower with written loss mitigation determination:

- Explanation
- Inputs used to make Net Present Value calculation to the extent such inputs were the basis for denial

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

*Small servicer exemption*





# Regulation X - Mortgage Servicing

## Foreclosure

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

If borrower submits loss mitigation application before servicer has made the first foreclosure notice or filing - cannot begin foreclosure process until:

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



# Regulation X - Mortgage Servicing

## Foreclosure

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

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



# Appraisals

## REGULATION Z

## REGULATION B



# Regulation B Appraisals

**Effective January 18, 2014**

**Copies of all appraisals and other written valuations must be provided to borrowers for their first lien loans secured by a dwelling.**



# Appraisals

## Copy of appraisal requirements:

- Notify borrowers within 3 days of receiving an application of their right to receive a copy of appraisal.
- Provide copy of appraisal promptly upon completion or 3 days prior to: loan closing (for closed end) or account opening (for open end), whichever is earlier.
- Borrowers can waive 3 day timing requirement (restrictions).
- Lender cannot charge for the appraisal copy.



# Questions?



# Contact Information:

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