

Farm Credit Administration

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INFORMATIONAL MEMORANDUM



November 14, 2013

To: Chief Executive Officer
All Farm Credit System Institutions

From: Samuel R. Coleman, Director and Chief Examiner
Office of Examination

A handwritten signature in black ink that reads 'Samuel R. Coleman'.

Subject: Recent Consumer Financial Protection Bureau Actions

The purpose of this Informational Memorandum (IM) is to provide information regarding several actions the Consumer Financial Protection Bureau (CFPB) has taken since our IM dated July 18, 2013. These actions affect the various mortgage-related regulations the CFPB has issued since January 2013.

On July 24, 2013, the CFPB published, at 78 FR 44685, a final rule that amends and clarifies the Ability-to-Repay/Qualified Mortgage (ATR/QM) provisions of Regulation Z (Truth in Lending); the Mortgage Servicing provisions of Regulation X (Real Estate Settlement Procedures) and Regulation Z; and the Escrow provisions of Regulation Z. The final rule, like the regulatory provisions that it amends, will take effect on January 10, 2014. This final rule:

1. Clarifies that the RESPA Mortgage Servicing regulation does not preempt State laws that provide broader consumer protections (Regulation X, §1024.5).
2. Clarifies the implementation dates for the adjustable-rate mortgage (ARM) disclosure requirements of the TILA Mortgage Servicing regulation (Regulation Z, §1026.20).
3. Clarifies the continued exclusion of construction and bridge loans and reverse mortgages from the requirements regarding repayment ability and prepayment penalties for higher-priced mortgage loans (HPMLs) contained in the Escrows regulation (Regulation Z, §1026.35).
4. Clarifies which mortgage loans to consider in determining small servicer status and the application of the small servicer exemption with regard to master servicer/subservicer relationships. Further, the rule identifies certain types of mortgage loans that are not to be considered in determining small servicer status. As stated in our IM dated July 18, 2013, a small servicer is a servicer, including a System institution, that services 5,000 or fewer mortgage loans, for all of which the servicer is the creditor or assignee.

“Small servicers” are exempt from the periodic billing statement requirement under §1026.41 of Regulation Z and have different requirements with respect to force-placed insurance under Regulation Z, §1026.41 and Regulation X, §1024.17.

5. Clarifies the eligibility standards for certain loans that receive Qualified Mortgage status under the ATR/QM regulation because they are eligible for purchase by certain Federal agencies, Fannie Mae, or Freddie Mac (Regulation Z, §1026.43).
6. Clarifies how to determine a consumer’s debt-to-income ratio under the general definition of Qualified Mortgage in the ATR/QM regulation (Regulation Z, Appendix Q to Part 1026).

On October 1, 2013, the CFPB published, at 78 FR 60381, a final rule that amends and clarifies the Mortgage Servicing regulations and the Loan Originator Compensation regulation (which amended Regulation Z). Most of the final rule, like the regulations that it amends, will take effect on January 10, 2014, although certain provisions, discussed below, will take effect on January 1, 2014. The final rule:

1. Modifies several provisions of the RESPA Mortgage Servicing regulations, including those related to error resolution procedures and information requests and loss mitigation (Regulation X, §1024.35, §1024.36, and §1024.41).
2. Clarifies and revises the definition of points and fees for purposes of the Qualified Mortgage points and fees cap, as adopted in the ATR/QM regulation, and the high-cost mortgage points and fees threshold, as adopted in the High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z, §1026.32).
3. Facilitates lending in “rural” and “underserved” areas while the CFPB is re-examining the definitions of these terms. First, it exempts all small creditors, regardless of whether they operate predominantly in rural or underserved counties, from the general prohibition on high-cost mortgages featuring balloon payments so long as the loans meet certain requirements. Second, it makes it easier for certain small creditors to continue qualifying for an exemption from a requirement to maintain escrows on certain higher-priced mortgage loans; because of an update in Census data, some creditors might otherwise have lost their eligibility for the exemption during the CFPB’s re-examination period (Regulation Z, §1026.32 and §1026.35).
4. Clarifies the circumstances under which a loan originator’s or creditor’s administrative staff would be considered to be acting as loan originators under the Loan Originator Compensation regulation (Regulation Z, §1026.36).
5. Clarifies and revises three aspects of the regulations prohibiting creditors from financing credit insurance premiums in connection with certain consumer credit transactions secured by dwellings (Regulation Z, §1026.36).
6. Changes the effective date for provisions of the Loan Originator Compensation regulation covering compensation plans, training, and licensing and registration, so they

take effect on January 1, 2014, rather than on January 10, 2014, as originally provided. This change is intended to simplify compliance, since these provisions deal with matters that are often structured on an annual basis and typically do not vary from transaction to transaction (Regulation Z).

The language of all of the CFPB's final mortgage-related rules, together with information about these rules, can be found on the CFPB's website, at www.consumerfinance.gov. From the home page, go to the *Law and Regulation* section and click on *Mortgage Rule Implementation*. This page consolidates all of the CFPB's mortgage rules and related implementation materials, including summaries, compliance guides, quick reference charts, readiness guides, and other materials. The CFPB is constantly updating this page, and institutions should refer to this page frequently to ensure they have the latest information on compliance. Recently issued guidance includes an updated Compliance Guide for the ATR/QM regulations (August 14, 2013) and CFPB Bulletin 2013-12, which provides implementation guidance in implementing certain of the Mortgage Servicing rules (October 15, 2013). In addition, on October 15, 2013, the CFPB released an interim final rule regarding mortgage servicing.

The CFPB's Director stated in a September 11, 2013 speech that its oversight of the rules "will be sensitive to the progress made by those lenders and servicers who have been squarely focused on making good-faith efforts to come into substantial compliance on time." FCA will be attentive to the CFPB's perspective as we begin examining System institutions for compliance with these new rules in January 2014.

The Farm Credit Administration is providing this information as a courtesy to keep you informed of issues that may affect your institution. This information should not be seen as a replacement for management's due diligence in monitoring issues that may affect your institution.

If you have any questions about this Informational Memorandum, please contact Jennifer A. Cohn, Senior Counsel, Office of General Counsel, at (703) 883-4028, or by email at cohnj@fca.gov; or Dan Fennewald, Director, Examination Policy Division, Office of Examination, at (952) 259-0432, or by email at fennewaldd@fca.gov.