

Farm Credit Administration

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INFORMATIONAL MEMORANDUM



March 8, 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: Escrow Requirements under the Truth in Lending Act (Regulation Z)

The purpose of this Informational Memorandum is to provide information regarding a final rule recently adopted by the Consumer Financial Protection Bureau (CFPB) that amended the higher-priced mortgage loan (HPML) escrow provisions of Regulation Z (Truth in Lending), at 12 CFR §1026.35. The final rule was published at 78 FR 4726 on January 22, 2013. The rule applies only to loans that are subject to the Truth in Lending Act (TILA) and takes effect on June 1, 2013. All institutions should adopt appropriate procedures to ensure compliance with the rule.

The final rule makes the following changes to the regulation:

1. Requires a creditor to establish and maintain an escrow account for at least five years after originating an HPML (as opposed to one year in the existing rule) and may be cancelled after that time only if:
 - a. The unpaid principal balance is less than 80 percent of the original value of the property securing the underlying debt obligation, and
 - b. The consumer currently is not delinquent or in default on the underlying debt obligation.
2. Creates a new exemption from the escrow requirement for small creditors that operate predominantly in rural or underserved areas. The exemption applies only to HPMLs that creditors intend at consummation to hold in portfolio or that are subject to forward commitments to be purchased by investors that themselves qualify for the exemption. To be eligible for the exemption, a creditor must:

- a. Have less than \$2 billion in total assets;
- b. Originate at least 50 percent of their dwelling-secured, first-lien consumer mortgage loans in counties that are rural or underserved (as will be designated by the CFPB);
- c. Originate no more than 500 dwelling-secured, first-lien consumer mortgage loans per year, and
- d. Must not escrow for any extension of consumer credit secured by real property or a dwelling it currently services, except that it may maintain escrow accounts established to comply with the existing HPML requirements and may establish escrow accounts after consummation as an accommodation to distressed consumers to assist such consumers in avoiding default or foreclosure.

An exempt creditor must establish an escrow account at consummation for any HPML that is subject to a forward commitment to be purchased by an investor that does not itself qualify for the exemption.

3. Creates an exemption from escrowing for insurance premiums (though not from property taxes) for situations in which an individual consumer's property is covered by a master insurance policy (the existing regulation contains this exemption for condominium units only).

The language of the final rule, together with a summary of the rule, 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 *Regulations*. There you will find a list of all CFPB rules issued. When you click on the link to any rule, you will find a page that links to the text of that rule, along with a summary and other information about the rule.

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; and/or Dan Fennewald, Director, Examination Policy Division, Office of Examination, at 952-259-0432, or by email at fennewaldd@fca.gov.