
INFORMATIONAL MEMORANDUM



March 8, 2018

To: Chief Executive Officer
All Farm Credit System Institutions

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

Subject: Regulation Z Adjustment to Asset-Size Exemption Threshold and Military Lending Act

This Informational Memorandum provides information about the Consumer Financial Protection Bureau's (CFPB) recent adjustment to the asset-size threshold for exemptions to the higher-priced mortgage loan (HPML) requirements and similar requirements under Regulation Z (Truth in Lending). It also provides information about an interpretive rule the Department of Defense (DoD) recently issued to provide guidance to comply with the Military Lending Act (MLA).

Regulation Z Adjustment to Asset-Size Exemption Threshold

Regulation Z requires a creditor to establish an escrow account to pay property taxes and insurance premiums for HPMLs. However, the regulation has an exemption for creditors that operate predominantly in rural or underserved areas and that satisfy specified criteria, including a small-creditor asset-size threshold.¹ In 2018, this asset-size threshold increased to \$2.112 billion, up from \$2.069 billion in 2017. Institutions below this threshold on December 31, 2017, that meet the Regulation Z exemption criteria will be exempt in 2018 from the escrow account requirement. This asset-size threshold will also apply during a grace period, in certain circumstances, with respect to transactions with applications received before April 1, 2019. The adjustment also applies to a similar threshold for small-creditor portfolio and balloon-payment qualified mortgages. Balloon-payment qualified mortgages that satisfy applicable criteria, including being made by creditors that have assets below the threshold, are also exempted from the prohibition on balloon payments for high-cost mortgages.

The final rule implementing this adjustment was published in the Federal Register at [82 FR 61147](#) on December 27, 2017. This threshold amount became effective on January 1, 2018.

¹ We set forth criteria in our [Informational Memorandum dated January 29, 2014](#).

Military Lending Act

The DoD recently issued an [interpretive rule](#) that amends and adds to its August 2016 interpretive rule providing guidance on the MLA and its implementing regulations. We provided information about the MLA regulations and August 2016 interpretive rule in an [Informational Memorandum dated February 6, 2017](#). Two new interpretations are potentially relevant to System institutions:

- The DoD clarified the scope of the MLA regulations' exemption that applies when a creditor extends credit for the purchase of a motor vehicle or personal property and the credit extended exceeds the purchase price of the property securing the credit. Generally, financing costs related to the object securing the credit (such as optional leather seats or an extended vehicle warranty) do not disqualify the transaction from the exemption. In contrast, financing credit-related costs (such as Guaranteed Auto Protection insurance or a credit insurance premium) would disqualify the transaction from the exemption.
- The DoD clarified that to qualify for the optional safe harbor under [32 CFR 232.5\(b\)\(3\)](#), the creditor must determine the consumer's covered borrower status either at the time the consumer initiates the transaction or submits an application to establish an account, or anytime during a 30-day period of time prior to the consumer's action. A creditor also qualifies for the safe harbor if it conducts a qualified covered borrower check while processing the consumer's credit application.

CFPB Compliance-Related Information

The language of all the CFPB's rules, information for implementing, and compliance can be found on the [CFBP Website](#). The CFPB is constantly updating its website with information about implementation of and compliance with its rules and other guidance, and institutions should refer to it frequently to ensure they have the latest information. System institutions can also sign up on the website to receive updates about new rules and other guidance.

We are providing this information as a courtesy to keep you informed of issues that may affect your institution. This information should not be a replacement for reviewing the full regulation or 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 Cohn, Senior Counsel, Office of General Counsel, at (720) 213-0440, or by email at cohnj@fca.gov; or Lynn Major, Senior Examiner, Office of Examination, at (703) 883-4285, or by email at majors@fca.gov.