
INFORMATIONAL MEMORANDUM



April 23, 2019

To: Chief Executive Officer
Each Farm Credit System Institution

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

Subject: 2019 Threshold Adjustment for Escrow Requirements, Protections for Tenants
at Foreclosure, and Compliance-Related Resources

This informational memorandum provides updates and resources from the Consumer Financial Protection Bureau (CFPB) on the following topics:

- The asset-size exemption threshold for escrow requirements for higher-priced mortgage loans (HPMLs) under Regulation Z, which implements the Truth in Lending Act (TILA)
- Rural and underserved counties lists and tool
- TILA-Real Estate Settlement Procedures Act (RESPA) Integrated Disclosure Rule
- Home Mortgage Disclosure Act

It also discusses requirements of the Protecting Tenants at Foreclosure Act of 2009, which was restored by Congress in 2018.

CFPB increases asset-size threshold for exemption from HPML escrow requirements

Regulation Z requires creditors to establish escrow accounts to pay property taxes and insurance premiums for certain first-lien HPMLs. However, the regulation allows for certain small creditors operating primarily in rural or underserved areas to qualify for an exemption to this requirement.

For 2019, the CFPB increased the asset-size exemption threshold to \$2.167 billion. If a creditor had assets of less than \$2.167 billion as of December 31, 2018, and met other requirements, it is exempt from the escrow requirement for HPMLs in 2019. Creditors are also exempt from the escrow requirement for any loan consummated in 2020 if the application is received before April 1, 2020. The adjustment will also increase the asset-size threshold for small-creditor portfolio and balloon-payment qualified mortgages, for which the requirements reference the HPML escrow account asset-size threshold.

The final rule implementing this adjustment appeared in the Federal Register ([84 FR 1356](#)) on February 4, 2019, and took effect on the same date. Its applicability date was January 1, 2019.

Congress restores the Protecting Tenants at Foreclosure Act of 2009 (PTFA)

The [Economic Growth, Regulatory Relief and Consumer Protection Act](#) restored the PTFA effective June 23, 2018. The PTFA protects a “bona fide tenant” from having his or her lease terminated by the purchaser after a foreclosure. The PTFA applies to any foreclosure on a “federally related mortgage loan” or on any dwelling or residential real property.

The PTFA allows a tenant to remain in a rental property until the end of the lease unless

- the property is sold to a purchaser who will use the property as a primary residence, or
- there is no lease, or the lease can be terminated under state law.

Even under these two exceptions, a tenant must receive notice 90 days before being evicted from the property. An institution that acquires an interest in a foreclosed property is subject to these provisions and must also comply with certain notice requirements. The PTFA applies in all states but does not override any state laws that may provide more protection. These protections apply to foreclosures after May 20, 2009.

CFPB updates several resources

The CFPB periodically updates the resources it provides to help financial institutions understand, implement, and comply with its regulations. Recently, the CFPB updated the following:

- [Rural and underserved counties lists](#)
- [Rural and underserved areas tool](#)
- [TILA-RESPA Integrated Disclosure FAQs \(PDF\)](#)
- [Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart for HMDA Data Collected in 2019 \(PDF\)](#)

You can find the language of all CFPB’s rules, as well as resources for implementing and complying with its rules, on the [CFPB's website](#). Since the CFPB constantly updates this information, you should refer to the website frequently to ensure you have the latest information. To receive updates on compliance resources as they become available, go to the [Compliance and guidance](#) page and sign up for email updates.

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 regulation, restored statute, and CFPB resources or for your 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.