

Farm Credit Administration

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INFORMATIONAL MEMORANDUM



August 6, 2012

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: Truth in Lending (Regulation Z) Compensation Rules

The purpose of this Informational Memorandum is to provide information regarding Consumer Financial Protection Bureau (CFPB) Bulletin 2012-02 (Bulletin). The Bulletin was issued in April 2012 to clarify how loan originator compensation requirements under Regulation Z, 12 CFR § 1026.36, apply to qualified profit sharing, 401(k), and employee stock ownership plans (collectively referred to as Qualified Plans).

The Federal Reserve Board originally adopted Regulation Z requirements governing the payment of compensation to loan originators (Compensation Rules) in September 2010, with an effective date of April 6, 2011. FCA provided information about the Compensation Rules by Informational Memorandum dated January 27, 2011. Pursuant to Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, rulemaking authority for Regulation Z transferred to the CFPB. In December 2011, the CFPB issued interim final rules recodifying the provisions of Regulation Z to 12 CFR Part 1026 from 12 CFR Part 226 (75 FR 79768, December 22, 2011).

The Compensation Rules apply to all persons who originate closed-end loans secured by a consumer's dwelling. Subject to certain narrow exceptions, the Compensation Rules provide that no loan originator may receive (and no person may pay to a loan originator), directly or indirectly, compensation that is based on any terms or conditions of a mortgage transaction. CFPB Bulletin 2012-12 clarifies that the Compensation Rules permit employers to contribute to Qualified Plans, including those for loan originators, out of a pool of profits derived from loan originations. The Bulletin advises that the CFPB anticipates issuing a proposed rule in the near future that, when final, may affect this clarification. In addition, the Bulletin does not apply to profit-sharing arrangements or plans that are not Qualified Plans.

A PDF document of the CFPB Bulletin 2012-02 is provided as an attachment.

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 David Stephens, Office of Examination, at 703-883-4412, or by email at stephensd@fca.gov.

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