

INFORMATIONAL MEMORANDUM



January 13, 2021

To: Chief Executive Officer  
Each Farm Credit System Institution

From: Roger Paulsen, Director and Chief Examiner  
Office of Examination

Subject: Annual threshold adjustments, FDCPA rule, GSE patch, and compliance resources

This informational memorandum discusses regulation updates and resources from the Consumer Financial Protection Bureau (CFPB). We are providing this information as a courtesy to keep you informed of issues that may affect your institution.

**CFPB adjusts thresholds for Home Ownership and Equity Protection Act (HOEPA) and ability-to-repay/qualified mortgages**

The CFPB issued a final rule that provides the 2021 annual threshold adjustments to regulatory provisions that implement the Truth in Lending Act (TILA). These provisions include those that implement the HOEPA and those that govern ability-to-repay/qualified mortgages.

*Adjusted thresholds for the HOEPA*

Following are the adjusted thresholds for determining whether a transaction is a high-cost mortgage due to points and fees charged by the creditor:

- For loans of \$22,052 or more, total points and fees exceed 5% of the total loan amount
- For loans of less than \$22,052, total points and fees exceed 8% of the total loan amount or \$1,103, whichever is less

*Adjusted thresholds for ability-to-repay/qualified mortgages*

When your institution is determining a consumer's ability to repay a transaction secured by a dwelling, you should consider the transaction to be a qualified mortgage only if its total points and fees are less than or equal to the following amounts or percentages:

- 3% of the total loan amount for a loan of \$110,260 or more
- \$3,308 for a loan greater than or equal to \$66,156 but less than \$110,260

- 5% of the total loan amount for a loan greater than or equal to \$22,052 but less than \$66,156
- \$1,103 for a loan greater than or equal to \$13,783 but less than \$22,052
- 8% of the total loan amount for a loan of less than \$13,783

The final rule for the HOEPA and ability-to-repay/qualified mortgage adjustments was published in the Federal Register at [85 FR 50944 \(PDF\)](#) on August 19, 2020. These adjustments became effective on January 1, 2021.

### **CFPB announces thresholds for exempt consumer credit and lease transactions and higher-priced mortgage loan special appraisal requirements**

#### *Consumer credit and lease transactions*

The threshold for consumer credit and lease transactions to be exempt from Regulation Z and Regulation M will remain at \$58,300. However, the following loans are subject to the TILA regardless of the loan amount:

- Loans secured by real property or by personal property used, or expected to be used, as the principal dwelling of a consumer
- Private education loans

These final rules were published in the Federal Register at [85 FR 79394 \(PDF\)](#) (Regulation Z) and at [85 FR 79390 \(PDF\)](#) (Regulation M) on December 10, 2020.

#### *Higher-priced mortgage loan special appraisal requirements*

The threshold for higher-priced mortgage loans to be exempt from special appraisal requirements under Regulation Z will remain at \$27,200. This threshold amount was published in the Federal Register at [85 FR 79385 \(PDF\)](#) on December 10, 2020.

### **CFPB issues final rule implementing Fair Debt Collection Practices Act**

The CFPB issued a [final rule \(PDF\)](#) implementing the Fair Debt Collection Practices Act (FDCPA) and provided an overview of the rule in an [executive summary \(PDF\)](#). The FDCPA applies only to the collection of debt incurred by a consumer primarily for personal, family, or household purposes. It does not apply to the collection of corporate debt or to debt owed for business or agricultural purposes. It covers “debt collectors,” which it defines as any person who regularly collects, or attempts to collect, consumer debts for another person or institution or uses some name other than its own when collecting its own consumer debts.

The final rule restates and clarifies prohibitions on harassment and abuse, false or misleading statements, and unfair practices by debt collectors. The rule focuses on debt collection communications and gives consumers more control over how and how often debt collectors can communicate with them regarding their debts. The rule also clarifies how the protections of the FDCPA, which was passed in 1977, apply to newer communication technologies, such as email and text messages.

The final rule, which was issued on October 30, 2020, will become effective **one year** after publication in the Federal Register.

### **CFPB extends government-sponsored enterprise patch**

The CFPB issued a [final rule \(PDF\)](#) to extend the government-sponsored enterprise (GSE) patch and provided an overview of the changes in an [executive summary \(PDF\)](#). The GSE patch will expire on the earlier of these two dates:

- The mandatory compliance date of the final rule amending the general qualified mortgage (QM) loan definition in Regulation Z
- The date the GSEs exit conservatorship

The GSE patch provides QM status to certain mortgage loans eligible to be purchased or guaranteed by Fannie Mae or Freddie Mac. The patch was scheduled to expire on January 10, 2021.

The final rule, which was issued on October 26, 2020, became effective on December 28, 2020.

### **CFPB provides compliance resources**

The CFPB periodically provides resources to help financial institutions understand, implement, and comply with CFPB regulations. Recently released resources include the following:

- [Filing instructions guide for HMDA data collected in 2021 \(PDF\)](#)
- [2021 Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart \(PDF\)](#)
- [HMDA FAQs](#)
- [RESPA FAQs](#) (In adopting these FAQs, the CFPB rescinded Compliance Bulletin 2015-05, RESPA Compliance and Marketing Services Agreements.)

You can find the language of all CFPB rules, as well as resources for implementing and complying with its rules, on the [CFPB 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 rules and compliance resources as they become available, go to the [Compliance](#) page and sign up for email updates.

Please note that reviewing this informational memorandum is not a substitute for reviewing the resources provided on the CFPB website. Reviewing this website is part of exercising 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 [cohnj@fca.gov](mailto:cohnj@fca.gov); or Lynn Major, Senior Examiner, Office of Examination, at (703) 883-4285 or [majors@fca.gov](mailto:majors@fca.gov).