



National Banker Teleconference

Timely and Comprehensive Information from the FDIC

Early examination observations pertaining to compliance with the mortgage rules

May 21, 2015



Agenda

- Summary of the CFPB's proposal to expand the definitions of "small creditor" and "rural"
- Rule-specific examples of examiner observations and related practices
 - ATR/QM Rule
 - Loan Originator Compensation Rule
 - Mortgage Servicing Rules
- Overarching practices identified based on examiner observations
- Questions and Answers

Questions

If you have any questions related to early examination observations pertaining to the mortgage rules, please email them to:

Bankerteleconference@fdic.gov

Note: Questions asking for regulatory interpretations or questions related to the TILA / RESPA Integrated Disclosure Rule will not be addressed during this call.

Speakers

- **Luke H. Brown**
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- **Paul Robin**
Section Chief, Supervisory Policy Branch
- **Lynn Meadows**
Review Examiner (Compliance)
- **Glenn Gimble**
Senior Policy Analyst, Supervisory Policy Branch
- **David Friedman**
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CFPB's Small Creditor / Rural Proposal

“Small Creditor”

Two Part Test:

1. Originations

Current: 500 or fewer 1st lien originations – held in portfolio and sold, assigned, or transferred

Proposed: 2,000 or fewer 1st-lien originations (creditor & affiliates) – ***applicable only to loans not held in portfolio by lender or affiliates***

2. Assets

Current: \$2.060* Billion
*2015, will continue to adjust annually

Proposed: Same as current, except assets of ***both the creditor and its affiliates would count***

Note: Other Qualified Mortgage (QM) Requirements Would Not Change

CFPB's Small Creditor / Rural Proposal

“Rural”

Current Rule

A county is “rural” during a calendar year if it is neither in an MSA nor in a microSA that is adjacent to an MSA

Proposed Rule

Adds a new alternative definition for “rural”

- Property securing loan in an area not designated by Census as an “urban area”

Examiner Observations

- Observations noted during initial examinations with respect to the following new mortgage rules:
 - Ability to Repay / Qualified Mortgage;
 - Loan Originator Compensation; and
 - Mortgage Servicing.
- Highlights of practices currently being used by some institutions to ensure compliance with the mortgage rules.
- These observations and practices may be helpful to institutions considering taking steps to update their compliance management systems, but are not derived from a formal FDIC evaluation of compliance with the rules.

ATR/QM Rule

Key Components

- Requires lenders to make a reasonable good faith determination of the consumer's ability to repay a mortgage according to its terms.
- Applicable to most consumer-purpose closed-end mortgage loans.
- Establishes standards for determining compliance either by considering and verifying 8 underwriting factors or by originating a "qualified mortgage."
- QM status creates a presumption of compliance with the rule.

Examiner Observations: ATR/QM Rule

- Types of documentary verification for key underwriting factors
- Flexibility in considering current liabilities
- Qualifying loans based on assets
- Noteworthy compliance practices
- Balloon loans
- Application of ATR/QM when HELOCs or balloon payments due
- QM vs. non-QM lending

Loan Originator Compensation (LO Comp) Rule

Key Components

- Addresses loan originator compensation practices for most closed-end mortgage transactions.
- Imposes qualification and identification requirements on loan originators.
- Prohibits certain terms in mortgage contracts.

Examiner Observations: LO Comp Rule

- Written policies and procedures
- Nationwide Mortgage Licensing System and Registry Identification Number
- Varying compensation based on whether a loan is to be sold into the secondary market or kept in portfolio

Mortgage Servicing Rules

Key Components

- Require new or enhanced disclosures.
- Impose certain limitations on servicers (such as restrictions on the purchase of force-placed insurance for certain borrowers with escrow accounts).
- Require that consumers receive clear, timely information on escrow balances and servicing transfers.
- Protect borrowers from abusive servicing practices.

Examiner Observations: Mortgage Servicing Rules

- Determining small-servicer status, including types of loans counted
- Error notice and information request provisions

Overarching Practices

Establishing and maintaining an effective Compliance Management System

- Board and senior management oversight
- Policies and procedures
- Training
- Monitoring

FDIC Resources

Interagency Examination Procedures for the Truth in Lending Act

<https://www.fdic.gov/regulations/compliance/manual/pdf/V-1.1.pdf>

Qualified and Non-Qualified Mortgage Loans: Interagency Statement on Supervisory Approach

<https://www.fdic.gov/news/news/financial/2013/fil13059.html>

<https://www.fdic.gov/news/news/press/2013/pr13117a.pdf>

Technical Assistance Videos

<https://www.fdic.gov/regulations/resources/director/video.html>

Regulatory Calendar

<https://www.fdic.gov/regulations/resources/cbi/calendar.html>

CFPB Resources

Special Online Version of the Rules (Regulation Z)

<http://www.consumerfinance.gov/eregulations/1026>

Small Entity Compliance Guides, Summary Charts Related to Title XIV Rules and Additional Resources

<http://www.consumerfinance.gov/regulatory-implementation/title-xiv/>

If, after reviewing the above resources and the related regulation(s) and commentary, you have a question regarding regulatory interpretation, you can email CFPB_reinquiries@cfpb.gov with your specific question, including reference to the applicable regulation section(s).

TILA - RESPA Integrated Disclosure Rule

CFPB Resources

Implementation Resources:

<http://www.consumerfinance.gov/regulatory-implementation/tila-respa/>

CFPB Webinar - May 26, 2015 at 2 PM Eastern Time

Information available at:

<https://consumercomplianceoutlook.org/outlook-live/>

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