



CFPB Issues Proposed Rules Amending Regulations B, X and Z To Clarify and Amend Earlier Dodd-Frank Rules

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On Tuesday, July 2, the Consumer Financial Protection Bureau (the “Bureau”) published proposed rules and a request for public comment in the *Federal Register* to amend certain of its final mortgage rules contained in Regulation X (Real Estate Settlement Procedures) and Regulation Z (Truth in Lending), and to make certain technical corrections to these rules and to Regulation B (Equal Credit Opportunity). The above final rules were published in the *Federal Register* at various times during the months of January and February of this year.

In addition to making several technical and editorial changes to these three regulations, the Bureau’s proposed rules would amend Regulations X and Z in the following six main areas:

1. Regulation X Loss Mitigation Rules. Several changes are being proposed to the loss mitigation provisions:

- Currently, servicers are given very precise timeframes for acknowledging receipt of a loss mitigation application and for notifying the borrower that the application is incomplete and of the missing information required. The proposed changes would provide more flexibility to servicers in setting deadlines for the receipt of this missing information and provide more guidance in processing incomplete applications.
- Servicers will be provided more flexibility in providing short-term payment forbearance plans based on a review of an incomplete application.
- There are proposed changes to the content requirements for notices to borrowers of the outcome of their loss mitigation evaluation, and notices to borrowers with respect to any appeals that have been filed.
- Finally, there are technical changes to the foreclosure procedures and requirements.

2. Regulation Z Definition of “Points and Fees.” With respect to retailers of manufactured homes, the Bureau is proposing to clarify what compensation is to be considered loan originator compensation. Loan originator compensation is included in the calculation of points and fees for purposes of the “qualified mortgage” points and fees cap and the “high-cost mortgage” points and fees threshold.

3. Regulation Z Exceptions Re: “Rural” and “Underserved” Areas The Bureau is proposing revisions to

two exceptions applicable to small creditors operating in predominantly “rural” or “underserved” areas:

- The first proposal is to extend an exception to the general prohibition on balloon features in “high-cost mortgages” to permit all small creditors, regardless of whether they operate in predominantly “rural” or “underserved” areas, to continue to originate “high-cost mortgages” with balloon features, so long as the loans meet the requirements for “qualified mortgages.”
- The second proposal is to amend the exception to the requirement to establish escrow accounts for “higher-priced mortgage loans” for small creditors that extend more than 50% of their total covered transactions secured by a first-lien mortgage in “rural” or “underserved” counties in the preceding calendar year.

The Bureau is making the above proposals to allow it to re-examine the definitions of “rural” and “underserved” over the next two years. Accordingly, during this period, the one-year look-back in the second proposal, above, will be modified to a three-year look-back if the creditor otherwise meets the criteria.

4. *Regulation Z Loan Originator Compensation Rules.* In addition to several technical changes, the Bureau proposes to modify the definition of “loan originator” to address issues such as the point at which an employee, contractor or agent becomes a “loan originator” and the rules on prohibited payments to loan originators.

5. *Regulation Z Credit Insurance Financing Rules.* The Bureau is proposing to add two new provisions to the rules prohibiting the financing of credit insurance premiums by creditors. The first would clarify what constitutes financing for these purposes. The second would clarify when credit insurance premiums are considered to be calculated and paid on a monthly basis, for purposes of determining the availability of an exclusion from the prohibition for certain calculation methods and payment plans.

6. *Implementation Dates.* The Bureau proposes to change the effective date on several of the loan originator compensation rules from January 10, 2014, to January 1, 2014. The Bureau is also seeking comment on whether to adjust the effective date of the credit insurance premium financing prohibition from the current effective date of January 10, 2014.

The comment period ends July 22, 2013.

Lenders and servicers may comment, and should do so if they think that these changes, or the specifics of the implementation of these changes as published in the notice, will have an adverse effect on their businesses. Comments must be identified by Docket Number CFPB-2013-0018, or RIN 3170-AA37. The options available for sending the comments are set forth in the notice, which is published in the *Federal Register* of July 2, 2013 (Volume 78, No. 127) at page 39902.

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