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CFPB finalizes amendments to ability-to-repay rule

Rules to facilitate lending by certain small creditors and community lenders

WASHINGTON, D.C. — Today, the Consumer Financial Protection Bureau (CFPB) finalized rules to facilitate access to credit by creating specific exemptions and modifications to the CFPB's Ability-to-Repay rule for small creditors, community development lenders, and housing stabilization programs. The amendments also revised rules on how to calculate loan origination compensation for certain purposes. Today's final rule amends the CFPB's Ability-to-Repay rule, which was finalized in January of this year.

"Our Ability-to-Repay rule was crafted to promote responsible lending practices," said CFPB Director Richard Cordray. "Today's amendments embody our efforts to make reasonable changes to the rule in order to foster access to responsible credit for consumers."

The CFPB finalized its Ability-to-Repay rule on January 10, 2013. The Ability-to-Repay rule established that most new mortgages must comply with basic requirements that protect consumers from taking on loans they do not have the financial means to pay back. Lenders are presumed to have complied with the Ability-to-Repay rule if they issue "Qualified Mortgages" (QMs). These loans must meet certain requirements including prohibitions or limitations on the risky features that harmed consumers in the recent mortgage crisis. If a lender makes a Qualified Mortgage, consumers have greater assurance that they can pay back the loan.

The CFPB proposed the amendments finalized today in conjunction with the adoption of the Ability-to-Repay rule. The CFPB solicited public input on the proposal before releasing today's final rules.

Today's amendments:

- **Exempt certain nonprofit creditors:** The final rule exempts from Ability-to-Repay rules certain nonprofit and community-based lenders that work to help low- and moderate-income consumers obtain affordable housing. Among other conditions, the exemptions generally apply to designated categories of community development lenders and to nonprofits that make no more than 200 loans per year and lend only to low- and moderate-income consumers. Similarly, mortgage loans made by or through a housing finance agency or through certain homeownership stabilization and foreclosure prevention programs are exempted from the Ability-to-Repay rules.

- **Facilitate lending by certain small creditors:** This amendment makes several adjustments to the Ability-to-Repay rule in order to facilitate lending by small creditors, including community banks and credit unions that have less than $2 billion in assets and each year make 500 or fewer first-lien mortgages, as defined in the rule. First, the rule generally extends Qualified Mortgage status to certain loans that these creditors hold in their own portfolios even if the consumers' debt-to-income ratio exceeds 43 percent. Second, the final rule provides a two-year transition period during which small lenders can make balloon loans under certain conditions and those loans will meet the definition of Qualified Mortgages. The Bureau expects to continue to study issues concerning access to credit and balloon lending by small creditors. Third, the final rule allows small creditors to charge a higher annual percentage rate for certain first-lien Qualified Mortgages while maintaining a safe harbor for the Ability-to-Repay requirements.

- **Establish how to calculate loan origination compensation:** The Dodd-Frank Act mandates that Qualified Mortgages have limited points and fees, and that compensation paid to loan originators, such as loan officers and brokers, is included in points and fees. This cap ensures that lenders offering Qualified Mortgages do not charge excessive points and fees. Today's amendment provides certain exceptions to this Dodd-Frank requirement that loan originator compensation be included in the total permissible points and fees for both Qualified Mortgages and high-cost loans. Under the revised rule, the compensation paid by a mortgage broker to a loan originator employee or paid by a lender to a loan originator employee does not count towards the points and fees threshold. This amendment does not change the January 2013 final rule under which compensation paid by a creditor to a mortgage broker must be included in points and fees, in addition to any origination charges paid by a consumer to a creditor.

The amendments will take effect with the Ability-to-Repay rule on January 10, 2014.

The CFPB also separately issued a rule today delaying the effective date of a provision in a rule issued in January 2013. That rule implemented a Dodd-Frank Act amendment prohibiting creditors from financing certain credit insurance premiums in connection with certain mortgage loans. The rule provision would have taken effect on June 1, but on May 10, 2013, the CFPB issued a proposal to suspend the June 1 effective date while it sought comment on clarifications to how the Dodd-Frank Act prohibition applies to credit insurance products with certain periodic payment features. Under the rule issued today, the prohibition will take effect on January 10, 2014, along with other regulations implementing other Dodd-Frank Act mortgage provisions. However, the CFPB plans to seek comment on the appropriate effective date when it issues the proposed credit insurance clarifications for public comment.

The CFPB will continue to work with industry and consumers for a smooth transition to the new rules.

A copy of the amendments to the Ability-to-Repay rule is available at: http://files.consumerfinance.gov/f/201305_cfpb_final-rule_atr-concurrent-final-rule.pdf

A copy of the rule issued on credit insurance premiums is available at: http://files.consumerfinance.gov/f/201305_cfpb_final-rule_credit-insurance-effective-date-delay-final-rule-for-ofr-submission.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit www.consumerfinance.gov