SEP 13 2013

CFPB Finalizes Modifications to Mortgage Rules

Changes Resolve Implementation Issues and Clear the Way for Better Consumer Protections

WASHINGTON, D.C. — Today the Consumer Financial Protection Bureau (CFPB) finalized amendments and clarifications to its January 2013 mortgage rules in order to help industry comply and to better protect consumers. The changes made today answer questions that have been identified during the implementation process.

"Our mortgage rules were designed to eliminate irresponsible practices and foster a thriving, more sustainable marketplace," said CFPB Director Richard Cordray. "Today's rule amends and clarifies parts of our mortgage rules to ensure a smoother implementation process, which is helpful to both businesses and consumers."

The CFPB finalized several mortgage rules in January 2013. Among these rules, the Ability-to-Repay rule protects consumers from irresponsible mortgage lending by requiring that lenders generally make a reasonable, good-faith determination that prospective borrowers have the ability to repay their loans. The mortgage servicing rules establish strong protections for homeowners facing foreclosure, and the loan originator compensation rules address certain practices that incentivized steering borrowers into risky or high-cost loans. The CFPB also finalized rules that strengthened consumer protections for high-cost mortgages, and instituted a requirement that escrow accounts be established for a minimum of five years for certain higher-priced mortgage loans.

On June 24, 2013, the Bureau proposed several amendments and clarifications to the mortgage rules that are being adopted by today's final rule. Today's final rule is intended to clarify interpretive issues and facilitate compliance. Among other things, today's modifications:

- **Clarify what servicer activities are prohibited in the first 120 days of delinquency:** The CFPB's servicing rule prohibits servicers from making the "first notice or filing" under state law during the first 120 days a borrower is delinquent. Under the final rule, servicers will be allowed to send certain early delinquency notices required under state law to borrowers that may provide beneficial information about legal aid, counseling, or other resources.
- **Outline procedures for obtaining follow-up information on loss-mitigation applications:** The new rule provides specific procedures for servicers to follow if they fail to identify and inform a borrower upon an initial review that certain information is missing from the borrower's loss mitigation application.
    - The procedures require the servicer to notify the borrower of the information gap and provide a reasonable amount of time for the borrower to supply the missing information.
    - The procedures also specify how the regulations' protections from foreclosure and various procedural rights apply to borrowers during the time period for gathering the additional information and once the information is provided.
- **Facilitate servicers' offering of short-term forbearance plans:** The modifications make it easier for servicers to offer short-term forbearance plans for delinquent borrowers who need only temporary relief without going through a full loss-mitigation evaluation process. Under the final rule, a servicer may, upon reviewing an incomplete loss mitigation application, provide a six-month forbearance to a borrower who is suffering a short-term, temporary hardship.
- **Clarify best practices for informing borrowers about the address for error resolution documents:** The January servicing rules allowed servicers to establish an exclusive address for consumers to send error complaints and information requests. The new rule provides more specificity on how to inform borrowers about the address by listing it on certain documents, such as an initial notice and a periodic statement or coupon book if applicable.
- **Facilitate lending in rural or underserved areas:** Some of the Bureau's mortgage rules contain provisions applicable to certain small creditors that operate predominantly in "rural" or "underserved" areas. The Bureau recently announced that it would

reexamine the definitions of rural or underserved over the next two years.

  - While the reexamination process is underway, today's changes will exempt all small creditors, even those that do not operate predominantly in rural or underserved counties, from a new ban on high-cost mortgages featuring balloon payments so long as the loans meet certain restrictions.
  - The rules will also make it easier for certain small creditors to continue qualifying for an exemption from a requirement to maintain escrows on certain higher-priced mortgage loans. Because of an update in Census data, some creditors otherwise might have lost their eligibility for this exemption in 2014 or 2015 while the Bureau was reexamining the underlying definitions.

- **Make clarifications about financing of credit insurance premiums:** The Bureau's loan originator compensation rule adopted the Dodd-Frank Wall Street Reform and Consumer Protection Act's prohibition on creditors financing credit insurance premiums in connection with certain mortgage transactions.

  - In response to interpretive questions, today's final rule makes clear that credit insurance premiums are "financed" by a creditor when the creditor allows the consumer to defer payment of the premium past the month in which it is due.
  - The final rule also explains how the rule applies to "level" or "levelized" premiums, where the monthly premium is the same each month rather than decreasing along with the loan balance.

- **Clarify the definition of a loan originator:** Under the CFPB's new rules, persons classified as loan originators are required to meet qualification requirements and are also subject to certain restrictions on compensation practices. Creditors and loan originators have expressed concern that tellers or other administrative staff could be unintentionally classified as loan originators for engaging in routine customer service activities. Today's modifications clarify the circumstances under which a loan originator's or creditor's administrative staff acts as loan originators.

- **Clarify the points and fees thresholds and loan originator compensation rules for manufactured housing employees:** For retailers of manufactured homes and their employees, the revisions clarify what compensation must be counted toward certain thresholds for points and fees under the Ability-to-Repay and high-cost mortgage rules. The revisions also clarify when employees of manufactured housing retailers may be considered loan originators.

- **Revise effective dates of many loan originator compensation rule provisions:** Prior to today's changes, the provisions of the Bureau's loan originator compensation rule that have not yet gone into effect were scheduled to take effect on January 10, 2014. The new rule changes the effective date for certain provisions of the rule to January 1, 2014, in order to simplify compliance since compensation plans, training, and licensing and registration are often structured on an annual basis.

The CFPB is committed to assisting with the mortgage industry's compliance with the new consumer protections. Throughout 2013, the CFPB has been working with industry to ensure a smooth transition. In addition to clarifying critical questions about the new mortgage rules, the Bureau has also published plain-language guides for each rule and interim examination procedures. The CFPB also plans to educate the public about their protections under the rules.

The Bureau has published a Regulatory Implementation website, which consolidates all of the new 2013 mortgage rules and related implementation materials, and can be found here: http://www.consumerfinance.gov/regulatory-implementation

A copy of today's final rule will be available after 3 p.m. here: http://files.consumerfinance.gov/f/201309_cfpb_titlexiv_updates.pdf

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