Bankers Advisory
COMPLIANCE MONITOR

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CFPB Publishes Compliance Guides on Ability-to-Repay and QM Rule

By Anna DeSimone

April 10, 2013 the Consumer Financial Protection Bureau (CFPB) published a Small Entity Compliance Guide for the Ability-to-Repay and Qualified Mortgage Rule. The CFPB's goal is to provide a comprehensive rule summary in a plain language and FAQ format. This guide will be followed by a series of additional guides for each of the new mortgage rules. Please refer to my article published on February 22, *"CFPB Announces Implementation Plans for New Mortgage Rules"* http://cdn.s3.webcontentor.com/OFFICE/BANKER01/files/misc_files/130225040819_2.22.13.CFPB.Anna.pdf

The agency has developed a guide for consumers entitled "What the Ability-to-Repay Rule Means for Consumers." The information contained in this booklet are provided below:

"What the Ability-to-Repay Rule Means for Consumers"

Ability to repay

Under the Ability-to-Repay rule, before you get a mortgage loan, the lender will have to determine you will have the ability to repay the loan.

The lender must collect and verify your financial information

When you apply for a mortgage loan, you will have to give the lender certain financial information. The lender will have to check the information using reliable documents, such as a W-2 or pay stub. The lender generally must consider eight types of information:

1. Your current income or assets
2. Your current employment status
3. Your credit history
4. The monthly payment for the mortgage
5. Your monthly payments on other mortgage loans you get at the same time
6. Your monthly payments for other mortgage-related expenses (such as property taxes)
7. Your other debts
8. Your monthly debt payments, including the mortgage, compared to your monthly income ("debt-to-income ratio"). The lender may also look at how much money you have left over each month after paying your debts.

You must have enough assets or income to pay back the mortgage

The lender must determine that you can repay the loan. The lender may look at your current income and assets (except the value of the mortgage itself). The lender must also look at your debt-to-income ratio or the amount of money you'll have left over each month to pay for things like food and heat.

A lender can't determine your ability to repay using "teaser" rates

The lender can't use temporary low payment rates to determine whether you are able to repay the mortgage. For example, if the loan is an adjustable-rate mortgage, the lender will generally have to consider the highest interest rate that you may have to pay.

The rule includes exceptions for refinancing a consumer out of a risky loan

In defined circumstances, the Ability-to-Repay rule may not apply to a creditor refinancing a borrower from a riskier mortgage to a more stable mortgage. An example of a risky loan could be an interest-only loan. An example of a more stable mortgage could be a fixed-rate mortgage.

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What to do if your lender doesn't follow the rules

If you think your lender is not following the Ability-to-Replay/Qualified Mortgage rule, the Consumer Financial Protection Bureau wants to know. Note: the CFPB provides web and telephone information.

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