



Bankers Advisory

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CFPB Releases Exam Procedures for New Mortgage Rules

By Anna DeSimone

June 4, 2013 the Consumer Financial Protection Bureau (CFPB) published the first update to its exam procedures for the new mortgage regulations it issued in January 2013. The exam procedures offer financial institutions and mortgage companies valuable guidance on what the CFPB will be looking for as the rules become effective. The new regulations include those on appraisals, escrow accounts, and compensation and qualifications for loan originators.

In January, the CFPB issued numerous new regulations reforming the mortgage market, many of which were directed by the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. The rules cover many stages of a consumer's mortgage experience, from shopping for a loan to paying it off. Most of the CFPB's new rules go into effect in January 2014.

The June 4th release of exam procedures will help financial institutions and mortgage companies understand how they will be examined for CFPB rules that:

Set qualification and screening standards for loan originators: A loan originator must be ethical and knowledgeable. They will need to: meet character, fitness, and financial responsibility requirements; pass criminal background checks; and complete appropriate training.

Prohibit steering incentives: Compensation for a loan originator generally cannot vary with the loan terms. A broker or loan officer cannot get paid more if the consumer takes a loan with a higher interest rate, a prepayment penalty, or higher fees.

Prohibit "dual compensation:" A loan originator cannot get paid by both the consumer and another person such as the creditor.

Protect borrowers of higher-priced mortgage loans: The required duration of an escrow account on higher-priced mortgage loans extends from a minimum of one year to a minimum of five years.

Prohibit the waiver of consumer rights: It is prohibited to bar consumers in their mortgage or home equity loan or related agreements from bringing a claim in court in connection with any alleged violation of federal law.

Prohibit mandatory arbitration: Mandatory arbitration of disputes related to mortgage loans is generally prohibited for mortgage and home equity loans.

Require lenders provide appraisal reports and valuations: Mortgage lenders will need to provide applicants with free copies of all appraisals and other written valuations developed in connection with certain mortgage loan applications.

Prohibit single premium credit insurance: Creditors will be prohibited from financing certain credit insurance premiums in connection with certain mortgage loans.

The CFPB is sharing with industry what it will be looking for in its examinations under the new rules by updating the applicable sections of the exam procedure manuals for two laws - the Truth in Lending Act (TILA) and the Equal Credit Opportunity Act (ECOA). These documents are intended for use by CFPB examiners and the financial institutions and mortgage companies subject to the new regulations. They are the first round of updates for what will likely be multiple updates.

The CFPB is committed to the mortgage industry's compliance with the new consumer protections. Throughout 2013, the CFPB has been working for a smooth transition. It has published plain-language guides. It plans to educate the public about their protections under the new rules. And it plans to publish additional interim examination procedures.

Within the next several months, the CFPB will publish its first round of exam procedures for the Ability-to-Repay and mortgage servicing rules.

The CFPB is coordinating with other federal government regulators that also conduct examinations of mortgage companies and financial institutions to ensure all regulators have a shared understanding of the CFPB's new rules. This multi-agency effort includes the interagency development of exam procedures. For example, the TILA procedures released today are based on the approved Federal Financial Institutions Examination Council procedures. This interagency effort helps promote a consistent regulatory experience for industry.



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