



# Bankers Advisory

## COMPLIANCE MONITOR

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### *New York Amends Meaning of Sub-Prime Terms*

By Nicole Legere

The New York Department of Financial Services recently amended several provisions of the sub-prime banking law in an effort to update specific terms relative to sub-prime home loans. Specifically, the amendments addressed the definition of the terms "week," "good faith estimate" and "commitment" which are found in Part 43. Each of these terms can be found in the sub-prime definition, and are used to determine if a particular loan is considered sub-prime. These amendments are effective immediately.

New York Banking Law Section 6-m defines sub-prime home loans as "a home loan in which the initial interest rate or the fully-indexed rate, whichever is higher, exceeds by more than one and three-quarters percentage points for a first-lien loan, or by more than three and three quarters percentage points for a subordinate lien loan, the average commitment rate for loans in the northeast region with a comparable duration of such home loan, as published by the Federal Home Loan Mortgage Corporation (Freddie Mac) in its weekly Primary Mortgage Market Survey (PMMS) posted the week prior to the week in which the lender provides the Good Faith Estimate (GFE)."

The amendment defines the term "week" to mean the seven-day period from Friday through Thursday, which is the day Freddie Mac publishes the PMMS. Therefore, the relevant PMMS for determination of a sub-prime loan is the one published on the Thursday prior to receiving the GFE. The amendment provides the following example, "if a lender provides a GFE on any day including Friday, June 14 through Thursday, June 20, the relevant PMMS is the one published on Thursday, June 13.

The term "GFE," as referred to in the sub-prime definition, is defined to mean the GFE used to establish the terms of the mortgage loan. The amendment further states that if a revised GFE is required under Regulation X, then term GFE shall mean the revised GFE.

Lastly, the amendment addressed the definition of the term "commitment" which is found Section 6-m(1)(b) which defines the fully indexed rate. Under this section, the fully indexed rate for fixed rate loans is defined as "the annual percentage rate on any loan disregarding any introductory rate or rates and any interest rate caps that limit how quickly the contractual interest rate may be reached calculated at the time the lender issues its commitment."

The amendment clarifies the term "commitment" by saying that in all cases where a commitment is not issued by a lender the term commitment means the good faith estimate.

These amendments provide some additional depth to the sub-prime definition which is intended to help lenders determine more easily if a loan should be considered sub-prime. The amendments can be read in full at: <http://www.dfs.ny.gov/legal/regulations/proposed/banking/bp43t.pdf>



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