

KEY REG CHANGES ARRIVE

Will impact mortgage lending from origination to closing

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Like them or not, changes have arrived in the lending industry. After exhaustive comment periods, various amendments have been published to federal regulations impacting Regulation Z, C and RESPA. These changes will impact the process of mortgage lending from origination

to closing.

This article is intended to only be a brief summary of the changes; it is advised that you review these changes immediately since there could be extensive system changes and staff training.

REGULATION Z CHANGES EFFECTIVE DATE OCTOBER 1, 2009

(The escrow requirement has an effective date of April 1, 2010 for site-built homes, and October 1, 2010 for manufactured homes)

With the recent changes to Regulation Z, a new category has been created. The new category is defined as "Higher-priced mortgage loans" which introduces four new areas of consumer protection. First, a lender must take into consideration a borrower's ability to repay the loan from income and assets and not solely from the home's value. Second, income and assets used to determine repayment ability must be verified. Third, establish escrow accounts for property taxes and homeowner's insurance on all first mortgage loans and fourth, ban any prepayment penalty if the payment can change during the initial four years. On higher-priced loans, a prepayment penalty cannot last for

more than two years.

Additionally, there is a threshold for "higher-priced mortgage loans" based on a survey from FHLMC which the Federal Reserve Board will publish called the "average prime offer rate". A "higher-priced" loan is a first-lien mortgage that has an APR that is 1.5% points or more above this index, or 3.5% points for subordinate-lien mortgages.

For all other loans creditors and mortgage brokers will be prohibited from coercing a real estate appraiser to misstate a home's value. A creditor must provide a good faith estimate of the loan costs, including a schedule of payments within three days after a consumer applies for any mortgage loan secured by a consumer's principal dwelling, such as a home improvement loan or a loan to refinance an existing loan. Consumers cannot be charged a fee until after they receive the early disclosures, except a reasonable fee for obtaining the consumer's credit history. Also, escrow accounts will be required for property taxes and HOA insurance for first-lien mortgages.

REGULATION C (HMDA) EFFECTIVE DATE OCTOBER 1, 2009

As a part of this regulatory change, the Federal Reserve Board has also proposed changes to Regulation C (Home Mortgage Disclosure Act). The intent of these changes is to standardize the definitions between Regulation Z and Regulation C. Lenders will no longer use the Treasury yield to calculate the rate spread but the Average Prime Offer Rate which is based on the Primary



Mortgage Market Survey conducted by Freddie Mac. The threshold for reporting also changes to 1.5 percent above the applicable average prime offer rate for first-lien loans and 3.5 points above the applicable average prime offer rate for subordinate-lien loans.

RESPA EFFECTIVE DATE JANUARY 1, 2010

New RESPA changes have been published along with the new GFE and HUD-1. HUD will require mortgage lenders and brokers to provide borrowers with an easy-to-read standard Good Faith Estimate (GFE) within three days after the loan originator's receipt of all necessary information. It is the intent of HUD that the new GFE will clearly answer the key questions a borrower has when applying for a mortgage including such as the term of the loan, the interest rate, prepayment penalty, balloon payments and total closing costs.

To facilitate shopping, loan originators could not

require verification of GFE information (tax returns etc.) until after the applicant makes the decision to proceed.

Also to be disclosed in a more meaningful way on the new GFE, are lender payments to mortgage brokers (often called Yield Spread Premiums).

For a more detailed review of 2008 state and federal changes, contact CMS for our CMS 2008 in review newsletter.

George H. Marentis is President/CEO of Compliance Made Simple, LLC, a company that provides licensing services and other compliance related services to the mortgage lending industry nationwide. For more information see www.compliancemadesimple.org or call 303.859.8550. Mr. Marentis has a Juris Doctorate and over 15 years of mortgage lending experience ranging from frontline operations, origination to regulatory and legislative compliance. Information provided in this article is not intended to be legal advice and is informational only.