

Farm Credit Administration

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INFORMATIONAL MEMORANDUM



January 27, 2011

To: Chief Executive Officer
All Farm Credit System Institutions

From: Samuel R. Coleman, Director and Chief Examiner
Office of Examination

A handwritten signature in black ink that reads 'Samuel R. Coleman'.

Subject: Three Amendments to Regulation Z, Truth in Lending

The purpose of this Informational Memorandum is to provide information regarding three rules amending Regulation Z, Truth in Lending. These rules apply only to loans that are subject to the Truth in Lending Act (TILA). All three rules will be codified in Regulation Z, at 12 CFR Part 226. All institutions should adopt appropriate procedures to ensure compliance with these amendments.

Rule Requiring Notice to Consumers about the Sale or Transfer of Their Mortgage Loans

The Federal Reserve Board (FRB) adopted a final rule to implement a statutory amendment to the TILA requiring that consumers receive notice when their mortgage loans have been sold or transferred. The statutory disclosure requirement became effective in May 2009, upon enactment of the Helping Families Save Their Homes Act. Under that act, a purchaser or assignee that acquires a mortgage loan must provide the required disclosures in writing within 30 days.

Parties subject to the statutory requirement have been required to follow an interim rule implementing the requirement since November 2009. Parties are now required to follow this new final rule, which had a mandatory compliance date of January 1, 2011. See the copy of the rule, published at 75 FR 58489, which is attached and titled **Regulation Z Notice to Consumers**.

Rule on Loan Originator Compensation and Steering

The FRB adopted a final rule to protect mortgage borrowers from unfair, abusive, or deceptive lending practices that can arise from loan originator compensation practices. The new rule applies to all persons who originate closed-end loans secured by a consumer's dwelling. The rule:

- Prohibits payment to a loan originator that is based on a loan's interest rate or other terms. It permits compensation based on a fixed percentage of the loan amount.
- Prohibits a mortgage broker or loan officer from receiving payments directly from a consumer while also receiving compensation from the creditor or another person.

- Prohibits a mortgage broker or loan officer from “steering” a consumer to a lender offering less favorable terms in order to increase the broker’s or loan officer’s compensation.
- Provides a safe harbor to facilitate compliance with the anti-steering rule.

The rule is effective April 1, 2011.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Reform Act) also restricts practices concerning loan originator compensation. The Reform Act includes provisions that are similar to this final rule, but it also addresses other practices not covered by this rule. The FRB plans to implement the Reform Act provisions in a future rulemaking. See the copy of the rule, published at 75 FR 58509, which is attached and titled **Loan Originator Compensation**.

In addition, a link to the press release announcing the FRB’s adoption of the rule is provided here: [Press Release on Compensation Practices](#)

The press release provides additional information that may be of interest and also contains a link to a document setting forth highlights of the rule.

Interim Rule Revising Disclosure Requirements for Closed-End Mortgage Loans

The FRB adopted an interim rule (the “December interim rule”) clarifying certain aspects of a September 24, 2010 interim rule (the “September interim rule”) that revised the disclosure requirements for closed-end mortgage loans. The September interim rule implements provisions of the Mortgage Disclosure Improvement Act (MDIA), which amended the TILA to require mortgage lenders to disclose examples of how a loan’s interest rate or monthly payments can change. Those statutory amendments will become effective on January 30, 2011.

The MDIA seeks to alert borrowers to the risk of payment increases before they take out mortgage loans with variable rates or payments. Under the September interim rule, lenders’ cost disclosures must include a payment summary in the form of a table stating the initial rate and corresponding periodic payment and, for adjustable rate loans, the maximum rate and payment that can occur during the first five years as well as a “worst case” example showing the maximum rate and payment possible over the life of the loan.

The December interim rule clarifies that creditors’ disclosure should reflect the first rate adjustment for a “5/1 ARM” loan because the new rate typically becomes effective within 5 years after the first regular payment due date. The December interim rule also corrects the requirements for interest-only loans to clarify that creditors’ disclosures should show the earliest date the consumer’s interest rate can change rather than the due date for making the first payment under the new rate. The rule also clarifies which mortgage transactions are covered by the special disclosure requirements for loans that allow minimum payments that cause the loan balance to increase.

The December interim rule is effective January 31, 2011. Creditors have the option of complying with either the September interim rule or the December interim rule until October 1, 2011, at which time compliance with the December interim rule will become mandatory. The FRB is soliciting comment before it considers adopting a final rule. See the copy of the rule, published at 75 FR 81836, which is attached and titled **Dec Closed-End Mortgage Disclosure**. A copy of the rule, published at 75 FR 58470, is attached and titled **Sept Closed-End Mortgage Disclosure**.

In addition, a link to the press release announcing the FRB's adoption of the September interim rule, which provides additional information that may be of interest, is provided here: [Press Release on Closed-End Mortgage Disclosure](#)

If you have any questions about this Informational Memorandum, please contact Jennifer A. Cohn, Senior Counsel, Office of General Counsel, at (703) 883-4028, or by e-mail at cohnj@fca.gov; and/or David Stephens, Office of Examination, at (703) 883-4412, or by e-mail at stephensd@fca.gov.

Attachments