MORTGAGE REFORM UNDER THE DODD–FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

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Senior Consumer Regulations Specialist
Federal Reserve Bank of Philadelphia
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Disclaimer: the views expressed do not necessarily represent the views of the Federal Reserve Bank of Philadelphia or the Federal Reserve System
The most significant financial reform law (849 printed pages) since the Great-depression legislation: [http://1.usa.gov/DFA-law](http://1.usa.gov/DFA-law)

16 titles to address different factors contributing to the crisis

Title XIV (Mortgage Reform and Anti-Predatory Lending Act) makes significant changes to residential mortgage lending

Consumer Financial Protection Bureau (CFPB) must issue implementing regulations for Title XIV’s provisions, which must become effective no later than Jan. 21, 2014
Title XIV of the Dodd-Frank Act

MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT
How we got here . . .

I'd like to buy a house, so I need a loan for $400,000. I have no job nor a down payment.

No down payment and no job, and you want a loan for $400,000? Sir, you do not understand how the banking system works, do you?

We can't give a man of your qualifications a loan for $400,000. But for a limited time you do qualify for a loan for $950,000 at 3% interest*. But you must act fast before reality sets back in and we return to our senses!

* After 1 year interest rate increases to 35%.
REGISTRATION OR LICENSING OF MORTGAGE LOAN ORIGINATORS

- Loan originators cannot originate mortgage loans unless licensed (non-banks) or registered (banks) in SAFE Act national registry and must include unique originator identification number on all loans.

- SAFE Act licensing/registration requirements include criminal check, credit report check, MLO test, continuing education, and database of state disciplinary actions that public can access without charge.

- Originators with felony convictions in last 7 years, or convictions at any time for crimes involving fraud, dishonesty, breach of trust, or money laundering, cannot be licensed or registered.
Federal Reserve Board issued LOC rules effective April 2011, which will be replaced by Dodd-Frank Act requirements, which are similar but contain additional protections.

Under Dodd-Frank Act, LOC cannot vary with loan terms and conditions (except loan amount).

If consumer compensates loan originator, originator cannot receive compensation from creditor or anyone else.

Creditor can pay originator’s compensation only if:
- consumer does not pay it
- consumer does not pay discount or origination points or fees except third party charges not retained by the MO, creditor, or affiliate
- but CFPB may provide exemptions if they are in the public interest
ANTI-STEERING AND UDAAP PROHIBITIONS

Anti-steering provisions

CFPB must issue rules prohibiting originators from:

- steering consumer to a mortgage consumer cannot reasonably repay
- steering consumer from a Qualified Mortgage (discussed later) to a non-qualified mortgage
- steering consumer to mortgage with predatory characteristics such as equity stripping, abusive terms, or excessive fees
- engaging in abusive or unfair lending practices that promote disparities among consumers of equal credit worthiness but of different race, ethnicity, gender, or age
- mischaracterizing consumer’s credit history, appraised value of property, or mortgage loans available to a consumer

UDAAP mortgage rulemaking

CFPB can issue regulations to ban unfair, deceptive, abusive, or predatory acts or practices for mortgages or issue rules needed to ensure that responsible, affordable mortgage credit remains available
RESIDENTIAL MORTGAGES: ABILITY-TO-REPAY REQUIREMENT

• Creditors must make a reasonable and good faith determination based on verified and documented information that consumer has reasonable ability to repay mortgage, including applicable taxes, insurance, and assessments

• Exemption provided for open-end credit plans (e.g. HELOCs), timeshares, reverse mortgages, and temporary loans (12 months or shorter)

• Federal Reserve Board issued rulemaking proposal in April 2011, with 4 compliance options, which CFPB will make final
Compliance Option 1

Repayment ability: creditor must examine and document 8 factors

1. Current or reasonably expected income or assets
2. Current employment status
3. Monthly loan payment
4. Monthly payment on any simultaneous loan
5. Monthly payment for mortgage-related obligations
6. Current debt obligations
7. Monthly debt-to-income ratio, or residual income
8. Credit history
Compliance Option 1

- No limits on risky features (such as negative amortization), loan terms, and points and fees

- Underwriting of the mortgage payment must be based on:
  - Fully indexed rate or introductory rate, whichever is greater; and
  - Monthly equal payments that amortize the loan amount

- Special calculations for negative amortization, interest-only and balloon loans
  - Higher-priced balloon loan – use balloon payment
  - Balloon loan not higher-priced – use maximum payment during first 5 years after consummation
Compliance Option 2: Qualified Mortgage

Safe Harbor Requirements

- Loan does not contain negative amortization, interest-only payments, or balloon payments;
- Term does not exceed 30 years;
- Points and fees cannot exceed 3% of the loan amount;
- Income or assets are considered and verified;
- Mortgage underwriting
  - Based on maximum rate in the first 5 years after consummation
  - Payment schedule fully amortizes the loan
- Underwriting generally
  - Consider and verify income or assets
  - Consider mortgage-related obligations
Compliance Option 2: Qualified Mortgage

Presumption of Compliance

- Same as QM safe harbor plus creditor must consider and verify—
  - Employment status
  - Simultaneous loan
  - Current debt obligations
  - DTI or residual income
  - Credit history

- Board solicited comment on whether to adopt “safe harbor” or “presumption of compliance” requirements in final rule

- Compliance with “safe harbor” provides stronger legal protection to creditors than compliance with “presumption of compliance”
<table>
<thead>
<tr>
<th>Ability to Repay Standard</th>
<th>General Ability-to-Repay Standard</th>
<th>QM (safe harbor)</th>
<th>QM (presumption of compliance)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Risky Features</td>
<td>No requirement</td>
<td>No negative amortization, interest only, balloon payments</td>
<td>No negative amortization, interest only, balloon payments</td>
</tr>
<tr>
<td>Term</td>
<td>No requirement</td>
<td>May not exceed 30 years</td>
<td>May not exceed 30 years</td>
</tr>
<tr>
<td>Points &amp; Fees</td>
<td>No requirement</td>
<td>May not exceed 3% of loan amount for loans of $75,000 or more</td>
<td>May not exceed 3% of loan amount for loans of $75,000 or more</td>
</tr>
<tr>
<td>Mortgage Underwriting</td>
<td>Fully indexed rate or introductory rate, whichever is greater</td>
<td>Max. interest rate in first 5 years</td>
<td>Max. interest rate in first 5 years</td>
</tr>
<tr>
<td>Mortgage-Related Obligations</td>
<td>Consider and verify</td>
<td>Consider</td>
<td>Consider</td>
</tr>
<tr>
<td>Income or Assets</td>
<td>Consider and verify</td>
<td>Consider and verify</td>
<td>Consider and verify</td>
</tr>
<tr>
<td>Employment Status</td>
<td>Consider and verify</td>
<td>No requirement</td>
<td>Consider and verify</td>
</tr>
<tr>
<td>Simultaneous Liens</td>
<td>Consider and verify</td>
<td>No requirement</td>
<td>Consider and verify</td>
</tr>
<tr>
<td>Current Debt Obligations</td>
<td>Consider and verify</td>
<td>No requirement</td>
<td>Consider and verify</td>
</tr>
<tr>
<td>DTI or RI</td>
<td>Consider and verify</td>
<td>No requirement</td>
<td>Consider and verify</td>
</tr>
<tr>
<td>Credit History</td>
<td>Consider and verify</td>
<td>No requirement</td>
<td>Consider and verify</td>
</tr>
</tbody>
</table>
RESIDENTIAL MORTGAGES: ABILITY-TO-REPAY REQUIREMENT

Compliance Option 3:
Balloon-Payment Qualified Mortgage

For community banks. Same requirements as QM, except—

- Limited to creditors with assets of $2 billion or less operating in rural or underserved areas,

- Risky features: interest only and balloon payments permitted

- Minimum loan term: loan must have a term of 5 years or greater

- Mortgage underwriting
  - All of the scheduled payments, except the balloon payment
  - Amortization period cannot exceed 30 years

- Creditor must hold loans in portfolio
Compliance Option 4
Refinancing Non-standard Mortgage into Standard Loan

- Exempt from income/asset verification
- Non-standard mortgage:
  - ARM with an introductory fixed interest rate for a period of year
  - Interest-only loan
  - Negative amortization loan
- Standard mortgage:
  - No negative amortization, interest only payments, balloon payments
  - Loan term may not exceed 40 years
  - Limits on points and fee
  - Interest rate is fixed for the first 5 years after consummation
  - Limits on use of loan proceeds
  - Mortgage underwriting based on maximum interest rate in first 5 years
Other mortgage protections in Board’s proposal:

• Significant limits on prepayment penalties

• Prepayment penalties only available for prime, fixed-rate QMs

• Prepayment penalties may not exceed:
  • in 1st year, 3% of the outstanding loan balance prepaid
  • In 2nd year, 2% of the outstanding loan balance prepaid
  • In 3rd year, 1% of the outstanding loan balance prepaid

• No prepayment penalty after the third year

• Creditor must offer loan without a prepayment penalty

• Expansion of record retention rules

• Prohibition on evasion through open-end credit
• Bans mandatory arbitration clauses

• Requires mandatory escrow of insurance and taxes for first-lien residential mortgages for at least first 5 years unless:
  • Borrower is no longer required to have PMI
  • Borrower becomes delinquent
  • Borrower has not complied with credit agreement
  • Mortgage is terminated

• Requires counseling for high-cost mortgages and lowers high-cost triggers

• Establishes appraiser independence requirements
• Consumers in state with anti-deficiency provision must receive notice from creditor

• Creditors must provide additional disclosures for negative-amortization loans

• Creditors must provide notice 6 months before change for hybrid loans

• New loan-closing disclosures, including wholesale rate of funds, originator compensation, and interest paid over loan as percent of principal
Securitizers must retain 5% of securitized product (skin in the game) unless exemption applies.

For mortgages, 5% requirement does not apply to QRMs.

Six agencies issued proposed QRM definition in March 2011.

Under proposal, risk retention requirement does not apply to securitization of federally insured or guaranteed loans (such as FHA and VA loans), to ABS issued or guaranteed by a State or political subdivision, and to Fannie/Freddie loans while these GSEs are in receivership.
### Differences Between QRM and QM

<table>
<thead>
<tr>
<th></th>
<th>Qualified Residential Mortgage (risk-retention rules)</th>
<th>Qualified Mortgage (safe harbor ability-to-pay rules)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Risky Features</strong></td>
<td>no negative amortization, interest only payments, balloon payments, <strong>subordinate liens for purchases, prepayment penalties</strong></td>
<td>no negative amortization, interest only payments, balloon payments</td>
</tr>
<tr>
<td><strong>Term</strong></td>
<td>may not exceed 30 years</td>
<td>may not exceed 30 years</td>
</tr>
<tr>
<td><strong>Points &amp; Fees</strong></td>
<td>may not exceed 3% of the total loan amount</td>
<td>may not exceed 3% of the total loan amount for loans of $75,000 or more, exceptions for smaller loans</td>
</tr>
<tr>
<td><strong>Underwriting</strong></td>
<td>based on maximum interest rate during first 5 years</td>
<td>based on maximum interest rate during first 5 years</td>
</tr>
<tr>
<td><strong>Mortgage-Related Obligations</strong></td>
<td>consider and <strong>verify</strong></td>
<td>consider</td>
</tr>
<tr>
<td><strong>Income or Assets</strong></td>
<td>consider and verify</td>
<td>consider and verify</td>
</tr>
<tr>
<td><strong>Employment Status</strong></td>
<td><strong>consider and verify</strong></td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>Simultaneous Liens</strong></td>
<td><strong>consider and verify</strong></td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>Current Debt Obligations</strong></td>
<td><strong>consider and verify</strong></td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>DTI or RI</strong></td>
<td><strong>DTI: front end ratio of 28, back end ratio of 36</strong></td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>Credit History</strong></td>
<td>current on all debts; no 60-day delinquencies in past 2 years; no bankruptcies or foreclosures in past 3 years</td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>LTV</strong></td>
<td>purchase: 80%; refinancing: 70-75%</td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>Servicing</strong></td>
<td>commitment in mortgage transaction documents</td>
<td>no specific requirement</td>
</tr>
<tr>
<td><strong>Down payment</strong></td>
<td>20% for purchase transaction</td>
<td>no specific requirement</td>
</tr>
</tbody>
</table>
Dodd-Frank Act shortens deadline for servicers to respond to a RESPA qualified written request (QWR) from a borrower about loan servicing issue.

Currently, servicers have 20 days to acknowledge receipt of QWR and 60 days to take action.

Under Dodd-Frank Act, servicer has 5 business days to acknowledge receipt of a QWR, 30 business days to respond, and optional 15-day extension if notice is provided to borrower.

During investigation, servicer cannot furnish negative information to credit bureaus about a disputed payment.
• Servicer must provide accurate payoff balance within 7 business days of receiving request

• Servicer must credit payment on date of receipt unless delay does not result in charge or fee to consumer or negative reporting to credit bureaus

• Escrows must be refunded to borrower within 20 business days of loan payoff
• Must have a reasonable basis for forced-placement insurance

• Two notices must be sent to borrower before imposing forced-placement insurance
  • First notice:
    • inform borrower of duty to maintain hazard insurance
    • inform borrower servicer has no evidence of coverage
    • identify procedures borrower can use to demonstrate coverage
    • threaten to force-place if borrower does not timely demonstrate insurance
  • Second notice:
    • Same items as first notice
    • Send at least 30 days after mailing of first written notice

• Servicer may force place insurance if coverage is not established 15 days after second notice mailed
Methods for borrower to establish insurance coverage:
  - Any reasonable written confirmation
  - Policy number with contact information for company/agent

Servicer must terminate force-placed insurance within 15 days after receiving confirmation of insurance

Servicer must return all premiums and fees during duplicative coverage period
ENFORCEMENT OF MORTGAGE PROVISIONS

• Nonbank mortgage originators, servicers, and providers of loan modification and foreclosure relief services are— for the first time— subject to examination by the CFPB for compliance with federal consumer protection laws

• Banks with assets under $10 billion are subject to compliance examinations by their primary federal regulator

• Banks with assets over $10 billion are subject to compliance examinations by the CFPB
Springside Mortgage

Adam and Mary Jones
4700 Oak Ridge Ln
Bethesda, MD 20814

Mortgage Statement
Statement Date: 3/20/2012

<table>
<thead>
<tr>
<th>Account Number</th>
<th>1284567</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment Due Date</td>
<td>4/1/2012</td>
</tr>
<tr>
<td>Amount Due</td>
<td>$1,829.71</td>
</tr>
</tbody>
</table>

*if payment is received after 4/25/12, pay $2,883.71*

<table>
<thead>
<tr>
<th>Account Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Address</td>
</tr>
<tr>
<td>Outstanding Principal</td>
</tr>
<tr>
<td>Maturity Date</td>
</tr>
<tr>
<td>Interest Rate (Until October 2012)</td>
</tr>
<tr>
<td>Prepayment Penalty (Until September 2014)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Current Payment Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
</tr>
<tr>
<td>Interest</td>
</tr>
<tr>
<td>Escrow (for taxes and insurance)</td>
</tr>
<tr>
<td>Regular Monthly Payment</td>
</tr>
<tr>
<td>Total Fees Charged</td>
</tr>
<tr>
<td>Total Amount Due</td>
</tr>
</tbody>
</table>

Contact Us
By Phone: 1-800-939-1234
Online: www.aside-adventure.com

Transaction Activity (2/20/2012 – 3/19/2012)

<table>
<thead>
<tr>
<th>Date</th>
<th>Description</th>
<th>Charges</th>
<th>Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/16/12</td>
<td>Late Fee (charged because payment was received after 3/15/2012)</td>
<td>$100.00</td>
<td>$1,669.71</td>
</tr>
<tr>
<td>3/17/12</td>
<td>Payment Received—Thank you</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Past Payments Breakdown

<table>
<thead>
<tr>
<th></th>
<th>Paid Last Month</th>
<th>Paid Year to Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal</td>
<td>$384.49</td>
<td>$1,153.85</td>
</tr>
<tr>
<td>Interest</td>
<td>$1,048.07</td>
<td>$3,153.34</td>
</tr>
<tr>
<td>Escrow (Taxes and insurance)</td>
<td>$235.18</td>
<td>$702.04</td>
</tr>
<tr>
<td>Fees</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Total</td>
<td>$1,669.71</td>
<td>$5,009.13</td>
</tr>
</tbody>
</table>

Important Messages

If You Are Experiencing Financial Difficulty: If you would like mortgage counseling or assistance, you can find a list of counselors in your area on the U.S. Department of Housing and Urban Development’s website at www.hud.gov. On the back of this page, we have also provided contact information for three state- or federally-approved counseling programs in your area.
CFPB’S PROTOTYPE COMBINED RESPA/TILA DISCLOSURE FORM

SETTLEMENT DISCLOSURE

This form is a statement of all itemized and prorated costs. Company is responsible for your loan estimate.

SETTLEMENT INFORMATION
Date: 12/30/2012
Agent: ABC Settlement
File #: 01394
Property: 405 Avenue A
Amberly, PA 12345
Sale Price: $152,200

TRANSACTION INFORMATION
Buyer: James White and Jane Johnson
203 Somewhere Street
Amberly, PA 12345

Seller: Mr. and Mrs. Williams
223 Somewhere Drive
Amberly, PA, 12345

LOAN INFORMATION
Loan Term: 30 years
Interest Rate: 4.375%

LOAN TERMS

Closing Costs

Choke to Close: $27,629.00
Closing Cost ( Includes $5,519.53 in Settlement Fees, See details on page 2.): $22,841.47

SETTLEMENT DISCLOSURE PAGE 1 OF 2
### CFPB'S PROTOTYPE COMBINED MORTGAGE LOAN DISCLOSURE FORM (CONT.)

#### What Changed?

<table>
<thead>
<tr>
<th>What Changed</th>
<th>Estimate</th>
<th>Final</th>
<th>Over Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Settlememt Date</td>
<td>$2,700.00</td>
<td>$5,316.00</td>
<td></td>
</tr>
<tr>
<td>Settlement Costs</td>
<td>$4,409.17</td>
<td>$8,866.31</td>
<td></td>
</tr>
<tr>
<td>Owner's Title/Trustee Escrow</td>
<td>$0.00</td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>Deposit</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
<td></td>
</tr>
<tr>
<td>Cash for Survey</td>
<td>50.00</td>
<td>50.00</td>
<td></td>
</tr>
<tr>
<td>Jar for Costs</td>
<td>20.00</td>
<td>20.00</td>
<td></td>
</tr>
<tr>
<td>Other Cash Adjustments</td>
<td>$3,317.09</td>
<td>$3,317.09</td>
<td></td>
</tr>
<tr>
<td>Adjustments to Be Noticed</td>
<td>10.00</td>
<td>$1,496.49</td>
<td></td>
</tr>
</tbody>
</table>

**Cash to Close**: $25,993.37

**Total Due from Borrower at Closing**: $27,417.56

### INCREASES OVER LIMITS

<table>
<thead>
<tr>
<th>Increases Over Limits</th>
<th>Estimate</th>
<th>Final</th>
<th>Over Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs That Could Not Be Reasoned on</td>
<td>$0.00</td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>A. Origination Charges</td>
<td>$2,260.00</td>
<td>$2,220.00</td>
<td></td>
</tr>
<tr>
<td>B. Transfer Fees</td>
<td>$2,470.00</td>
<td>$2,470.00</td>
<td></td>
</tr>
</tbody>
</table>

**Total**: $2,730.00

**Cash that Could Not Be Reasoned on** = 10% of Total

### INDETERMINATE CHARGES

<table>
<thead>
<tr>
<th>Indeterminate Charges</th>
<th>Estimate</th>
<th>Final</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest Rate Changes after Closing</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Did Indeterminate Narrative Apply</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

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#### Summaries of Transactions

### Property Transactions

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Date</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Due from Borrower at Closing</td>
<td></td>
<td></td>
<td>$5,316.00</td>
</tr>
<tr>
<td>Closing Costs Paid at Closing for Borrower</td>
<td></td>
<td></td>
<td>$4,409.17</td>
</tr>
<tr>
<td>Closing Costs Paid at Closing for Borrower</td>
<td></td>
<td></td>
<td>$3,317.09</td>
</tr>
</tbody>
</table>

### Seller's Transaction

<table>
<thead>
<tr>
<th>Transaction</th>
<th>Date</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Due from Seller at Closing</td>
<td></td>
<td></td>
<td>$80,810.07</td>
</tr>
</tbody>
</table>

### Settlement Details

<table>
<thead>
<tr>
<th>Settlement Details</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Due from Borrower at Closing</td>
<td>$27,417.56</td>
</tr>
<tr>
<td>Total Due from Seller at Closing</td>
<td>$80,810.07</td>
</tr>
<tr>
<td>Cash to Close</td>
<td>$27,417.56</td>
</tr>
</tbody>
</table>

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Questions?