

# PUBLICATION

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## CFPB Snapshot: Fast Approaching Deadlines for Compliance with New Regulations

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The Consumer Financial Protection Bureau is gearing up for a busy January, when new regulations directed at the residential mortgage industry are due to be implemented. While lenders scramble to comply with stringent deadlines under the threat of sanctions, one deadline has already passed.

On June 1, 2013, the amended Regulation Z went into effect, requiring the establishment of escrow accounts for a minimum of five years for Higher Priced Mortgage Loan Transactions. One notable exemption that stands out involves mortgage transactions in rural or underserved areas, and lenders with asset size of less than two billion dollars.

Regulations taking effect on January 10, 2014 include:

- A requirement to make a reasonable, good faith determination of a consumer's ability to repay the loan along with a limitation on prepayment penalties and a requirement that the lender retain proof of compliance;
- Expansion of Home Ownership and Equity Protections Act of 1994 (HOEPA) protections to additional types of mortgages and imposition of a pre-loan counseling requirement;
- Revisions to the Real Estate Settlement Procedures Act (RESPA, also known as Regulation X) obligating servicers to provide protections in connection with force-placed insurance, continuity of contact with personnel for delinquent borrowers and evaluation of loss mitigation potential; and
- A newly robust Truth in Lending Act (TILA, also known as Regulation Z) that amends the scope, timing, content and format of disclosures to consumers regarding interest rate adjustment, and requires prompt crediting of payments and responses to requests for pay-off quotes.

More rules and regulations take effect on January 18, 2014. Specifically, the Equal Credit Opportunity Act (Regulation B) will require creditors to supply applicants with copies of appraisals free of charge, and the revisions to TILA will require that appraisals for "higher-risk mortgages" (based on annual percentage rates) meet heightened standards, including a notification regarding the use of the appraisals.

Finally, requirements for loan originators will follow several deadlines beginning January 1, 2014, but the end effect will be to limit the potential for abuse at origination by imposing the following protocol:

- Originator compensation cannot be based on any of the transaction's terms;
- If compensation is received directly from a consumer, the originator cannot receive any compensation from another party involved in the same transaction;
- Originators must be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act); and
- Loan documents must reflect the originator's name and unique identifier provided by the Nationwide Mortgage Licensing System.

The originator compensation requirements also include compliance procedures for depository institutions, and the CFPB has identified this as a fluid area of study because additional research must be done regarding the function of points and fees in the marketplace and the impact on consumers' choices.

Application of these new regulations is a hefty burden and requires not only policy development within financial institutions, but also training of personnel, vendor management and self-auditing. And as of now, there will be no extensions provided to institutions, even when they make a showing of good faith effort to comply by the deadlines. The CFPB fully expects compliance by January, and is ready to begin policing the industry to ensure obedience.