

Looking Back & Planning Ahead

December 8, 2011
Presented by:
Brady W. Meadows

FREE SERIES

**Looking Back &
Planning Ahead**

Thursday, Dec. 8 | 1:00PM MDT

COST: FREE

Mortgage Compliance Advisors

Instructions

- Because of the large number of registrants, the lines will be muted.
- To ask a question, click the plus sign next to “Questions” on the GoToWebinar box and type your question.
- The panelists will address questions at the end of each topic. If your question is not addressed, we will email the answer to you.
- You can find today’s slides on our News & Resources page.



We are fortunate to have with us today a panel of experienced mortgage professionals. They will be taking the time to answer your questions and provide insight from hands-on application.

- Kristen Smith *MCA Training and Quality Manager*
- Brady W. Meadows *Vice President*

The information provided by Mortgage Compliance Advisors, LLC has been taken from various public resources and does not constitute legal advice.

Our Panelists



I. Agency & Regulatory Changes

- CFPB
- QRM and QM
- LO Comp
- Freddie QC

II. Underwriting Changes

- FHA
- VA
- Rural Development

III. Notable Changes

IV. Looking Forward to 2012

Agenda



Agency & Regulatory Changes

- The implementation of the Consumer Finance Protection Bureau (CFPB) signifies a major shift in enforcement of federal laws.
- The Qualified Residential Mortgage (QRM) and the Qualified Mortgage (QM) are likely the most important elements of Dodd-Frank affecting mortgage lending.

Dodd-Frank Implementations



Consumer Financial Protection Bureau

- As of July 21, 2011, consumer financial protection authorities were transferred to the CFPB
- Consumer protection is the failure of existing federal agencies; therefore,
- CFPB exists to prescribe uniform rules for a host of federal consumer statutes

CFPB



Who Is CFPB?

- An independent bureau of the FRB; however, the FRB cannot interfere with the functions of the CFPB
- FRB may delegate their bank consumer examination and supervision function to the CFPB

CFPB



CFPB Authority

- Disclosure authority to prescribe rules to ensure that a consumer financial product is fully and completely described to a consumer
- Provides the CFPB with authority to declare an act or practice by a provider of a consumer financial product or service to be an unfair, deceptive or abusive act or practice
- Possesses examination, supervision and enforcement authority

CFPB



CFPB Oversees...

Research	Community Affairs	Complaint Function
Office of Fair Lending & ECOA	Office of Financial Education	Office of Service Members Affairs
Office of Financial Protection	Consumer Advisory Board	Examination, Supervision & Enforcement Staff

CFPB



Scope of CFPB

- Has authority to examine and supervise a *covered* person engaged in a financial activity in connection with a consumer financial product or service
- Jurisdiction is based upon product or activity

CFPB



CFPB Coverage

- *Covered* persons include the following:
 - Banks, thrifts, and credit unions
 - Mortgage loan originators, servicers and brokers
 - Real estate settlement companies, appraisers, appraisal companies, and appraisal management companies
 - Consumer credit reporting agencies, in some cases
 - Debt collectors
 - Debt settlement and management services
 - Credit counselors
- Also includes “related persons”:
 - Officers and directors
 - Management employees
 - Joint venture partners
 - Independent contractors (includes attorneys, appraisers, and accountants)
- And “service providers”

CFPB



Regulations & Interpretations

- Equal Credit Opportunity Act (ECOA)
- Fair Credit Reporting Act (FCRA) *Except Sections 615(e) and 628*
- Gramm-Leach-Bliley Act *Privacy Sections 502 through 509*
- Home Mortgage Disclosure Act
- Home Ownership and Equity Protection Act (HOEPA)
- Real Estate Settlement Procedures Act (RESPA)
- S.A.F.E. Mortgage Licensing Act (SAFE)
- Truth-in-Lending Act (TILA)

CFPB



Possible Penalties Imposed By CFPB

- The CFPB may impose civil penalties in the amount of \$5,000 per day for a violation, up to \$25,000 per day for any reckless violation, and up to \$1 million per day for any knowing violation of any law, rule or final order or condition imposed by the Bureau.

CFPB



Qualified Residential Mortgage (QRM)

- Dodd-Frank requires that federal banking agencies and other regulators develop rules requiring securitizers to retain a portion (5%) of the credit risk of assets they securitize.
- This includes both residential and commercial mortgage-backed securities.

QRM



Qualified Residential Mortgage (QRM)

- While the law outlines specific criteria to be considered in defining a QRM, it also relies on regulators to determine the final pieces of the definition.
- Regulators will have to consider other factors and qualifications not contemplated under Dodd-Frank.
- For instance:
 - Additionally, for residential mortgages, regulators are required to define a QRM that is exempt from the risk retention restrictions.

QRM



- The proposed definition of QRM would establish conservative underwriting standards designed to ensure that QRM loans are of very high credit quality.
- These standards include:
 - Maximum front-end and back-end borrower debt-to-income ratios of 28% and 36%, respectively
 - Maximum LTV ratio of 80% in the case of a purchase transaction (with a 75% combined LTV for refinance transactions, reduced 70% for cash-out refi's)
 - 20% down payment requirement in the case of a purchase transaction, and
 - Borrower credit history restrictions, including no 60-day delinquencies on any debt obligation within the previous 24 months

QRM



Qualified Mortgage (QM)

- Under Dodd-Frank, the Federal Reserve and the CFPB are required to prohibit creditors from making a residential mortgage loan unless the creditor makes good faith determination that the borrower has an ability to repay it.
 - The QM definition facilitates this objective.
 - Outlined requirements include documentation, restrictions on adjustments, debt requirements, and limits on fees.
 - Any provisions granted will be at the discretion of the regulator.

QM



- 1. Where regular periodic payments do not result in increase in principal and, except for balloon loans under specified circumstances, does not allow borrower to defer principal;
- 2. Except for balloon loans under specified circumstances, does not include balloon payment that is twice as large as average of earlier scheduled payments;
- 3. For which income and financial resources of consumer are verified and documented;
- 4. For fixed rate loan, underwriting based on payment schedule fully amortizing loan over loan term and taking into account all applicable taxes, insurance, and assessments;
- 5. For adjustable rate loan, underwriting based on maximum rate permitted under loan during first 5 years, payment schedule that fully amortizes loan over loan term and takes into account all applicable taxes, insurance, and assessments;

Definition of Qualified Mortgage



- 6. Complies with guidelines or regulations established by CFPB relating to ratios of total monthly debt to monthly income or alternative measures of ability to pay regular expenses after payment of total monthly debt, taking into account income of borrower and such other factors CFPB determines relevant and consistent with purposes;
- 7. For which total points and fees payable in connection with loan do not exceed 3 percent of total loan amount;
- 8. For which loan term does not exceed 30 years, except as such term may be extended by CFPB such as in high-cost areas; and
- 9. In case of a reverse mortgage (except for purposes of subsection 9 (a) of section 129C, to extent that such mortgages are exempt altogether from those requirements), a reverse mortgage which meets standards for a qualified mortgage, as set by CFPB.

Definition of Qualified Mortgage



Ability-to-Repay Rules

- A creditor can meet the general ability-to-repay standard by considering and verifying the following eight underwriting factors:
 - Income or assets relied upon in making the ability-to-repay determination
 - Current employment status
 - Monthly payment on mortgage
 - Monthly payment on any simultaneous mortgage
 - Monthly payment for mortgage-related obligations
 - Current debt obligations
 - Monthly debt-to-income ratio, or residual income
 - Credit history
 - Underwriting the payment for an adjustable-rate mortgage based on the fully indexed rate

QM



- Permits creditor and any assignee of a residential mortgage loan subject to liability under title to presume loan meets ability to repay requirement if loan is a “qualified mortgage.” However, presumption is rebuttable.

Rebuttable Presumption of Ability to Repay



- Permits borrower to assert a defense to foreclosure against creditor or assignee or other holder of mortgage loan in judicial or non-judicial foreclosure or any other action to collect debt in connection with mortgage loan when there is a violation of anti-steering and ability to repay provisions. Claim can lead to actual damages, statutory damages and enhanced damages including return of finance charges

Defense of Foreclosure



- What are the Final Rules?
 - The final rules on loan originator compensation protect mortgage borrowers from unfair, abusive, or deceptive lending practices, which can arise from loan originator compensation practices.
- Who do they apply to?
 - All persons who originate loans, including mortgage brokers and the companies that employ them. Also, mortgage loan officers employed by depository institutions and other lenders.
 - Effective April 1, 2011

Final Rules on LO Comp & Steering



- How do these rules apply to closed-end loans?

They will:

- Prohibit payments to the LO that are based on the loan's interest rate or other terms
- Prohibit a mortgage broker or loan officer from receiving payments directly from a consumer while also receiving compensation from the creditor or another person
- Prohibit 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
- Provide a safe harbor to facilitate compliance with the anti-steering rule

Final Rules on LO Comp & Steering



New Freddie Mac Seller QC Requirements

- Chapter 48, *Seller's In-House Quality Control Program*, requirements include, but are not limited to:
 - A new requirement for pre-closing quality control reviews
 - Requiring that Sellers' post-closing samples include random, targeted and discretionary sample types
 - Requiring a more statistically-sound sampling methodology for Sellers that have an annual production of more than 5,000 loans
 - Requiring that all selected mortgages secured by primary residences for post-closing quality control review be verified by the Seller that the Borrower is occupying the mortgaged premises

Freddie Mac QC



Changes to Underwriting

Mortgagee Letter 11-10: 2/14/11

Annual Mortgage Insurance Premium Changes and Guidance on Case Numbers Effective for Case Numbers Assigned On or After 4/18/11

Mortgage Insurance Premiums		
UFMIP = 100 bps	Annual Premium	
LTV	Through 4/17/2011*	On/After 4/18/2011**
≤95.00 percent	85 bps	110 bps
>95.00 percent	90 bps	115 bps
Loans ≤ 15 years		
UFMIP = 100 bps	Annual Premium	
LTV	Through 4/17/2011*	On/After 4/18/2011**
≤90.00 percent	None	25 bps
>90.00 percent	25 bps	50 bps
*For case numbers assigned on/before April 17, 2011		
**For case numbers assigned on/after April 18, 2011		

FHA: What's New?



Mortgage Letter 11-22: 6/30/11
Condominium Approval Process for Single Family Housing
Effective Date 60 Days from Issuance

- Provides a single source of information for the Condominium Approval Process (Consolidates provisions of MLs 2009-46a, 2009-46b, and 2011-03)
- Updates condominium approval procedures, and
- Expands FHA's flexibility to address individual circumstances and changing market conditions

FHA: Notable Changes



Mortgagee Letter 11-29: 8/19/11
Addresses Maximum Loan Limits for all Forward Mortgages and HECMs
Effective 10/1/11 to 12/31/11

- Provides notice of FHA's single family housing loan limits for Forward Mortgages and Home Equity Conversion Mortgages (HECMs)
- Provides loan limit instructions for FHA-insured to FHA-insured refinance transactions
- Provides eligibility criteria and instructions for pipeline loans which have not closed on or before September 30, 2011

FHA: What's New?



Mortgagee Letter 11-35: 9/21/11

Annual MI for Loans with Terms of 15 Years or Less and LTV of 78% or Less
Effective for all Case Numbers Assigned On or After 4/18/11

- Addresses forward mortgage amortization terms of 15 years or less

and
- LTVs at or below 78 percent at the time of origination

FHA: What's New?



Mortgagee Letter 11-39: 12/2/11

FHA Maximum Loan Limits Effective October 1 to December 31, 2011

- Effective for forward mortgages 11/18/11 to 12/31/11
- Case numbers assigned prior to 11/18/11 are subject to the lower limits that were in effect 10/1/11 to 11/17/11

FHA: What's New?



Circular 26-11-12: 9/8/11

Funding Fee Changes Effective for VA Loans Closed On or After 10/1/11

- The circular announced changes in funding fees for Department of VA loans closed on or after 10/1/11
- Subsequent use loans with less than 5 percent down payment and subsequent use regular refinance loans will be 2.8 percent
- Funding fees for Interest Rate Reduction Refinancing Loans and Assumptions will not change, but will remain at 0.5 percent

VA: What's New?



- RD AN No. 4551 (1980-D): February 3, 2011
USDA implements up front and annual fees
 - Effective 10/1/11, up-front guarantee fee for purchase transactions will decrease from 3.5 to 2.0 percent
 - Up-front fee for refinance loans will remain at 1.0 percent
 - An annual fee of 0.3 percent of the unpaid principal balance will also be changed

Rural Development: What's New?



Notable Changes

FNMA

- LL-2011-08: Confirmation of Conventional Loan Limits for 2012 (11/28/11)
- SEL-2011-12: Updates to Refi Plus and DU Refi Plus (11/15/11)
- SVC-2011-17: Lender Paid Mortgage Insurance and Excess Servicing Fee on Modified Mortgage Loans (10/26/11)
- LL-2011-06: Implementation of the Uniform Loan Delivery Dataset Requirements (9/13/11)
- Implementation of UCDP and ULDD
- Changes to the FHA Approval Requirements

FHLMC (Freddie Mac)

- Bulleting 2011-22: Freddie Mac Relief Refinance changes (11/15/11)
- Bulletin 2011-8: Uniform Loan Delivery Dataset Exhibit and Resource Update (4/29/11)

FNMA: Planning Ahead



Looking Forward to 2012

- Final Definitions of QM and QRM
- Head or commission for CFPB
- Examinations and Rules from CFPB
- Combined GFE/TIL Disclosure
- New HUD1 Disclosure
- Continued pressure on QC from all agencies & investors
- Possible changes to LO Comp
- More discussion about GSE Reform
- More state involvement and more Multi-State Audits

2012 and Beyond



- Dodd-Frank
 - <http://www.mbaa.org/files/ResourceCenter/MIRA/MBASummaryofDoddFrank.pdf>
 - <http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>
- Freddie Mac QC Requirements
 - <http://www.freddiemac.com/sell/guide/bulletins/pdf/bll1115.pdf>
- Consumer Finance Protection Bureau
 - <http://www.consumerfinance.gov/>
- LO Compensation-Federal Reserve
 - <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/index.cfm>

Resources



- Fannie Mae
 - <https://www.efanniemae.com/sf/guides/>
- Freddie Mac
 - <http://www.freddiemac.com/sell/guide/>
- FHA
 - <http://www.hud.gov/offices/adm/hudclips/>
- VA
 - <http://www.vba.va.gov/VBA/>
- USDA
 - http://www.rurdev.usda.gov/rd-an_list.html

Resources



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- QC Plan Implementation
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- Training and Consulting
- Agency Approval
- LO Compensation Policies
- Etc.

Questions & Answers

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Thank You!

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