The Division of Consumer and Community Affairs of the Board of Governors of the Federal Reserve System presents:

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Protecting Consumers in Mortgage Transactions:

The Federal Reserve Board's Proposal to Revise Regulation Z

Closed-End Mortgages and HELOCs

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Disclaimer

- Please note that the following material is presented only for educational purposes and constitutes only the opinions of the individual presenters. The material does not represent an opinion, interpretation, or position of the Board of Governors of the Federal Reserve System or its staff.

Closed-End Mortgage Proposal

Overview

- Improved disclosures
  - Streamlined early disclosures
  - Enhanced APR disclosure
  - “Final” TILA disclosure
- Restrictions on loan originator compensation
  - Prohibits payment based on loan’s rate, terms
  - Protection against “steering”
- Credit insurance eligibility

Closed-End Mortgage Proposal

Disclosures at Application – When consumer receives an application form or pays a non-refundable fee, whichever occurs first

- Replace "CHARM" booklet with new one-page publication, "Fixed vs. Adjustable Rate Mortgages"
- For all closed-end consumer mortgages

Closed-End Mortgage Proposal

Disclosures at Application

- New, one-page publication, “Key Questions to Ask About Your Mortgage”
  - Explains potentially risky features
- For all closed-end consumer mortgages

Disclosures at Application

- Streamlined current ARM program disclosure
  - Table showing rate and payment information,
  - New disclosure of risky features (e.g., prepayment penalties).
- For consumers who express interest in ARMs

Disclosures Within 3 Days After Application

- Good faith estimate of the TILA disclosure
- Transaction-specific disclosure
- Focus on affordability and cost
- Comprehension of risks

Disclosures Within 3 Days After Application

- Loan summary
  - Settlement costs
  - Loan type
- Interest rate and monthly payment
  - "Worst-case" rate and payment for ARMs

Disclosure Within 3 Days After Application

- Improved APR disclosure
  - Revised description of APR: "Interest and settlement charges"
  - More inclusive finance charge and APR
  - Most third party fees included in finance charge

Disclosure Within 3 Days After Application

- Improved APR – Graph
  - Shows consumer's APR in context of excellent-credit and riskier-credit APRs.
  - Shows "Average prime offer rate" and "higher-priced mortgage loan" threshold for week of application
  - Dollar savings for one percent reduction in APR to motivate shopping

Closed-End Mortgage Proposal

“Final” TILA

Required 3 business days before closing for all loans; what if changes occur after delivery?

- **Alternative proposals:**
  - Consumer must receive another final disclosure at least 3 business days before consummation—or--
  - Only if APR change exceeds tolerances, or adjustable rate feature is added, must consumer receive another final disclosure at least 3 business days before consummation.

Disclosures after Consummation

- ARMs: increased minimum, advance notice of payment change, from 25 to 60 days.
- Payment option loans with negative amortization: monthly statement of payment options that includes effects of negatively amortizing payments.
- Creditor-placed property insurance: notice of cost and coverage at least 45 days before imposing a charge.

Loan Originator Compensation

- No payments to loan originators that are based on the loan's terms and conditions (indirect compensation still permitted so long as not based on loan terms and conditions)
- "Loan originator" = mortgage broker companies that are not "creditors" and individual loan officers who work for mortgage brokers and creditors

Loan Originator Compensation

- Originator may not receive payments from <u>both</u> consumer <u>and</u> any other person in same transaction
- Prohibits "steering" consumers to transactions that are not in their interest to increase compensation.

Closed-End Mortgage Proposal

Loan Originator Compensation

- Steering prohibition – safe harbor: originator must present consumer with loan choices that --
- Are from significant number of creditors originator does business with
- For each transaction type consumer expresses interest in
- Have lowest interest rates, and a loan with lowest settlement costs
- Originator has good faith belief consumer could likely qualify for

Credit Insurance Eligibility Restrictions

- Creditor must:
  - Determine whether consumer meets age and/or employment eligibility criteria at the time of enrollment;
  - Provide disclosure that such a determination has been made.
- Applies not just to mortgage credit, but to all consumer credit, open- and closed-end, secured and unsecured.

HELOC Proposal

- In addition to disclosure changes:
  - New guidance on suspensions, reductions, and terminations.
  - Reinstatement rules.
- Scope: Open-end credit transactions secured by the consumer's dwelling.

Overview

- Disclosures: Changes in –
  - Timing (early disclosures, change-in-terms notices)
  - Format (tabular)
  - Content

HELOC Proposal

Overview, cont.

- Suspensions, reductions, & terminations: New guidance to give creditors clearer rules and consumers greater protection

HELOC Proposal

Overview, cont.

- Reinstatement rules: Additional requirements to give consumers better information and greater protection

Disclosures at Application

- Replace Board-published, lengthy brochure with new one-page publication, “Key Questions to Ask about Home Equity Lines of Credit”
  - Summarizes basic information and risks regarding HELOCs

HELOC Proposal

Disclosures at Application, cont.

- Generic application disclosures about loan program no longer required
- Instead, transaction-specific disclosures 3 days after application

HELOC Proposal

Disclosure within Three Days after Application

- Specific APR and credit limit offered to consumer
- Payment examples based on credit limit rather than $10,000

Disclosure within Three Days after Application, cont.

- Shows maximum of 2 payment plan options
- 15-year historical table of rates and payments no longer required

Disclosure within Three Days after Application, cont.

- Some other disclosures added and deleted
- Tabular format required
- Order of disclosures changed (e.g. risks at end rather than beginning)

HELOC Proposal

Disclosures at Account Opening

- Tabular format required
  - Similar to format of disclosures 3 days after application
- Content also similar, except:
  - Only payment plan chosen by consumer
  - Additional fees (transaction and penalty fees)

HELOC Proposal

Periodic Statements

- Effective APR disclosure eliminated
- Fees and interest charges grouped together
- Totals of interest and fees disclosed for statement period and year to date

HELOC Proposal

Change-in-Terms Notices

- Expanded circumstances in which notice of a rate change is required
- Notice 45 days in advance instead of 15 days
- Tabular format requirements

HELOC Proposal

Terminations

- Creditors may terminate a consumer's HELOC if:
  - The consumer fails to meet the repayment terms of the agreement.
  - The consumer does (or doesn't) do something that adversely affects the creditor's security.

HELOC Proposal

Terminations, cont.

- Creditors may terminate a consumer's HELOC if:
  - The consumer commits fraud or makes a material misrepresentation.
  - Termination is required by federal law.

Terminations, cont.

- Prohibits creditors from terminating an account for payment-related reasons until consumer has failed to make a required minimum periodic payment for more than 30 days after the due date for that payment.
- Comment solicited on whether some other time period is more appropriate.

HELOC Proposal

Terminations, cont.

- Requires notice of action taken, and reasons for action (e.g. failure to pay, fraud, etc.)
- Notice must be given within 3 days after termination

Suspensions, Reductions

- Creditors may prohibit additional extensions of credit or reduce the credit line for several reasons, including:
  - A significant decline in property value.
  - A reasonable belief that the consumer won't be able to repay because of a "material change in the consumer's financial circumstances."

HELOC Proposal

Suspensions, Reductions, cont.

- Safe harbor for suspending or reducing a line of credit based on a “significant” decline in property value:

    Reduction of equity cushion by 50% or more is “significant.”

Suspensions, Reductions, cont.

New safe harbor:

- For HELOCs with a combined loan-to-value ratio at origination of 90 percent or higher, a five percent decline in property value would be "significant."
- For HELOCs with CLTV below 90 percent, old safe harbor (reduction of equity cushion by 50% or more) remains in place.

HELOC Proposal

Suspensions, Reductions, cont.

- Additional guidance on information on which a creditor may rely in taking action based on a material change in consumer's financial circumstances:
  - Credit report information showing late payments or nonpayments, or public records showing consumer's failure to pay other obligations.
  - Payment failures must have occurred within a reasonable time from the date of the creditor's review (six month safe harbor).

Reinstatement Rules

Additional requirements:

- Additional information in notices of suspension or reduction about consumer's right to request reinstatement
- Creditor must complete investigation within 30 days of receiving request for reinstatement

HELOC Proposal

Reinstatement Rules, cont.

- Creditor must give notice to consumer whose line will not be reinstated

- No fees may be imposed on consumer for investigating first reinstatement request

For Further Information

- For detailed information, refer to the text of the proposals, as published in the Federal Register on August 26, 2009 (74 FR 43232 for closed-end mortgages and 74 FR 43428 for HELOCs), and available on the Board's website at: www.federalreserve.gov/newsevents/press/bcreg/20090723a.htm

- If you have additional questions, please call the Division of Consumer and Community Affairs at 202-452-3667 or 202-452-2412.

Two Companion Proposals

- Published **August 26, 2009.**
- Public comment periods end **December 24, 2009.**
- Comprehensive revisions to closed-end mortgage and HELOC rules based on consumer testing and outreach.
- Certain additional, substantive protections in each proposal.
- Credit insurance provisions that apply to all consumer credit