CU policy PRO Newsletter

February 2013

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Content FAQ

Q: Our examiner is asking us to create a policy on a topic not covered in CU PolicyPro. Can you create it for us?

A: We will review all requests to create new policies; however, we cannot guarantee the creation of any particular policy. Any new policies would be created as part of a future semi-annual update. When requesting a new policy, it is helpful to include as much information as possible as to what the examiners would want included in a given policy. Is there any written guidance that would list what is required (something written up by the examiners, or a reference to NCUA letter or other guidance, or a particular law or regulation)? The more we know about what the examiners are requiring, the more likely we can craft something meaningful and that will fulfill what the examiners are looking for.

Technical FAQ

Q: Some master policies don't have any content and show something like this:

> **Duly Approved by Credit Union**
> **BOARD OF DIRECTORS**
> **Approval Date:**
>
> **POLICYPROSITEMAP#1000#POLICYPROSITEMAP**

What is wrong with these policies?

A: When you see that “POLICYPROSITEMAP#1000#POLICYPROSITEMAP” code, you are looking at the top level chapter page (1000, 2000, etc). The main page for each chapter does not have a policy per se, but a piece of code that generates a table of contents for that chapter. You may also find in the first few policies of chapter 1000, there is no policy content (mission statement, vision, history, etc). These are just placeholders in the manual for you to add your own content – there isn’t model content for those few first policies.

For the top level chapter pages, in the Working Manual, you can actually click on the chapter folder and the page will come up. Although the top level chapter page functions slightly differently than the regular policy pages, it still generates a page of content (which is the text for the board approval date, and the code for the table of contents). You can customize this page as well. If you remove the code, it will remove the table of contents. Many credit unions will remove the “board approved” verbiage, but leave the table of contents.

Semi-Annual Update - Recap

Last month we released the 2013.1 Semi-Annual content updates. Two new policies were created and twenty-three policies were revised. All updates are available in the Master Manual, and the redlined version for each policy is available in the Library. If you haven't had a chance to review the updates, additional information, including instructions on how to update your manual, can be found here: http://www.cusolutionsgroup.com/CU-PolicyPro-20131-Update-1171.html

Monthly OPS Notes Release: New Mortgage Rules from the CFPB

Starting in June 2013, credit unions will begin to adopt and adapt to the Consumer Financial Protection Bureau's (CFPB) new requirements for mortgage lending and servicing. These changes will stretch into 2014 and beyond, with proposed amendments pending for several of the regulations. Of the many issues the CFPB has taken up to protect consumers in the financial services market mortgage lending has been the primary focus. The new rulings issued since the beginning of January include:

High-cost Mortgage and Homeownership Counseling Amendments
The final rules for high cost mortgages amend the Home Ownership and Equity Protection (HOEPA). The rule expands loans currently covered which will now include most types of mortgage loans secured by a members principal dwelling including:

- Purchase-money mortgages,
- Refinances,
- Close-end Home Equity Loans, and
- Open-end Credit Plans.

The regulation requires credit unions offering mortgage loans that exceed certain APR thresholds to disclose terms, costs and fees associated with high-cost loans early in the process and certify that the members have received homeowner counseling regarding the loan.
In a release the CFPB also said that the high-cost mortgage regulation will:

- Ban risky mortgage features like balloon payments and prepayment penalties for qualifying mortgages,
- Prevent charging loan modification and loan payoff fees,
- Set a late-fee cap of 4% of the amount of payment that is past due, and
- Prohibit lenders from rolling closing costs into the loan amount.

The High-cost Mortgage and Homeownership Counseling Amendment will take effect on January 10, 2014.

For more information on the High Cost Mortgage Amendment, visit http://www.consumerfinance.gov/regulations/high-cost-mortgage-and-homeownership-counseling-amendments-to-regulation-z-and-homeownership-counseling-amendments-to-regulation-x/ .

Escrow Requirements
The escrow changes finalized by the CFPB through Regulation Z, which take effect June 1, 2013, will require higher-priced mortgage loans have escrow accounts that must be established and maintained for at least five years. This rule does have an exemption from the escrow requirement for small creditors that operate predominately in rural or underserved areas. To be eligible for the exemption, a credit union must:

- Make more than half of its first-lien mortgages in rural or underserved areas;
- Have an asset size less than $2 billion;
- Together with its affiliates, have originated 500 or fewer first-lien mortgages during the preceding calendar year; **and**
- Together with its affiliates, not escrow for any mortgage it or its affiliates currently services, except in limited instances.

Under the rule, eligible credit unions need not establish escrow accounts for mortgages intended at consummation to be held in portfolio, but must establish escrow accounts at consummation for mortgages that are subject to a forward commitment to be purchased by an investor that does not itself qualify for the exemption.

To learn more about Escrow Requirements, visit http://www.consumerfinance.gov/regulations/escrow-requirements-under-the-truth-in-lending-act-regulation-z/.

Mortgage Servicing
On January 17th the CFPB released the new mortgage servicing rules amending regulation Z and X. The rule will be in effect on January 10, 2014 and covers nine major topics:

1. Servicers must provide a periodic statement for each billing cycle containing, among other things, information on payments currently due and previously made, fees imposed, transaction activity, application of past payments, contact information for the servicer and housing counselors, and, where applicable, information regarding delinquencies. These statements must meet the timing, form, and content requirements.
2. Servicers must provide a notice to members whose mortgage has an adjustable rate with a notice between 210 and 240 days before the first payment due after the rate first adjusts. This notice may contain an estimate of the new rate and new payment. Servicers also must provide a notice between 60 and 120 days before payment at a new level is due when a rate adjustment causes the payment to change.
3. Servicers must promptly credit periodic payments from members as of the day of receipt

4. Servicers are prohibited from charging a member for force-placed insurance coverage unless the servicer has a reasonable basis to believe the member has failed to maintain hazard insurance and has provided required notices. An initial notice must be sent to the member at least 45 days before charging the borrower for force-placed insurance coverage, and a second reminder notice must be sent no earlier than 30 days after the first notice and at least 15 days before charging the member for force-placed insurance coverage.
5. Servicers will need to meet new requirements in responding to error resolutions and complaints of errors.
6. As always, the new rule requires a credit union to develop policies, procedures and requirements that meet the new standards of the amended regulation.
7. Servicers must establish or make good faith efforts to establish live contact with members by the 36th day of their delinquency and promptly inform such members, where appropriate, that loss mitigation options may be available. In addition, a servicer must provide the member a written notice with information about loss mitigation options by the 45th day of the member's delinquency.
8. Servicers are required to maintain reasonable policies and procedures with respect to providing delinquent members with access to personnel to assist them with loss mitigation options where applicable.
9. Finally, servicers are required to follow specified loss mitigation procedures for a mortgage loan secured by a borrower's principal residence. If a member submits an application for a loss mitigation option, the credit union is generally required to acknowledge the receipt of the application in writing within five days and inform the member whether the application is complete and, if not, what information is needed to complete the application. The credit union is required to exercise reasonable diligence in obtaining documents and information to complete the application.

This Mortgage Servicing Rule does include an exemption to several parts of the regulation for small servicers that service less than 5,000 mortgage based loans. It is important to understand the definition of mortgage loan when determining if you qualify for the exemption. Mortgage loan is defined in the regulation as any mortgage loan secured by a first or subordinate lien on residential real property excluding lines of credit.

For more information on Mortgage Servicing, visit http://www.consumerfinance.gov/regulations/2013-real-estate-settlement-procedures-act-regulation-x-and-truth-in-lending-act-regulation-z-mortgage-servicing-final-rules/.

Disclosure and Delivery Requirements for Copies of Appraisals
This rule amends the appraisal provision of Regulation B and is effective January 18, 2014. The amendment only applies to applications for credit secured by a dwelling under a first lien, and requires credit unions to:

- Notify members of their right to receive a copy of their appraisal within three days of receiving an application.
- Provide a copy of the appraisal and other written valuations promptly upon completion, or three business days before loan closing.
- Permits the member to waive the timing requirement for providing copies of appraisals; however, applicants who waive the timing requirement must be given the appraisals at or prior to loan closing. If the transaction is not consummated the appraisal must be given to the member no later than 30 days after the creditor determines the transaction will not be closed.
- Prohibits a credit union from charging for a copy of the appraisal, but permits the credit union to charge members for the cost of the appraisal or other written valuation.

For more information on Appraisals, visit http://www.consumerfinance.gov/regulations/disclosure-and-delivery-requirements-for-copies-of-appraisals-and-other-written-valuations-under-the-equal-credit-opportunity-act-regulation-b/.

Appraisals for High-priced Mortgage Loans
The final amendment, issued by the joint agencies, allows a credit union to extend a higher-priced mortgage loan (HPML) only if the credit union obtains a written appraisal from a certified or licensed appraiser, and the appraiser conducts a physical property visit of the interior of the home.

Similar to the CFPB Disclosure and Delivery Requirements for Copies of Appraisals rule credit unions must provide a notice of the purpose of the appraisal and a copy of the appraisal to the member. The written notice for the CFPB rule and this jointly issued amendment can use a single unified document to meet both requirements.

There are also requirements for properties that are flipped, or purchased and resold within 180 days which require an additional appraisal from a second appraiser. The rule only applies to closed-end credit transactions, and exempts: reverse mortgages, construction and bridge loans, and new manufactured home loans. The rule takes effect January 18, 2014.

For the issued rules and related materials, visit http://www.consumerfinance.gov/regulations/appraisals-for-higher-priced-mortgage-loans/.

Ability to Repay and Qualified Mortgage Standards
The CFPB made an additional amendment to Regulation Z through the Ability-to-Repay and Qualified Mortgage Standards rule. This rule was founded on the experiences of the mortgage crisis, when many mortgages were made without regard to a person's ability to repay loans. The final rule describes certain minimum requirements to make ability-to-repay determinations, but does not dictate that credit unions follow particular underwriting models. At a minimum, creditors generally must consider eight underwriting factors:

1. Current or reasonably expected income or assets;

2. Current employment status;
3. Monthly payment on the loan;
4. Monthly payments on any other loans;
5. Monthly payments for mortgage-related obligations;
6. Current debt obligations, alimony, and child support;
7. Monthly debt-to-income ratio or residual income; and
8. Credit history.

Credit unions should use reasonably reliable third-party records to verify the information they use to evaluate the factors. The rule does establish certain protections from liability under the requirement for "qualified mortgages". Additionally the rule limits prepayment penalties and requires credit unions to retain evidence of compliance for three years after a covered loan is consummated. This rule will be effective January 10, 2014.

This is not the end of the changes we can come to expect from the CFPB on mortgage lending and servicing. Following their example with International Remittance Transfers there are already proposed amendments to the Ability to Repay standards, reminding us that final rules are never final with this agency.

For more information on the Ability to Repay, visit http://www.consumerfinance.gov/regulations/ability-to-repay-and-qualified-mortgage-standards-under-the-truth-in-lending-act-regulation-z/.

Loan Originator Compensation
Regulation Z already prohibits basing a loan originator's compensation on any of the transaction's terms or conditions. This is further defined and limited by the CFPB's Loan Originator Compensation rule. The final rule clarifies the scope of the rule by defining a term of a transaction as "any right or obligation of the parties to a credit transaction." This means that a mortgage loan originator employee cannot receive compensation based on any required part of the transaction required in connection with the loan. The final rule generally prohibits loan originator compensation based upon the profitability of a transaction or a pool of transactions.

The Loan Originator Compensation rules require that all mortgage loan originators meet the requirements of the SAFE Act for qualifications, training, and registration. For employers whose employees are not required to be licensed, including depository institutions such as credit unions, the rule requires them to: (1) ensure that their loan originator employees meet character, fitness, and criminal background standards similar to existing SAFE Act licensing standards; and (2) provide training to their loan originator employees that is appropriate and consistent with those employees' origination activities.

The final rule also implements a Dodd-Frank Act requirement that loan originators provided their unique identifiers under the Nationwide Mortgage Licensing System and Registry (NMLSR) on loan documents. Accordingly, mortgage brokers, creditors, and individual loan originator employees that are primarily responsible for a particular origination will be required to list on enumerated loan documents their NMLSR unique identifiers (NMLSR IDs), if any, along with their names.

The final rule also contains language implementing two other Dodd-Frank Act provisions concerning mortgage loan originations. The first prohibits the inclusion of clauses requiring the consumer to submit disputes concerning a residential mortgage loan or home equity line of credit to binding arbitration. It also prohibits the application or interpretation of provisions of such loans or related agreements so as to bar a consumer from bringing a claim in court in connection with any alleged violation of Federal law. The second provision prohibits the financing of any premiums or fees for credit insurance (such as credit life insurance) in connection with a consumer credit transaction secured by a dwelling, but allows credit insurance to be paid for on a monthly basis.

To learn more about Loan Originator Compensation, visit http://www.consumerfinance.gov/regulations/loan-originator-compensation-requirements-under-the-truth-in-lending-act-regulation-z/.

Questions?

If you have any questions regarding the CU PolicyPro content, or questions on how to use the system, please contact hrsupport@cusolutionsgroup.com.

Thanks and have a great week!