CU policy PRO Newsletter

April 2013

Dear CU PolicyPro Clients,

Spring has sprung! Hope you are enjoying the warmer weather!

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Content FAQ

Q: Is the requirement to establish escrow accounts a new requirement and should I also be reviewing new regulatory rules for the Home Ownership and Equity Protection Act (HOEPA)?

A: The requirement for escrow accounts on higher-priced mortgage loans is not new and is currently required by HOEPA. The change with the new CFPB rules is that the escrow account must be maintained for a minimum of five years, rather than the previous twelve month requirement.

A “higher-priced mortgage loan” is a consumer credit transaction secured by the member's principal dwelling with an APR that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by 1.5 or more percentage points for loans secured by a first lien on a dwelling, or by 3.5 or more percentage points for loans secured by a subordinate lien on a dwelling.

Credit unions must establish escrow accounts for taxes and insurance, but may allow borrowers to cancel escrows 12 months after loan consummation. Credit unions are not required to escrow optional insurance items chosen by consumers and not otherwise required by the creditors.

Technical FAQ

Q: What do I do if I’ve forgotten my password or my login does not work?

A: There is a “forgotten password” link on the login page of CU PolicyPro. Enter your email address and your user name and a new password will be emailed to you. If the system can’t find your email, contact hrsupport@cusolutionsgroup.com for assistance.

NEW! A new FAQs page has been created to answer your questions. The CU PolicyPro FAQs page includes all FAQs featured in previous newsletters, as well as many others!

Upcoming Training

There is an Advanced User training webinar scheduled for Tuesday, May 14. Click here for more information or to register.

Don't forget, all training is also available via on-demand video training. The same material will be covered in both the video and live training sessions.

Monthly OPS Notes Release: CFPB Implementation of Escrow and Loan Originator Compensation Rules by June 1, 2013

In January 2013 the Consumer Financial Protection Bureau (CFPB) published rules to implement the Dodd-Frank Wall Street Reform and Consumer Protection Act as required by Congress. Several sections of the new rules have required implementation dates of June 1, 2013, and this issue of OPS Notes will focus on the new requirements and information available to assist your credit union with compliance and implementation.

Escrow Requirements under the Truth in Lending Act (Regulation Z)

To strengthen consumer protections in the Truth in Lending Act (TILA) the CFPB has released amended rules for escrow requirements under the Truth in Lending Act which requires credit unions to establish escrow accounts for certain mortgage transactions to help ensure that members set aside funds to pay property taxes, homeowners insurance premiums and other required insurance obligations.

Credit unions are already required to establish the escrow accounts based on the Home Ownership and Equity Protection Act; however, rather than the current requirement to escrow for one year the new rules require the escrow account be maintained for a minimum of five years.

The CFPB Escrow Requirements rule also provides an exception that many small credit unions operating predominately in rural or underserved areas may qualify for. To be eligible for the exemption, a credit union must:

1. Make more than half of its first lien mortgages in rural or underserved areas;
2. Have an asset size less than $2 billion;
3. Together with its affiliates, have originated 500 or fewer first lien mortgages during the preceding calendar year; and
4. 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 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.

As additional guidance on the escrow requirements the CFPB has published TILA Escrow Rule – Small Entity Compliance Guide which provides additional useful information on how to comply with the amended TILA requirements.

Additional information in the Small Entity Compliance Guide further explains the exemption and helps credit unions to understand that if a credit union wants to qualify for the exemption and are generally escrowing today for loans that would be covered by this rule, when the TILA Escrow Rule becomes effective the credit union needs to plan how it will wind down the current escrow program for applications received on or after June 1, 2013. Credit unions do not want to lose the new rule exemption by establishing new escrow accounts for mortgage loan transactions (other than as permitted to by the TILA Escrow Rule for distressed consumers).

The new escrow requirements go into effect on June 1, 2013.

Loan Originator Compensation Final Rules (Regulation X and Z)

The changes to the Loan Originator Compensation Rules which amend the Truth in Lending Act (TILA, Regulation Z) address two issues, arbitration clauses and single premium credit insurance, which have implementation dates of June 1, 2013. These rules are required by the Dodd-Frank Act and were established to curtail questionable activities by mortgage loan originators and further strengthen the requirements of TILA.

Prohibition on Mandatory Arbitration

The new rule prohibits the use of binding arbitration clauses which require the member 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 member from bringing a claim in court in connection with any alleged violation of Federal law.

It will be important for credit unions to review their loan contracts and documentation to ensure that if they do contain a mandatory arbitration, it is removed prior to June 1st. The following excerpt is a sample arbitration clause which will help credit unions to identify them in their own documentation:

Mandatory Arbitration

Upon demand of any party hereto, whether made before or after institution of any judicial proceeding, any dispute, claim or controversy arising out of, connected with or relating to this mortgage and other loan documents between or among parties to this mortgage, shall be resolved by binding arbitration as provided herein. Institution of a judicial proceeding by a party does not waive the right of that party to demand arbitration hereunder. Disputes may include, without limitation, tort claims, counterclaims, disputes as to whether a matter is subject to arbitration, claims brought as class actions, claims arising from loan documents executed in the future, or claims arising out of or connected with the transaction reflected by this mortgage. Arbitration shall be conducted by the National Arbitration Forum (NAF) under the NAF Code of Procedure then in effect.

This prohibition does not limit a consumer and credit union or any assignee from agreeing, after a dispute or claim under the transaction arises, to settle or use arbitration or other non-judicial procedure to resolve that dispute or claim.

Prohibition on Financing Single-premium Credit Insurance

The new Loan Originator Compensation Rules also include a prohibition on financing 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. This requirement includes all credit transactions secured by a dwelling including home equity lines of credit when they are secured by the member's principal residence.

The rule does define credit insurance to include: credit life, credit disability, credit unemployment, or credit property insurance, or any other accident, loss-of income, life, or health insurance, or any payments directly or indirectly for any debt cancellation or suspension agreement or contract. The same provision states, however, that the prohibition does not apply to credit insurance for which premiums or fees are calculated and paid in full on a monthly basis or to credit unemployment insurance for which the premiums are reasonable, the creditor receives no compensation, and the premiums are paid pursuant to a separate insurance contract and are not paid to the creditor's affiliate.

If your credit union offers credit insurance to members, it will be important to contact the credit union's third-party provider to ensure that their credit insurance product will be in compliance with the new CFPB rules. Additionally, credit unions should schedule training so employees who offer the product understand the changes and possible changes to the credit insurance offerings now available to members.

CU PolicyPro will be updated in May to reflect the changes for the new CFPB rules affecting escrow accounts, mandatory arbitration agreements and single-premium credit insurance products. We look forward to assisting your credit union during these challenging regulatory times.

This edition of OPS NOTES was prepared by the Michigan Credit Union League.

Questions?

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