

MEMORANDUM

To: Our Valued Customers

From: Sheshunoff Information Services

Subject: *Model Compliance Manual: A Template for Mortgage Professionals*

Enclosed you will find your second 2009 update to *Model Compliance Manual: A Template for Mortgage Professionals*. This update brings your manual up to date by incorporating significant developments that have occurred in the past six months and enhances the manual by including new materials.

Changes made in this update reflect the following:

- **May 2009 Regulation Z Revisions.** On May 8, 2009, the Federal Reserve Board revised Regulation Z to implement the Mortgage Disclosure Improvement Act of 2008 (MDIA), which was part of the Housing and Economic Recovery Act of 2008, enacted July 30, 2008. The MDIA broadened and added to the requirements of the Board's July 2008 final rule amending Regulation Z to include additional protections for home mortgage loan borrowers. Among other things, the MDIA requires early transaction-specific disclosures for closed-end mortgage loans secured by dwellings and requires waiting periods between the time early disclosures are given and loan consummation. See Section 1.1 (Truth in Lending). Previously, early disclosures were only required for closed-end loans that financed the purchase or initial construction of the consumer's principal dwelling subject to the Real Estate Settlement Procedures Act (RESPA). Congress made the MDIA requirements effective July 30, 2009, two months earlier than the Board's July 2008 rule; hence, the quickly approaching effective date of the May 2009 revisions — July 30, 2009. The May revisions moved up to July 30, 2009 certain requirements of the July 2008 rules, from the originally scheduled October 1, 2009 implementation date:
 - The new requirement that early disclosures be given for all dwelling-secured closed-end loans subject to the RESPA rather than only for "residential mortgage transactions" subject to RESPA (that is, rather than only for loans to finance the purchase or initial construction of the principal dwelling); and
 - The new requirement that the early disclosures be given before the consumer pays any fee, other than a bona fide and reasonable fee for obtaining the consumer's credit history.

The May 2009 revisions require creditors to make good faith estimates of the required disclosures and deliver them or place them in the mail no later than three business days after receiving a consumer's application for a dwelling-secured closed-end loan. Consummation of the loan may not occur until the seventh business day after the delivery or mailing of the disclosures. If the APR in the good faith estimates changes beyond a specified tolerance for accuracy, the creditor must provide a corrected disclosure, which the consumer must receive on or before the third business day before consummation. The disclosures also *must inform* consumers that they are not obligated to complete the transaction simply because disclosures were provided or because a consumer has applied for a loan. The May 2009 revisions allow consumers to expedite consummation to meet a bona fide personal financial emergency. The MDIA, as amended by the Emergency Economic Stabilization Act of 2008, on October 3, 2008, specifies different requirements for mortgage loans secured by timeshare interests. All of these changes required by the MDIA take effect on July 30, 2009.

The MDIA also contained additional disclosure requirements for *variable-rate transactions* not addressed by the May 2009 revisions. The FRB anticipates issuing proposed rules to implement these requirements later in 2009, in connection with the Board's comprehensive review of closed-end mortgage disclosures. *Accordingly, it appears from this statement that the FRB plans to propose comprehensive closed-end changes in 2009.*

To sum up, the May 8, 2009 revisions, effective July 30, 2009, relate to:

- Early disclosures. Early disclosures for all dwelling-secured closed loans subject to RESPA.
 - Fees. The requirement that early disclosures be given before the consumer pays a fee.
 - Seven-business-day waiting period. The requirement that consummation of the loan may not occur until the seventh business day after the delivery or mailing of the early disclosures, which must be provided no later than three business days after receiving a loan application.
 - Redisclosure. The redisclosure of early disclosures in certain situations.
 - Three-business-day waiting period. The requirement that consummation of the loan may not occur until the third business day after consummation if corrected early disclosures (redisclosures) have been required.
 - New notice with early disclosures. The required notice: You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.
 - Waiver of waiting periods. The opportunity for borrowers to waive or modify the three-business-day and seven-business-day waiting periods.
 - Timeshares. Special rules for timeshare plans.
 - Definition of “business day.” Revision of the definition of “business day” so as to specify how its two-tiered approach applies.
- **December 2008 Regulation Z Revision.** In December 2008, the Federal Reserve Board (FRB) approved comprehensive revisions to the open-end credit provisions of Regulation Z. In general, the December 2008 revisions (with a mandatory compliance date of July 1, 2010) do not apply to home-secured lending, which the FRB continues to hold on its platter for comprehensive revision. The revisions, however, give home-equity line of credit plan creditors several options. One is the option of complying with the revised periodic statement requirements applicable to open-end (not home-secured) plans. Another is the option to stop disclosing an “historical” or “effective” annual percentage rate on periodic statements, along with the option of not disclosing “finance charges” on periodic statements. Actually, finance charges would continue to be disclosed, but instead of being called “finance charges,” all fees and charges would be grouped as either “Interest Charged” (that is, charges determined by applying periodic interest rates) and “Fees” (all other types of fees and charges, whether finance charges or not). See Section 1.1 (Truth in Lending).
 - **RESPA and Regulation X.** The Obama Administration decided to stick with the revisions to Regulation X (Real Estate Settlement Procedures Act) announced by HUD in November 2008, except for the new definition of “required use,” which it has withdrawn for reconsideration. See Section 1.3 (Real Estate Settlement Procedures Act).
 - **HMDA Guide.** The Federal Financial Institutions Examination Council (FFIEC) issued the 2008 edition of the Guide to HMDA Reporting: Getting It Right! See Section 1.2.
 - **Home Valuation Code of Conduct.** Sellers of single-family mortgage loans to Fannie and Freddie are now required to comply with the Home Valuation Code of Conduct. See Section 1.7 (Appraisal Standards).

- **CRA Qs and As.** In January 2009, the federal banking agencies issued additional Community Reinvestment Act questions and answers, republished their entire set of questions and answers, and sought comment on several new questions and answers. See Chapter Section 3.4 (Community Reinvestment Act). The new Qs and As cover topics such as:
 - Loan participations purchased, if not sold several times to artificially inflate CRA performance.
 - Investments in minority- or women-owned financial institutions and low-income credit unions.
 - Intermediate and small institutions’ affordable home mortgage loans and small business and farm loans, considered as community development loans.
 - Examples of “other loan data” that may be considered under the lending test, such as letters of credit and loans for mixed-income housing.
 - Small business and small farm loans secured by a single-family residence.
 - Investments in a national or regional community development fund.
 - Examination as an intermediate small institution, with no lag between becoming an intermediate small institution and being examined as one.
 - Reporting of participation in a community development loan, that is, institutions should report only the amount of their purchase and not the entire loan amount at origination.
 - Refinanced or renewed community development loans.
- **TILA Advertising Requirements.** In December 2008, effective for advertisements occurring on or after July 1, 2010, the Federal Reserve Board amended Regulation Z to restrict use of the term “fixed” in connection with the advertisement of rates for open-end plans, including home-equity lines of credit. See Sections 1.1 (Truth in Lending) and 4.1 (Advertising).
- **SCRA Extension of Interest Reduction.** In 2008, Congress, in the Housing and Economic Recovery Act, amended the Servicemembers Civil Relief Act to extend the interest reduction (for mortgage loans only) from the end of military service to one year thereafter. See Section 6.5 (Servicemembers Civil Relief Act).
- **State Mortgage Licensing and the SAFE Mortgage Licensing Act.** On January 5, 2009, HUD announced that the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have developed model legislation to meet the requirements of the SAFE Mortgage Licensing Act, and that HUD had approved the model and found that it meets the minimum requirements of the act. Most of the states have taken, and most likely by July 31, 2010 all states will have taken, the steps required to participate in the Nationwide Mortgage Licensing System (NMLS), as described in Section 8.1. The Web site for the NMLS, at www.csbs.org, provides standardized license application forms and license application checklists, and includes a State Licensing Resource Page that offers information about the licensing requirements of each participating state. See Section 8.1 (State Law Compliance).
- **Colorado.** A 2008 statute requires, at least 30 days before filing a notice of foreclosure (election and demand) and at least 30 days after default, the holder of a note or other evidence of debt of a residential mortgage loan to mail a notice to the debtor containing the telephone number of the Colorado foreclosure hotline and the direct telephone number of the holder’s loss mitigation representative or department. See Section 8.7.
- **Connecticut.** A 2008 statute requires mortgagees to provide payoff statements or reinstatement payment statements to be provided within 7 business days after receipt of a borrower’s request. See Section 8.8.

- **New York.** A 2008 statute requires a 90-day notice to be provided to the borrower of a high-cost loan, subprime home loan, or nontraditional home loan before the lender or mortgage servicer may commence foreclosure. See Section 8.34.
- **Washington.** Section 8.49 has been revised to reflect several 2008 statutes, including: a prohibition of certain prepayment penalties; a new one-page loan disclosure summary; a prohibition of negative amortization for subprime and nontraditional mortgage loans; several prohibited unfair practices for lenders and mortgage brokers; new requirements for reverse mortgage loans; and a required 30-day advance notice before foreclosure.

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