

Federal Reserve Bank of San Francisco
101 Market Street, San Francisco, California 94105

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To State Member Banks, Bank
Holding Companies, Financial Holding
Companies, Savings and Loan Holding Companies,
and Foreign Banking Offices
in the Twelfth Federal Reserve District

CFPB Finalizes Amendments to the Ability-to-Repay Rule

On May 29, 2013, the Consumer Financial Protection Bureau (CFPB) issued a [final rule](#) to create specific exemptions and make modifications to its [Ability-to-Repay rule](#) for small creditors, community development lenders, and housing stabilization programs. The amendments also revise the rules on how to calculate loan origination compensation and circumstances under which they would be excluded from the points and fees limits applicable to qualified mortgages. More specifically, the final rule:

- *Exempts Certain Nonprofit Creditors* – The final rule exempts certain nonprofits and community based lenders from the Ability-to-Repay rules. Among other conditions, the exemptions generally apply to designated categories of community development lenders and to nonprofits that make more than 200 loans per year and lend only to low- and moderate-income consumers. Similarly, mortgage loans made by or through a housing finance agency or through certain homeownership stabilization and foreclosure prevention programs would be exempted from the Ability-to-Repay rules.
- *Creates Small Creditor Exemptions* – The final rule makes several adjustments to the Ability-to-Repay rule in order to facilitate lending by small creditors, including community banks and credit unions with less than \$2 billion in assets and that make 500 or fewer first-lien mortgages each year. First, the rule generally extends Qualified Mortgage (QM) status to certain loans that these creditors hold in their portfolios even if the consumers' debt-to-income ratio exceeds 43 percent. Second, the final rule provides a two-year transition period during which time small creditors can make balloon payment loans under certain conditions with those loans qualifying as QMs.
- *Establishes How to Calculate Loan Origination Compensation* – The Dodd-Frank Act mandates that QMs have limited points and fees, and that compensation paid to loan originators, such as loan officers and brokers, is included in points and fees. The final rule provides certain exceptions to this Dodd-Frank Act requirement that loan originator compensation be included in the total permissible points and fees for both QMs and high-cost loans. Under the revised rule, the compensation paid by a mortgage broker to a loan originator employee or paid by a lender to a loan originator employee does not count towards the points and fees threshold. This amendment does not change the January 2013 final rule under which compensation paid by a creditor to a mortgage broker must be included in points and fees, in addition to any origination charges paid by a consumer to a creditor.

The amendments will take effect with the Ability-to-Repay rule on January 10, 2014.

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's website, at <http://www.frbsf.org/banking/letters>.

For additional information regarding supervisory expectations, please contact:

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