

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

Application of Regulation Z's Ability-to-Repay Rule to Certain Situations Involving Successors-in-Interest

On July 11, 2014, the Consumer Financial Protection (CFPB) issued an [interpretive rule](#) to clarify that where a successor-in-interest (successor) who has previously acquired title to a dwelling agrees to be added as obligor or substituted for the existing obligor on a consumer credit transaction secured by that dwelling, the creditor's written acknowledgement of the successor as obligor is not subject to the Ability-to-Repay Rule (ATR Rule). The interpretation clarifies that the ATR Rule does not apply since such a transaction does not constitute an "assumption" as defined by Regulation Z because the transaction is not a "residential mortgage transaction" as it relates to the successor.

As noted in the interpretive rule, the issue often arises upon the death of the obligor, with the surviving spouse or children asserting rights under the mortgage, but it may also present itself in other settings, such as in separation or divorce, after a transfer from living parents to children, or a transfer to an inter vivos trust of which the consumer is the beneficiary.

The CFPB plans to incorporate this interpretation into Regulation Z's Official Interpretations at a later date, but has indicated that creditors may rely on this interpretation as a safe harbor under section 130(f) of the Truth in Lending Act.

Resources

Additional information on CFPB rules and related guidance can be found on the CFPB's website at <http://www.consumerfinance.gov/>.

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-supervision/publications/district-circular-letters/>.

For additional information, please contact:

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