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

April 19, 2013

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

Proposal to Clarify Escrow Rule and Extend Protections for Higher-Priced Mortgage Loans (HPMLs)

On April 12, 2013, the Consumer Financial Protection Bureau (CFPB) issued a proposed rule to clarify and make technical amendments to the Escrow Requirements under the Truth in Lending Act (Regulation Z) (Escrow Rule). The Escrow Rule, which goes into effect on June 1, 2013, lengthens the mandatory escrow account period for HPMLs from one to five years and establishes an exemption from the escrow requirements for certain creditors that operate predominately in “rural” and “underserved” areas.

“Rural” and “Underserved” Definitions
The CFPB is proposing certain clarifying and technical amendments to the Escrow Rule, including clarification on how to determine whether a county is considered “rural” or “underserved” for the application of the escrow requirement and the other Dodd-Frank Act mortgage regulations.[1] Specifically, the CFPB is proposing changes to clarify how a county’s “rural” and “underserved” status may be determined based on currently applicable Urban Influence Codes (UICs), which are established by the United States Department of Agriculture, Economic Research Service (USDA-ERS) (for “rural”), or based on Home Mortgage Disclosure Act (HMDA) data (for “underserved”) and to provide illustrations of the rule to facilitate compliance.

Protections Applicable to HPMLs
The proposal also restores certain existing requirements related to a consumer’s ability to repay and for prepayment penalties for HPMLs. These provisions were removed from the regulatory text through the Escrow Rule, since these protections are expanded to most mortgage transactions through the other Dodd-Frank Act mortgage rules. However, the Escrow Rule is effective June 1, 2013, while the new ability-to-repay and prepayment penalty provisions are not effective until January 10, 2014. Therefore, to prevent any interruption of the applicable protections, the proposal establishes a temporary provision to ensure that the protections remain in place for HPMLs until the expanded provisions take effect in January 2014.

Those wishing to comment on the proposed rule should refer to the instructions outlined in the proposal. The comment period will close 15 days after publication in the Federal Register, which is expected shortly. Additional information on CFPB rules and related guidance can be found on the CFPB’s website.

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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[1] The specific provisions that rely on the “rural” and “underserved” definitions include: (1) the §1026.35(b)(2)(iii) exemption to the Escrow Rule’s escrow requirement for HPMLs; (2) the §10265.43(f) allowance for balloon-payment qualified mortgages; (3) the §1026.32(d)(1)(ii)(C) exemption from the balloon payment prohibition on high-cost mortgages; and (4) the §1026.35(c)(4)(vii)(H) exemption from the §1026.35(c)(4)(i) HPML second appraisal requirement for credit transactions made by creditors in a rural county.