

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

June 14, 2012

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

Consumer Financial Protection Seeks Further Comment on Ability to Repay Proposal

On May 31, 2012, the Consumer Financial Protection Bureau (CFPB) announced that it is seeking public comment on new data and information that it has received in a rulemaking to require lenders to assess consumers' ability to repay mortgage loans before extending them credit.

As indicated in the CFPB's [press release](#), the request for comment relates to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requirement that lenders make a reasonable and good faith assessment of consumers' ability to repay their mortgages. As part of the broader ability-to-repay mandate, the Dodd-Frank Act also requires the designation of "qualified mortgages;" transactions that are structurally safer and are underwritten according to standards that make it reasonable to expect borrowers have the ability to repay.

In May 2011, the Board of Governors of the Federal Reserve System issued a proposal on how to implement the new requirements. The comment period for that proposal closed just after the CFPB inherited the implementation authority in July 2011.

The [notice](#) to reopen the comment period explains that the CFPB has received data from the Federal Housing Finance Agency (FHFA) tracking the performance of loans purchased or guaranteed by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) from 1997 to 2011. The CFPB also obtained data on other securitized mortgage loans.

The notice seeks comment on the data and requests similar information regarding other types of mortgage loans. It also seeks data on the relationship between the ability to repay and other potentially relevant factors, such as borrowers' cash reserves. In addition, the notice summarizes analysis and information that the CFPB has received about the potential risk of litigation in connection with the new requirements and seeks additional data from the public about this issue.

The notice is focused narrowly on these data issues and does not reopen comment on other aspects of the proposed rule. The comment period will conclude on July 9, 2012. CFPB expects to issue the final rule before the end of 2012. The rule is required under the Dodd-Frank Act by January 2013.

Resources

For those wishing to submit comments, the notice, along with information on how to submit comments electronically, is located on the CFPB's website at <http://www.consumerfinance.gov/notice-and-comment/>

The Federal Reserve Bank of St. Louis has also established a regulatory reform rules website that tracks the progress of more than 200 proposals and rules that will be written by the various Federal agencies to implement the Dodd-Frank Act. The site is located at: <http://www.stlouisfed.org/regreformrules/>.

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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