Fed Defers Another Mortgage Reform. Originator Comp. on Schedule

By: Jann Swanson | Wed, Feb 2 2011, 3:27 PM

Citing the limited benefits of proceeding with it and the potential compliance difficulties that would arise from it, the Federal Reserve Board had decided not to finalize **three pending rulemakings** scheduled to go into effect in July. The rules were to be promulgated under Regulation Z which implements the Truth in Lending Act (TILA) currently administered by the Board scheduled to be transferred to the new Consumer Financial Protection Bureau (CFPB.)

Two of the rules were first proposed in August 2009 and would have reformed consumer disclosures under TILA for closed-end mortgage loans and home equity lines of credit. The third rule, issued in September 2010 included changes to consumer disclosures for rescinding several loan types, clarified lenders' responsibilities when borrowers exercised those rights, changed disclosures for reverse mortgages, proposed new disclosures for loan modifications and proposed restrictions on some advertising and sales practices. The Board received more than 5,000 comments on these proposed rules.

CFPB was created under the Dodd-Frank Wall Street Reform and Consumer Protection Act and will take over general rulemaking authority for TILA. It is required to issue a proposal to combine the mortgage disclosures currently required by TILA with those required by the Real Estate Settlement Procedures Act (RESPA) into a single form within 18 months of assuming that authority.

The Board said it had reviewed the efficacy of proceeding with its substantial revisions to the disclosures but, as they would be subject to further revision by CFPB in order to combine them into a single form, has determined that it would not be in the public interest. There is also the possibility, the board said, that a new combined disclosure rule could be proposed by CFPB before some requirements issued by the Board were even fully implemented. Some provisions of the three proposals will not be affected by future CFPB rulemaking but the Board said issuing rules piecemeal would be of limited benefit.

"This announcement and the delay of risk retention regs indicates the Fed is capable of understanding the implications of implementing 'onesy-twosy' type reforms in the mortgage industry" said MND's Managing Editor Adam Quinones. "If the main intention of these updates is to protect consumers, the Fed should further consider the ramifications if they don't delay originator compensation reform too. No definitive compliance guide has been offered by the Fed. The Consumer Financial Protection Bureau isn't set up and won't be until July. The GFE and the TIL still need to be simplified. Uncertainty is clearly abundant. As a result lenders are taking several different approaches on loan officer pay practices that will only reduce financing options and increase costs for consumers. This is not how we rebuild the industry. We need less confusion and more direct guidance. One issue at a time. Otherwise the consumer will end up suffering".

Mortgage Bankers Association (MBA) President John A. Courson issued a statement applauding the Board's action, saying in part, "We agree with the Board's analysis that completing these rulemakings, then having the CFPB do its own rulemaking shortly thereafter, would not be in the public's best interest. A series of unnecessarily duplicative rulemakings would have increased confusion, regulatory burden and costs to the very consumers these rules should protect. We look forward to working with the CFPB on its rule to address many of the same issues and to harmonize the TILA and RESPA consumer disclosures."

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