MoFoMoFi Mortgage Finance Resource Center

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CFPB Amends ATR/QM Rule to Implement HELP Act

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On March 22, 2016, the CFPB issued an Interim Final Rule (the "IFR") amending the ability-to-repay ("ATR") and qualified mortgage ("QM") provisions of Regulation Z. The IFR, which implements a portion of the Helping Expand Lending Practices in Rural Communities ("HELP") Act, became effective on March 31, 2016.

Before the IFR became effective, certain special provisions of Regulation Z applied to small creditors "operating predominantly" in rural or underserved areas. Specifically, small creditors operating predominantly in rural or underserved areas were (i) eligible to originate balloon-payment QMs and balloon-payment high-cost mortgages, and (ii) exempt from the requirement to establish an escrow account for higher-priced mortgages. Since the IFR became effective, these special provisions now apply to small creditors simply "operating" in rural or underserved areas, not just to the group of small creditors "operating predominantly" in rural or underserved areas. By removing the word "predominantly," the rule expands application of the special provisions to a larger group of small creditors.

Under the previous version of the rule, a small creditor was considered to be "operating predominantly" in rural or underserved areas if, in the previous calendar year, the small creditor extended more than 50% of its first-lien covered transactions on properties located in rural or underserved areas. A grace period applied for applications received through April 1 of the year after a small creditor ceased to be "operating predominantly" in rural or underserved areas. Under the current version of the rule, a small creditor is "operating" in a rural or unserved area if it has originated at least one covered mortgage loan secured by a property located in a rural or underserved area (1) in the previous calendar year, or (2) for applications received before April 1 of a given calendar year, in either of the two previous calendar years.

Note that the grace period under the current version of the rule is essentially the same as the grace period under the previous version of the rule. If a small creditor operates in a rural or underserved area in 2016, but does not do so in 2017, it may continue to enjoy the special provisions for applications received through April 2018.

The IFR is the second rule the CFPB has promulgated pursuant to the HELP Act. On March 3, 2016, as required by the HELP Act, the CFPB issued a procedural rule establishing an application process for individuals and entities to request that the CFPB designate additional areas as “rural” for purposes of federal consumer financial laws.

A copy of the March 22, 2016, IFR may be found here. A copy of the March 3, 2016, procedural rule may be found here.