

# Mortgage Loans & Dodd-Frank

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# Dodd–Frank Wall Street Reform and Consumer Protection Act

- 2,319 pages of new law affecting nearly all aspects of mortgage lending
- Created the Consumer Financial Protection Bureau (CFPB)
- Directed Regulators to Write 243 New Regulations to Prevent Another Financial Crisis

Over 3,000 Pages of Rules to be Implemented by January 2014:

- **ATR/QM Final Rule** - Ability to Repay/Qualified Mortgage
- **HOEPA Rule** - High Cost Mortgage Loans (Reg. Z)
- **Loan Officer Compensation Rule** - Mortgage Originator Standards (Reg. Z)
- **Servicing Rule** - Mortgage Servicing (Reg. X; Reg. Z)
- **ECOA Appraisal Disclosure Rule**
- **Appraisals for Higher Priced Mortgages**
- **Escrow Final Rule** - Requirements for Escrow Accounts (Reg. Z)



# Mortgage-Related Rulemakings Still to Come

- **Qualified Residential Mortgage (QRM) Rule** - Six rulemakers (not including CFPB). Proposed rule issued in 2011. Final rule and effective date unknown.
- **RESPA-TILA Integration Rule** - Mortgage disclosure integration (Regulation X; Regulation Z) Proposed rule issued July 9, 2012. Final rule and effective date unknown.
- **HMDA Pre-Rule** - Home Mortgage Disclosure Act (Regulation C) Proposal and final rule dates unknown.
- **Basel III Rule**- Three regulators (FRB, OCC & FDIC). Issued June 7, 2012. Final Rule expected mid-year 2013, effective dates phased in over 5 years.
- **Loan Originator Anti-Steering Rule** – Proposal and final rule dates unknown.

- The mortgage industry is working hard to understand, interpret and make operational the new law of the land in a very short timeframe
- Such a broad undertaking has never before been attempted
- It is important to get this regulatory implementation right in order to avoid unintended consequences
- Regulatory coordination is vital



- Broad, Comprehensive, National Standard
  - » First *nationwide* mortgage servicing standards
- 326 Pages in *Federal Register*
- Exempts only the Smallest Servicers from Specific Provisions
  - » 5,000 or fewer loans (e.g. community banks and credit unions)



# Simultaneously...

- National Mortgage Settlement (AG Settlement)
  - » Temporary, Punitive, Applicable only to Largest Lenders/Servicers
  - » Provides \$25 Billion to Distressed Borrowers and States
  - » Oversight by an independent monitor, Attorney Joseph A. Smith, Jr.
- California Homeowners Bill of Rights
  - » Codified provisions of the AG Settlement to apply to all servicers, regardless of size/business model or any prior problems



# Coverage Comparison

Topic Areas	CFPB Rules	AG Settlement	CA Homeowners Bill of Rights
Periodic billing statements	X	X	
Adjustable-rate mortgage interest-rate adjustment notices	X		
Prompt payment crediting and payoff payments	X	X	
Force-placed insurance	X	X	
Error resolution and information request	X	X (Error Resolution)	
Information management policies and procedures	X	X	
Early intervention with delinquent borrowers	X	X	X
Continuity of contact with delinquent borrowers	X	X	X
Loss mitigation procedures	X	X	X



# State Legislatures are Permitting CFPB Rules to Take Effect

In 2013, Homeowners Bill of Rights legislation has been considered in numerous states, and legislators have opted to provide CFPB time to implement its national servicing rules:

- » New Mexico Senate Bill 1
- » Colorado House Bill 1249
- » West Virginia Senate Bill 361
- » Florida House Bill 1177
- » Nevada Senate Bill 321 (Pending)

# CFPB's Sweeping Consumer Protection Authority



- Expansive powers that can be exercised with limited interference from other executive or legislative bodies
- May take enforcement action to prevent unfair, deceptive or abusive acts or practices
- Authorized to conduct market surveillance to monitor consumer financial products or services, including operation of a consumer complaint database
- Able to respond to state consumer protection concerns directly, without additional oversight from Congress
- States have an important role in working with CFPB to protect consumers, and CFPB's authority to promulgate additional rules based on state needs is unique among Federal regulators



# Important Reasons for Regulatory Symmetry

- FHFA's State-Specific G-Fee Proposal May Increase Costs to Future Borrowers
- Reduce Consumer Confusion – Consumers Need to Know their Rights and Be Able to Exercise Them
- Need to Return Private Capital to the Market
- Still Addressing Asymmetry Created by SAFE Act (2008) for Mortgage Loan Originator (MLO) Licensing
  - » Transitional Licensing and/or Reciprocity in MLO Licensing Needed

- Robust Consumer Protections (No U-Turns!)
- Affordable Access to Credit for Creditworthy Borrowers/Families
- Efficient Mortgage Market where Small & Independent Companies Can Compete with Large Lenders
  - » Competition Keeps Costs Down for Consumers
- Housing Finance Reform: The Return of Private Capital Requires Greater Regulatory Certainty