In January 2013, the Consumer Financial Protection Bureau (CFPB) issued 8 distinct final rules that apply to consumer mortgage transactions. The rules amend several existing regulations, including Regulations Z, X and B. The rules implement the:

- High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act;
- Homeownership Counseling Amendments to the Real Estate Settlement Procedures Act;
- Escrow Requirements under the Truth in Lending Act;
- Ability to Repay and Qualified Mortgage Standards under the Truth in Lending Act;
- Mortgage Servicing Provisions under the Real Estate Settlement Procedures Act and the Truth in Lending Act;
- Appraisal Requirements for Higher-Priced Mortgage Loans under the Truth in Lending Act;
- Appraisal Requirements under the Equal Credit Opportunity Act; and
- Loan Originator Compensation Requirements under the Truth in Lending Act.

The scope of each of the rules varies considerably. For example, some rules apply to only closed-end credit transactions. Others apply to both closed-end and open-end transactions. Some apply only to transactions secured by the consumer’s principal dwelling, while others apply to any consumer dwelling. Moreover, some apply to only dwellings secured by real property, while others also apply to personal property used as a dwelling. The attached charts lay out which rules apply to different types of transactions. The first chart is an overview, followed by charts covering the CFPB mortgage rules that apply to:

- Consumer-purpose home equity lines of credit secured by a principal dwelling;
- Consumer-purpose home equity lines of credit secured by a non-principal dwelling;
- Consumer-purpose closed-end loans secured by a principal dwelling (real property);
- Consumer-purpose closed-end loans secured by a principal dwelling (personal property); and
- Consumer-purpose closed-end loans secured by a non-principal dwelling.
Coverage of Transactions by New CFPB Mortgage Rules

OVERVIEW

CFPB mortgage rules

- Consumer-purpose HELOC
  - HELOC secured by principal dwelling
    - Real property first lien
      - HOEPA/High-cost real property first lien
    - Real property subordinated lien
      - HOEPA/High-cost real property subordinated lien
    - Personal property first lien
      - HOEPA/High-cost personal property first lien
    - Personal property subordinated lien
      - HOEPA/High-cost personal property subordinated lien
  - HELOC secured by non-principal dwelling
    - Real property first lien
      - HOEPA/High-cost real property first lien
    - Personal property subordinated lien
      - HOEPA/High-cost personal property subordinated lien

- Consumer-purpose closed-end loan
  - Closed-end loan secured by principal dwelling
    - Real property first lien
      - HOEPA/High-cost real property first lien
    - Personal property first lien
      - HOEPA/High-cost personal property first lien
    - Personal property subordinated lien
      - HOEPA/High-cost personal property subordinated lien
  - Closed-end loan secured by non-principal dwelling
    - Real property first lien
      - HOEPA/High-cost real property first lien
    - Personal property subordinated lien
      - HOEPA/High-cost personal property subordinated lien
    - Higher-priced real property first lien
      - HOEPA/High-cost real property first lien
    - Higher-priced personal property first lien
      - HOEPA/High-cost personal property first lien
    - Higher-priced personal property subordinated lien
      - HOEPA/High-cost personal property subordinated lien
The following CFPB rules (issued in January 2013) are covered in this chart: Regulation B Appraisal Rule (12 C.F.R. § 1002.14); Regulation X List of Homeownership Counseling Organizations Rule (12 C.F.R. § 1024.20); Regulation Z Loan Originator Compensation Rule (12 C.F.R. § 1026.36); Regulation Z HOEPA Rule (12 C.F.R. § 1026.32); and Regulation Z Servicing Rule (12 C.F.R. § 1026.36). Other CFPB mortgage rules issued in January 2013 do not apply to HELOCs. Several exemptions may apply, including exemptions for reverse mortgages from the Regulation X List of Homeownership Counseling Organizations Rule and the HOEPA Rule.

1 The Regulation B Appraisal Rule also applies to first-lien business-purpose HELOCs. The Regulation B Appraisal Rule exempts motor vehicles (such as boats and certain “motor homes”).

2 High-cost is a rate-based, fee-based or prepayment-penalty-based determination.
The following CFPB rules (issued in January 2013) are covered in this chart: Regulation B Appraisal Rule (12 C.F.R. § 1002.14); Regulation X List of Homeownership Counseling Organizations Rule (12 C.F.R. § 1024.20); Regulation Z Loan Originator Compensation Rule (12 C.F.R. § 1026.36); Regulation Z HOEPA Rule (12 C.F.R. § 1026.32); and Regulation Z Servicing Rule (12 C.F.R. § 1026.36). Other CFPB mortgage rules issued in January 2013 do not apply to HELOCs. Several exemptions may apply, including exemptions for reverse mortgages from the Regulation X List of Homeownership Counseling Organizations Rule and the HOEPA Rule.

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Coverage of Transactions by New CFPB Mortgage Rules
Closed-End Loans

Real property first lien

Real property subordinate lien

Higher-priced real property first lien

Higher-priced real property subordinate lien

HOEPA/High-cost real property first lien

HOEPA/High-cost real property subordinate lien

- Regulation B Appraisal Rule
- Regulation X Servicing Rule (Error Resolution; Force-Placed Insurance; Policies and Procedures; Early Intervention; Continuity of Contact; Loss Mitigation Provisions)
- Regulation X Homeownership Counseling Rule
- Regulation Z Ability-to-Repay/QM Rule
- Regulation Z Homeownership Counseling Rule
- Regulation Z Servicing Rule (Periodic Statements/Coupon Books; Interest Rate Adjustment Notices (solely for ARMs); Payment Crediting; “Pyramiding” Late Fee; and Payoff Statement Provisions)
- Regulation Z Loan Originator Compensation Rule and SAFE Act Rule
- Regulation Z Escrow Rule
- Regulation Z Interagency Appraisal Rule

- Regulation B Appraisal Rule
- Regulation X Servicing Rule (Error Resolution; Force-Placed Insurance; Policies and Procedures; Early Intervention; Continuity of Contact; Loss Mitigation Provisions)
- Regulation X Homeownership Counseling Rule
- Regulation Z Ability-to-Repay/QM Rule
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- Regulation Z Servicing Rule (Periodic Statements/Coupon Books; Interest Rate Adjustment Notices (solely for ARMs); Payment Crediting; “Pyramiding” Late Fee; and Payoff Statement Provisions)
- Regulation Z Loan Originator Compensation Rule and SAFE Act Rule
- Regulation Z Escrow Rule
- Regulation Z HOEPA Rule

- Regulation B Appraisal Rule
- Regulation X Servicing Rule (Error Resolution; Force-Placed Insurance; Policies and Procedures; Early Intervention; Continuity of Contact; Loss Mitigation Provisions)
- Regulation X Homeownership Counseling Rule
- Regulation Z Ability-to-Repay/QM Rule
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- Regulation Z HOEPA Rule

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- Regulation Z Escrow Rule
- Regulation Z HOEPA Rule

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2. The Regulation B Appraisal Rule also applies to first-lien business-purpose closed-end loans. The Regulation B Appraisal Rule exempts motor vehicles (such as boats and certain “motor homes”).

3. Higher-priced means APR is 2.5 or more percentage points greater than APOR for “jumbo” first-lien loans; APR is 1.5 or more percentage points greater than APOR for non-jumbo first-lien loans. APR is 3.5 or more percentage points greater than APOR for subordinate-lien loans (does not apply to Regulation Z Escrow Rule).

4. High-cost is a rate-based, fee-based or prepayment-penalty-based determination.

5. The Regulation Z Homeownership Counseling Rule applies to a loan made to a first-time mortgage borrower that may result in negative amortization.

6. The Regulation Z Escrow Rule applies to some first-lien HOEPA/high-cost closed-end loans.
Coverage of Transactions by New CFPB Mortgage Rules

Closed-End Loans

- Personal property first lien
  - Higher-priced personal property first lien
    - Regulation B Appraisal Rule
    - Regulation Z Ability-to-Repay/QM Rule
    - Regulation Z Homeownership Counseling Rule
    - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; Interest Rate Adjustment Notices (solely for ARMs); and Payoff Statement Provisions)
    - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule
    - Regulation Z Escrow Rule
    - Regulation Z Interagency Appraisal Rule
  - HOEPA/High-cost personal property first lien
    - Regulation Z Ability-to-Repay/QM Rule
    - Regulation Z Homeownership Counseling Rule
    - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; Interest Rate Adjustment Notices (solely for ARMs); and Payoff Statement Provisions)
    - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule
    - Regulation Z Escrow Rule
    - Regulation Z HOEPA Rule
- Personal property subordinate lien
  - Higher-priced personal property subordinate lien
    - Regulation Z Ability-to-Repay/QM Rule
    - Regulation Z Homeownership Counseling Rule
    - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; Interest Rate Adjustment Notices (solely for ARMs); and Payoff Statement Provisions)
    - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule
    - Regulation Z Interagency Appraisal Rule
  - HOEPA/High-cost personal property subordinate lien
    - Regulation Z Ability-to-Repay/QM Rule
    - Regulation Z Homeownership Counseling Rule
    - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; Interest Rate Adjustment Notices (solely for ARMs); and Payoff Statement Provisions)
    - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule

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2 Higher-priced means APR is 2.5 or more percentage points greater than APOR for “jumbo” first-lien loans; APR is 1.5 or more percentage points greater than APOR for non-jumbo first-lien loans. APR is 3.5 or more percentage points greater than APOR for subordinate-lien loans (does not apply to Regulation Z Escrow Rule).

3 High-cost is a rate-based, fee-based or prepayment-penalty-based determination.

4 The Regulation Z Homeownership Counseling Rule applies to a loan made to a first-time mortgage borrower that may result in negative amortization.

5 The Regulation Z Escrow Rule applies to some first-lien HOEPA/high-cost closed-end loans.
Coverage of Transactions by New CFPB Mortgage Rules

Closed-End Loans

Consumer-purpose\(^2\) closed-end loan secured by non-principal dwelling

- Real property first lien
  - Regulation B Appraisal Rule
  - Regulation X Servicing Rule (Error Resolution; Force-Placed Insurance; Policies and Procedures Provisions)
  - Regulation X Homeownership Counseling Rule
  - Regulation Z Ability-to-Repay/QM Rule
  - Regulation Z Homeownership Counseling Rule\(^3\)
  - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; and Payoff Statement Provisions)
  - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule

- Real property subordinate lien
  - Regulation X Servicing Rule (Error Resolution; Force-Placed Insurance; Policies and Procedures Provisions)
  - Regulation X Homeownership Counseling Rule
  - Regulation Z Ability-to-Repay/QM Rule
  - Regulation Z Homeownership Counseling Rule\(^3\)
  - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; and Payoff Statement Provisions)
  - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule

- Personal property first lien
  - Regulation B Appraisal Rule
  - Regulation Z Ability-to-Repay/QM Rule
  - Regulation Z Homeownership Counseling Rule\(^3\)
  - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; and Payoff Statement Provisions)
  - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule

- Personal property subordinate lien
  - Regulation B Appraisal Rule
  - Regulation Z Ability-to-Repay/QM Rule
  - Regulation Z Homeownership Counseling Rule\(^3\)
  - Regulation Z Servicing Rule (Periodic Statements/Coupon Books; and Payoff Statement Provisions)
  - Regulation Z Loan Originator Compensation Rule and SAFE Act Rule

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\(^2\) The Regulation B Appraisal Rule also applies to first lien business-purpose closed-end loans. The Regulation B Appraisal Rule exempts motor vehicles (such as boats and certain “motor homes”).

\(^3\) The Regulation Z Homeownership Counseling Rule applies to a loan made to a first-time mortgage borrower that may result in negative amortization.
If you are following regulatory developments, you may be interested in FrankNDodd, Morrison & Foerster’s online resource that tracks rulemaking pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act. FrankNDodd features a robust search function that allows users to quickly navigate to particular sections of the Act and to find links to related regulatory materials as well as relevant MoFo commentary. Email subscribe@frankndodd.com for your password. FrankNDodd is a registered trademark of Morrison & Foerster LLP.

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Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.