

Broadened Qualified Mortgage Coverage of Lenders Operating in Rural and Underserved Markets

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The **Consumer Financial Protection Bureau (CFPB)** recently released a **Regulation Z** amendment to broaden the class of creditors that might be eligible for a special provision of Regulation Z that permits the origination of balloon-payment qualified mortgages, and for an exemption from the requirement to establish an escrow account for higher priced mortgages. The effective date is March 31, 2016. The amendment was in response to **Title LXXXIX** of the **Fixing Americas Surface Transportation Act (FAST Act)**, entitled **Helping Expand Lending Practices in Rural Communities Act (HELP Act)**. The HELP Act also provided a procedure for counties or census tracts to be designated as rural for purposes of Regulation Z.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act and current Regulation Z, the class of eligible creditors must operate "predominantly" in rural areas, meaning a small creditor (less than \$2 billion in assets and originating less than 2,000 mortgage loans) must have extended more than 50 percent of its total first lien covered mortgage transactions on properties located in areas designated as either rural or underserved. Under the HELP Act, a bank now satisfies the rural or underserved component of eligibility criteria if the bank originated a covered transaction secured by a property located in a rural or underserved area in the preceding calendar year or, if the application for the transaction is received before April 1 of the current calendar year, during either of the two preceding calendar years. The CFPB had also previously adopted provisions establishing a two year transition period during which small creditors that did not operate predominantly in rural or underserved areas could originate balloon payment qualified mortgages, which two year period is set to expire April 1, 2016.

In summary, effective March 31, 2016, the "more than 50 percent" aspect of the current test for purposes of eligibility for the escrow exemption, eligibility to originate balloon-payment qualified mortgages, and eligibility to originate balloon-payment high cost mortgages is replaced by the requirement that a creditor extend credit on at least one first-lien covered transaction secured by a property that is located in a rural or underserved area in the previous calendar year or, if the application for the transaction was received before April 1 of the current calendar year, during either of the two preceding calendar years. This change should also preserve the current status of many small creditors eligible for special provisions that were due to expire on April 1, 2016.

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