

CFPB Bulletin 11-1

Re: Amendments to the Alternative Mortgage Transaction Parity Act

Date: June 27, 2011

On July 21, 2011, amendments to the Alternative Mortgage Transaction Parity Act (“AMTPA”) take effect pursuant to section 1083 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The amendments will affect what laws apply to mortgage loans issued by state chartered or licensed lenders after that effective date.

AMTPA was enacted in 1982 to authorize state-chartered or -licensed “housing creditors” to make variable rate loans and other alternative mortgage transactions that would otherwise have been prohibited by state law, so long as the creditors complied with certain federal regulations. Implementation of AMTPA has historically been assigned to three federal banking regulators – the Office of the Comptroller of the Currency (OCC) for all state-chartered banks, the National Credit Union Administration (NCUA) for state-chartered credit unions, and the Office of Thrift Supervision (OTS) for both state-chartered thrifts and state-chartered or -licensed nondepository housing creditors.

The Dodd-Frank Act makes three amendments to AMTPA:

- AMTPA’s definition of “alternative mortgage transaction” is altered to remove language that specifically referenced: (1) certain balloon loans, (2) shared equity or appreciation transactions, and (3) mortgage loans involving other features not common to traditional fixed rate, fixed term transactions. The Dodd-Frank Act retains language defining alternative mortgage transactions as loans “in which the interest rate or finance charge may be adjusted or renegotiated.”
- Section 1083 of the Dodd-Frank Act adds language to describe what state laws affecting alternative mortgage transactions may be preempted by AMTPA. As of July 21, 2011, the effective date of the statutory amendments, AMTPA will no longer operate to preempt certain general state restrictions on mortgage transactions, including restrictions on prepayment penalties or late charges.
- As of July 21, 2011, authority for issuing regulations to implement AMTPA will transfer from the OCC, NCUA, and OTS to the Consumer Financial Protection Bureau. The Dodd-Frank Act directs the Bureau to analyze the agencies’ existing regulations in conducting its own rulemaking.

The Dodd-Frank Act provides that the amendments do not affect any alternative mortgage transaction made on or before July 21, 2011. Existing loans will therefore be grandfathered under the existing OCC, NCUA, or OTS standards, as applicable. The Bureau anticipates providing further guidance as soon as possible concerning the applicability of AMTPA to alternative mortgage transaction loans made after July 21, 2011. The Bureau's goal is to provide for an orderly transition process for consumers, lenders, state legislatures, and other interested parties.