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OCC 2009-7

Comptroller of the Currency
Administrator of National Banks

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Subject: **Truth in Lending Act**

Description:

**Final Rule for Home
Ownership and Equity
Protection Act
Amendments**

Date: February 19, 2009

TO: Chief Executive Officers and Compliance Officers of All National Banks and National Bank Operating Subsidiaries, Department and Division Heads, and All Examining Personnel

The Board of Governors of the Federal Reserve System published in the July 30, 2008, *Federal Register*, amendments to Regulation Z under the Home Ownership and Equity Protection Act (HOEPA). The final rule is intended to protect consumers from unfair, deceptive, or abusive acts and practices in mortgage lending and to restrict certain mortgage practices.

Higher-Priced Mortgage Loans¹

The four key protections of the newly defined category of “higher-priced mortgage loans” for loans secured by a consumer’s principal dwelling will

- Prohibit a lender from making a loan without regard to the borrower’s ability to repay the loan from income and assets other than the home’s value;
- Require creditors to verify the income and assets they rely upon to determine repayment ability;
- Ban any prepayment penalties if the payment can change in the initial four years and, for other higher-priced mortgages, restrict the prepayment penalty period to no more than two years; and
- Require creditors to establish escrow accounts for property taxes and homeowner’s insurance for first-lien higher-priced mortgage loans.

All Loans Secured by a Consumer’s Principal Dwelling

In addition, the rules adopt the following protections for all loans secured by a consumer’s principal dwelling though it may not be classified as a higher-priced mortgage:

- Creditors and mortgage brokers are prohibited from coercing a real estate appraiser to misstate a home's value.
- Servicers are prohibited from certain practices, such as pyramiding late fees. They must credit loan payments as of the date of receipt and provide a payoff statement within a reasonable time from receipt of a request.
- Creditors must provide a good faith estimate of loan costs and a schedule of payments within three days from receipt of a consumer's application for any mortgage loan secured by a consumer's principal dwelling. The consumer cannot be charged any fee until after he or she has received the early disclosures, except for a reasonable fee for the credit report.

Advertising

Advertising rules for both open-end and closed-end mortgage transactions now require additional information about rates, monthly payments, and other loan features. The final rule also bans seven deceptive or misleading advertising practices for closed-end mortgage loans. This includes the practice of making a false statement that a rate or payment is fixed when, in reality, it can change.

The final rule becomes effective October 1, 2009, with the exception of the escrow requirement, which will be phased in during 2010. Interagency examination procedures will be issued at a later date.

Questions regarding this change may be directed to your supervisory office or the Compliance Policy Department at (202) 874-4428.

/signed/

Ann F. Jaedicke
Deputy Comptroller for Compliance Policy

Attachment: [Final Rule](#)
[<http://www.occ.treas.gov/fr/fedregister/73fr44522.pdf>]

¹Mortgage loans are defined as higher-priced if the annual percentage rate is 1.5 percentage points or more above the average prime offer rate reported by Freddie Mac or a comparable Federal Reserve survey for a first lien; or 3.5 percentage points above the index if it is a subordinate-lien mortgage. There are exclusions for reverse mortgages, construction-only loans, bridge loans, and home equity lines of credit.