

# Consumer Financial Protection Bureau Issues New Rules

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On January 10, 2013, the Consumer Financial Protection Bureau (CFPB) issued three new rules related to mortgage lending. These rules implement amendments to Regulation Z (Truth in Lending Act) and the Regulation X (Real Estate Settlement Procedures Act) in accordance with the Dodd-Frank Act.

The **Ability to Repay Rule**, which will go into effect January 10, 2014, requires creditors to make a reasonable, good faith determination of a borrower's ability to repay a mortgage loan and outlines and describes certain minimum requirements for creditors making ability-to-repay determinations. It also requires creditors retain evidence of compliance for three years after the loan is made. The Rule includes a safe harbor for certain qualified mortgage loans with low interest rates and a rebuttable presumption of compliance for higher priced qualified mortgage loans.

The **Homeownership Counseling Amendments Rule**, also effective January 10, 2014, requires lenders to provide consumers who apply for mortgage loans with a list of homeownership counseling organizations. The Rule also expands the types of high-cost mortgage loans that are subject to the Home Ownership and Equity Protection Act (HOEPA) and imposes additional restrictions such loans, including a pre-loan counseling requirement and a ban on prepayment penalties.

The **Escrow Requirements Rule**, effective June 1, 2013, requires lenders who make higher priced mortgage loans to establish and maintain escrow accounts for real estate taxes and homeowners' insurance for at least five years, subject to limited exceptions.

On January 17, 2013, the CFPB issued new **Mortgage Servicing Rules**, effective January 10, 2014, generally requiring large servicers to provide certain information to consumers and to establish certain practices and procedures with respect to servicing errors and communications with delinquent borrowers. The rules also require servicers to follow certain loss mitigation procedures for mortgage loans secured by the borrower's principal residence – some of which apply to small as well as large servicers, including when the servicer can begin foreclosure proceedings.

For more information on these new regulations, the Dodd-Frank Act, the Truth in Lending Act, the Real Estate Settlement Procedures Act, or the Home Ownership and Equity Protection Act, please contact [Attorney R. Carl Anderson](#) or [Attorney Kelly Ovitt Puc](#).