

CMG Financial Correspondent Lending Policy Guidance

TRUTH-IN-LENDING/REGULATION Z POLICY

HOMEOWNERSHIP COUNSELING REQUIREMENTS UNDER 2013 HOEPA RULE

OVERVIEW

In 2010, the Dodd-Frank Act amended TILA by expanding the scope of HOEPA Section 32 coverage to include purchase money mortgages and open-end credit plans (i.e., home equity lines of credit or “HELOCs”) and amended HOEPA Section 32’s coverage tests. In January, 2013, the Consumer Financial Protection Bureau (“CFPB”) issued its “2013 HOEPA Rule” to implement these Dodd-Frank changes. **That Rule applies to transactions for which a creditor receives a mortgage application on or after January 10, 2014.**

Embedded in that 2013 HOEPA Rule are two additional Dodd-Frank counseling requirements that may apply to creditors **regardless of whether or not they make Section 32 or Section 35 loans**. These provisions require or encourage consumers to obtain homeownership counseling in different types of loan transactions.

POLICY STATEMENT

It is the policy of CMG Mortgage, Inc., dba CMG Financial (CMG) to comply with the federal requirements set forth by the Truth In Lending Act and its implementing Regulation Z, as well as the Real Estate Settlement Procedures Act and its Regulation X, as each of the pertain to homeownership counseling.

1. Pre-Loan Counseling for High-Cost (Section 32) Mortgages [12 CFR § 1026.34(a)(5)]

Prior to purchasing a high-cost mortgage, CMG must receive written certification that the consumer has received homeownership counseling on the advisability of the mortgage from a counselor that is approved to provide such counseling by the Secretary of the U.S. Department of Housing and Urban Development or, if permitted by the Secretary, by a State housing finance authority. The counseling must occur *after* the consumer has received their initial RESPA Good Faith Estimate or the initial HELOC disclosures required under Section 1026.40. CMG is prohibited from steering the consumer to a particular counseling agency.

The counseling certification must include all of the following information items:

- (A) The name(s) of the consumer(s) who obtained counseling;
- (B) The date(s) of counseling;
- (C) The name and address of the counselor;
- (D) A statement that the consumer(s) received counseling on the advisability of the high-cost mortgage based on the terms provided in either the good faith estimate required by section 5(c) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(c)) or the disclosures required by § 1026.40; and



(E) A statement that the counselor has verified that the consumer(s) received all of the Section 32 high-cost loan disclosures required by either § 1026.32(c) or the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 *et seq.*) with respect to the transaction.

Note: because the consumer typically receives some of these documents at or just before consummation, CMG recommends a two-step counseling process. At first stage, the consumer receives counseling on the mortgage after receipt of the GFE or initial HELOC disclosure, then at the second stage, the consumer has a second meeting with the counselor so that the counselor can confirm receipt of all the additional required disclosures prior to issuing their certification.

Counseling need not be in-person. Counseling may be provided via telephone so long as it is provided by a HUD-approved counselor. A self-study program may not be used to satisfy the counseling requirement.

The cost of homeownership counseling prior to closing a Section 32 loan transaction can be paid by the consumer, by the creditor, or it may be financed as part of the loan transaction.

2. Negative Amortization Pre-Loan Counseling under Regulation Z for First-Time Homebuyers [12 CFR § 1026.36(k)]

Before extending closed-end credit with a negative amortization feature to a first-time homebuyer, the creditor must receive documentation that the consumer has obtained homeownership counseling from a counseling organization or counselor certified or approved by the U.S. Department of Housing and Urban Development to provide such counseling. A creditor cannot steer or otherwise direct a consumer to choose a particular counselor or counseling organization.

As CMG Financial does not purchase closed-end loan products containing a negative amortization feature, this counseling requirement should not be applicable to our operations.

3. List of Homeownership Counseling Organizations In Initial Disclosure Package [12 CFR § 1024.20]

This is a counseling requirement added to Regulation X (RESPA). Creditors are required to give all federally related mortgage loan applicants, regardless of whether a Section 32 mortgage, a written list of homeownership counseling organizations within three business days of receiving the application (ie, to be included in the Seller's 2014 initial disclosure package). Applications for reverse mortgages and timeshares are excluded.

POLICY STATEMENT

For applications dated on or after January 10, 2014, loan files must include evidence that the borrower(s) received a written list of homeownership counseling organizations with the disclosure package.

Per CFPB Bulletin 2013-13 (November 8, 2013), the list of homeownership counseling organizations can be pulled from the Consumer Financial Protection Bureau's website,



www.consumerfinance.gov/find-a-housing-counselor or lenders may generate their own lists independently based upon HUD's list of homeownership counselors and counseling organizations, www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm.

It is up to the consumer after receiving the list, to decide if they want to get counseling. The Rule does not require them to do so.

4. **List of Homeownership Counseling Organizations In Monthly Loan Payment Statement or Coupon Book, and in Interest Rate Adjustment Notices [12 CFR §1026.20(d)(2)(xi)]**

Loan servicers have two similar requirements to #3 above. First, they must include on every monthly loan payment statement or in a coupon book, HUD's toll-free telephone number ((800) 569-4287) and the website address for either the Consumer Financial Protection Bureau's website, www.consumerfinance.gov/find-a-housing-counselor/ or HUD's list of homeownership counselors and counseling organizations, www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm.

