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‘Plain Language’ Mortgage Forms Released by Consumer Bureau

By Clea Benson and Emma Fidel - Jul 9, 2012

U.S. mortgage lenders would be required to give prospective borrowers “plain language” information on loan costs and risks under simplified disclosure forms released by the Consumer Financial Protection Bureau.

The agency is seeking public comment on “loan estimate” and “closing disclosure” forms that would replace two overlapping federal documents that “can be confusing to consumers and industry,” according to a statement released today. The changes are required under the Dodd-Frank Act of 2010, which created the consumer bureau.

The forms, described in an 1,100-page proposal, would change the way the annual percentage rate is calculated to include certain fees that are now excluded, such as those charged for title searches, credit reports, and appraisals. The documents highlight loan costs and spell out how they could change over time.

“Our proposed redesign of the federal mortgage forms provides much-needed transparency in the mortgage market and gives consumers greater power over the exciting and daunting process of buying a home,” Consumer Bureau Director Richard Cordray said in the agency’s statement.

First Steps

The proposals, which will be open for public comment before being completed, mark the first in a series of steps the bureau is taking to reshape mortgage lending for banks such as Wells Fargo & Co. (WFC), Bank of America Corp. and JPMorgan Chase & Co. (JPM) Subsequent rules will outline the responsibilities of lenders in underwriting, securitization and servicing.

The bureau separately suggested a new definition for “high-cost” loans subject to protections from fees and risky terms. The proposal would prohibit balloon payments, prepayment penalties and modification fees, which typically have high interest rates and other costs.

The mortgage-form proposal stems from a Dodd-Frank mandate to break a decades-old stalemate in federal mortgage policy.

Harmonizing Forms

The Truth in Lending Act, administered by the Federal Reserve, and the Real Estate Settlement Procedures Act, overseen by the Department of Housing and Urban Development, required separate forms for getting a mortgage estimate and for closing. Repeated efforts to harmonize the forms failed, so Congress charged the consumer agency with the task.

The proposed change to the APR calculation would modify current rules under the Truth in Lending Law.

The APR uses the mortgage interest rate and associated loan fees to give the consumer a single metric to assess loan cost. The Truth in Lending Act excludes some potentially costly fees, such as charges for title searches and insurance.

Consumer advocates said the suggested changes to the APR and the way it is disclosed could end up being more confusing for borrowers.

'Big Picture'

"The disclosures overall, the big picture of the changes, they will be better, they will be easier for people to understand," said Andrew Pizor, a staff attorney at the National Consumer Law Center. "But because of what they're doing with the APR, people are going to have to spend a long time looking at the numbers and trying to do math in their head."

Mark Calabria, director of financial regulation studies at the Cato Institute, a research organization that promotes free markets, said that crafted correctly, the new mortgage forms could cut down on lawsuits.

"You get better consumer documents and you get less litigation," he said. "I see that as a win-win."

Comments on the high-cost loan proposal and some portions of the mortgage form proposal are due Sept. 7. Comments on the majority of the mortgage-form proposal are due Nov. 6.

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