

****Reminder****

The amendments to the Michigan Consumer Mortgage Protection Act (CMPA) become effective June 13, 2016. Due to the amendments, the Borrower's Bill of Rights, Consumer Caution and Homeownership Counseling Notice, and List of HUD Approved Counseling agencies will not be required to be provided at the time of application for the refinance of a primary residence. However, in lieu of the Borrower's Bill of Rights, the amendment requires the special information booklet under 1024.6 of Regulation X, "Your Home Loan Toolkit: A Step by Step Guide", to be provided at the time of application. **This is a Michigan specific requirement that will now require the special information booklet on refinance transactions whereas Regulation X currently only mandates the booklet be provided on purchase transactions.** Lastly, please remember that although the CMPA requirement to provide a list of HUD-Approved credit counseling agencies has been removed, the requirement to provide the same list can still be found within section 1024.20 of Regulation X.

Examinations - Top 10 Missing Items

1. Information Security Program (16 CFR 314.3)
2. Identity Theft Prevention Program (16 CFR 681.1)
3. Anti-Money Laundering Program (31 CFR 1029.210)
4. All other P&Ps related to the operation(s)
5. Compensation agreements, broker/lender and broker (or creditor) (Reg. Z, Sec. 25 & 36)
6. Compensation received and/or paid (Reg. Z, Sec. 25 & 36)
7. Lending Criteria Pamphlet (Mortgage Lending Practices Act, Sec. 2(10))
8. Documented Date of Appraisal Delivery (Reg. B, Sec. 14)
9. Changed Circumstance Documentation (Reg. Z, Sec. 19)
10. List of HUD-approved Credit Counseling Agencies (Reg. X, Sec. 20)

Examinations - Common Violations

1. **Unlicensed Activity**
 - a. Mortgage Loan Originators (MLOs) must be licensed prior to taking an application or offering or negotiating terms of a mortgage loan (MLOLA)
 - b. Processors who act as independent contractors must be licensed MLOs (MLOLA)
 - c. Companies are cited for not having proper authority for type of activity (broker only, but closing more than 10 loans in company's name) or allowing unlicensed

MLOs to originate loans (Mortgage Brokers Lenders and Servicers Licensing Act
& Secondary Mortgage Licensing Act)

2. Not Maintaining Adequate Books & Records

- a. Can't determine compliance (MBLSLA, Sec. 21(1) & SMLA 17(1))
- b. Failure to retain documents (MBLSLA, Sec. 21(2) & SMLA 18(1))

3. Loan Estimate and Closing Disclosure Issues

- a. Missing information or improper format on Loan Estimate (not fee related)
- b. Not providing a list of service providers
- c. Broker providing Loan Estimate at application and subsequently providing a different Loan Estimate after selecting a lender w/out changed circumstance
- d. Not documenting reason or date of changed circumstances
- e. Not correctly disclosing third party origination fees on Closing Disclosure

4. Overcharges of Third Party Fees

- a. Credit Report
- b. Appraisal

5. Late or Incorrect Filings

- a. Annual Reports to DIFS
- b. Financial Statements
- c. Mortgage Call Reports

6. Blank or Incomplete Documents

- a. Denial Statements missing credit score info when reason for denial was based upon credit history (Fair Credit Reporting Act)
- b. Various other disclosures – poor business practice in general, creates opportunity for misrepresentations or fraud to occur

7. Policies and Procedures

- a. Failure to create
- b. Failure to follow or implement
- c. Not adequate for size and scope

Additional Information

<p>ID Theft Prevention Program FTC Rules Part 681.1 Compliance Date: 1/1/11</p> <p><u>Elements of the Program</u></p> <ul style="list-style-type: none"> • Identify relevant red flags • Detect red flags identified • Respond appropriately to red flags detected • Update the program periodically to reflect changes in risks to customers & the company 	<p>Safeguard Security Plan FTC Rules Part 314.3 & 314.4 Compliance Date: 5/23/03</p> <p><u>Elements of the Program</u></p> <ul style="list-style-type: none"> • Designate one or more employees to coordinate the program • Identify and assess internal and external risks • Design & implement safeguards to control risks identified • Regularly test and monitor effectiveness of the program • Oversee service providers • Evaluate & adjust program as necessary
<p>Anti-Money Laundering Program Bank Secrecy Act Compliance Date: 8/13/12</p> <p><u>Elements of the program</u></p> <ul style="list-style-type: none"> • Incorporate policies, procedures, and internal controls based the company’s risk assessment • Designate a compliance officer • Provide on-going training • Provide independent testing to monitor and maintain an adequate program 	<p>Ability-To-Repay Required Considerations Regulation Z 1026.43 Compliance Date: 1/10/14</p> <p><u>Eight Required Considerations</u></p> <ul style="list-style-type: none"> • Current income or assets • Current employment status • Monthly payment on the loan • Monthly payment on any simultaneous loan • Monthly payment for mortgage-related obligations • Current debt obligations • Monthly debt-to-income ratio or residual income • Credit history <p><u>Demonstrate that ATR determination was reasonable and in good faith</u></p> <p>Examples*</p> <ul style="list-style-type: none"> • Underwriting Standards: Using standards to underwrite the transaction that have historically resulted in comparatively low rates of delinquency and default during adverse economic conditions
<p>List of Homeownership Counseling Organizations Regulation X 1024.20 Effective: 1/10/14</p> <p><u>Requirements of the List</u></p> <ul style="list-style-type: none"> • Provided to all applicants (purchase or refinance, primary or secondary residence) • Provided within 3 business days of application • Must contain 10 HUD-Approved organizations 	

<ul style="list-style-type: none">• Generated based upon borrower’s current zip code• List must be no more than 30 days old• Includes agency name, ph. #, address, website, email, counseling services provided, and languages spoke <p><u>How to obtain the list</u></p> <p>http://www.consumerfinance.gov/find-a-housing-counselor/</p> <ul style="list-style-type: none">• Enter borrower’s CURRENT zip code• List is generated with 10 closest agencies• List includes all required information and informative statement• Ensures data is current	<ul style="list-style-type: none">• Payment History: The consumer paid on time for a significant time after origination or reset of an adjustable-rate mortgage <p><u>Factors that show ATR determination was not reasonable and in good faith</u></p> <p>Examples*</p> <ul style="list-style-type: none">• Underwriting Standards: Ignoring evidence that underwriting standards are not effective at determining consumers’ repayment ability• Inconsistency: Applying underwriting standards inconsistently or used underwriting standards different from those used for similar loans without having a reasonable justification• Payment History: The consumer defaults early in the loan, or shortly after the loan resets, without having experienced a significant financial challenge or life-altering event <p>*Examples are from CFPB’s ATR and QM small entity compliance guide (pg. 18)</p>
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Helpful Resources

<http://www.michigan.gov/difs> – find Michigan mortgage laws, bulletins, FAQs, prohibitions and enforcement actions, licensing information and more

<http://www.consumerfinance.gov/regulations/> - CFPB regulations (via e-CFR), final rules, proposed rules, and other notices

<http://www.consumerfinance.gov/regulatory-implementation/> - CFPB resources to help you understand the rules and their implications, such as small entity compliance guides, CFPB videos, exam manuals, readiness guides, and more

<http://www.consumerfinance.gov/learnmore/> - CFPB links to the Settlement Cost Booklet, CHARM Booklet, and HELOC Booklet

Department of Insurance & Financial Services – Mortgage Seminar Handout
May 5, 2016

<http://mortgage.nationwidelicensingsystem.org/Pages/default.aspx> - NMLS Resource Center

<http://www.ffiec.gov/ratespread/newcalc.aspx> - Obtain current and past Average Prime Offer Rates (APOR) to determine high cost loans and higher priced mortgage loans

<http://business.ftc.gov/documents/bus23-fighting-identity-theft-red-flags-rule-how-guide-business> - Guide to assist small businesses in complying with the Identity Theft Prevention Program requirements

<http://business.ftc.gov/documents/bus54-financial-institutions-and-customer-information-complying-safeguards-rule> - Guide to assist small businesses in complying with the Safeguard Security Plan requirements

http://www.fincen.gov/financial_institutions/lfc/ (no longer accessible online)- Information for Mortgage Companies and Brokers to comply with the Anti-Money Laundering Program requirements

<http://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/fair-credit-reporting-act> - Fair Credit Reporting Act