

April 2016

Dear CU PolicyPro Client,

A few things to consider.....

If your credit union is a small creditor and you offer your members balloon-payment mortgages, you were probably pretty disappointed if you didn't originate 50% of your covered loans in rural or underserved areas. The CFPB changed their rules at the beginning of 2016 and those balloon-payment mortgages would no longer be qualified unless the credit union served those rural and underserved areas. Good news! Here is a little break for those small creditors: the CFPB made [additional revisions](#) at the end of March that became effective on March 31st (yes, a really short turn-around time) which allowed a small creditor to retain that qualified mortgage status for balloon payment mortgages if they originated **ONE** covered transaction on a property in a rural or underserved area the previous calendar year.

Last April, the CFPB suspended submissions of credit card agreements for one year so they could improve their website and the database that stores those agreements. Well, that year went by pretty fast and now those credit unions that don't qualify for an exemption will be required to provide their [credit card agreements](#) no later than the first business day on or after April 30, 2016.

We previously highlighted the changes made to the [NCUA's Member Business Lending rules](#) that for the most part are effective on January 1, 2017. However, remember that prior to that, and effective May 13, 2016, is the elimination of the personal guarantee waiver requirement.

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Monthly OPS Notes Release: CFPB - Small Creditor

The CFPB has made quite a few changes to the small creditor determination under the mortgage rules. Credit unions, if they haven't already, should double check to see if they are eligible for the small creditor status which provides for two additional qualified mortgage safe harbors.

Effective on January 1, 2016, the CFPB made changes to increase the threshold to [determine small creditor status](#). Credit unions that extended no more than 2,000 covered loans (first lien, closed-end residential mortgage transactions) and had assets below \$2 billion (combined with affiliates) are considered "small creditors." Keep in mind that the 2,000 limit was actually increased from 500. Additionally, if your credit union maintains those covered loans in portfolio they do not need to be included in the 2,000 count!

What does it mean to have the small creditor status? It means the credit union would be eligible to originate loans without the 43% debt-to-income ratio (credit unions still have to consider debt-to-income ratios) and those loans could still be considered qualified mortgages, which provides for the safe harbor from liability. Additionally, since the rules just changed at the end of March, if the credit union originated **ONE** covered transaction on a property in a rural or underserved area the previous calendar year, the credit union is also eligible to originate balloon payment mortgages that are also considered “qualified mortgages” under the rules.

Content FAQs

Question: Is my credit union required to originate only “qualified mortgages?”

Answer: The decision to originate mortgages that are not considered “qualified” under the rules, is a risk-based decision that your credit union can make. Remember, having a qualified mortgage provides a presumption that the credit union has complied with the ability-to-repay requirements. Therefore, as outlined in the [CFPB’s Small Entity Compliance Guide](#), a court will treat a case differently if a consumer files an ability-to-repay claim where the loan is a qualified mortgage. It gives the credit union more certainty about potential liability. However, nothing requires the credit union to originate only qualified mortgages.

Question: What about the loans that our credit union originates that are considered “higher-priced” under the rules?

Answer: If the credit union originates a higher-priced mortgage loan, that is otherwise a qualified mortgage, they are considered to have a rebuttable presumption that they complied with the ability to repay requirements, but consumers can rebut that presumption. So, a consumer can argue that the credit union violated that ability-to-repay rules for a higher priced qualified mortgage. However, the consumer must show that based on the information available to the credit union at the time the mortgage was made, the consumer did not have enough residual income left to meet living expenses after paying their mortgage and other debts.

Content Updates – REMINDER!

Don’t forget the content updates that were issued last month! The first quarterly content update for 2016 was released in March and included **sixteen** policy updates. A full listing of the updated policies can be found in the [Update Overview](#) document.

The tracked changes version of each update can be found in the library section of the online manual. There is also a full Word version of the new policy that mirrors the content found in the online Master Manual. It is important to note that when updates are made to the Master Manual, these updates do not automatically go into your Working Manual. We do not want to take the chance of overwriting your content, or putting in content that may not apply to your credit union. For more information and training on the next steps necessary to incorporate the updates into your manual, please visit our [Support Site](#).

Technical FAQs

Question: I have opened the Redlined version of the updates in the library but I don't see any redlined or crossed out wording in the document. What's wrong?

Answer: Some of the newer versions of Word version do not open the redline version by default – you have to intentionally open the redline display. Once you have opened the redlined version, you should see a thin red vertical line in the left margin. You may have to scroll to the first change in the document, but usually the date of the document has been changed so you can usually find the line near the top of the document. If you click on this red line, all of the redlined information will then display throughout the document.

If you have any issues getting the redlined information to display, please contact the support team at polycsupport@cusolutionsgroup.com.