

BULLETIN UPDATE

MISSISSIPPI REGULATORY COMPLIANCE GROUP

IMPORTANT CHANGES IN CONSUMER CREDIT/COMPLIANCE REGULATIONS MANDATORY COMPLIANCE DATES (Revised January 6, 2011)		
Compliance Date	Summary of Important Changes	Law/Regulation
January 16, 2009	RESPA servicing transfer disclosure revised	HUD Reg. X, § 3500.21
May 20, 2009 <ul style="list-style-type: none"> • Statutory provisions effective May 20, 2009 • Interim regulations effective November 20, 2009 with mandatory compliance date of January 19, 2010 • Final regulations effective January 1, 2011 	Mortgage loans; notice to consumers of sale or transfer of mortgage loan <ul style="list-style-type: none"> • Acquirer of legal title to existing consumer mortgage loan to notify consumer of transfer within 30 days • Applies to any person who acquires more than one loan in 12 months. • Exception for acquirer who re-assigns to third party within 30 days • Required disclosures include identity, address and telephone number of acquiring parties, acquisition date, and recording location. • May be combined with servicing transfer notice, if applicable. 	Fed. Res. Reg. Z, § 226.39
July 30, 2009 <ul style="list-style-type: none"> • New transactions for which the creditor receives an application on or after July 30, 2009. 	Early Truth in Lending disclosures <ul style="list-style-type: none"> • Early disclosures for all consumer dwelling secured closed-end loans (first or subordinate lien) that are also subject to RESPA • Disclosures within 3 business days after receipt of application and before any fee imposed other than for credit report • Creditor must wait at least 7 business days after disclosure to close loan • If APR changes by more than tolerance, creditor must give new disclosures and wait at least 3 business days to close loan 	Fed. Res. Reg. Z, § 226.17(f) and § 226.19(a)
August 20, 2009	Truth in Lending - Open-End Credit <ul style="list-style-type: none"> • Stage 1 of implementation of Credit CARD Act of 2009 • Reasonable procedures to ensure periodic billing statements are mailed or delivered at least 21 days prior to payment due date and date grace period expires <ul style="list-style-type: none"> ○ Initially, applied to all consumer open-end credit including HELOCs ○ Effective 02/22/10, application limited to credit card accounts (not home secured); all open-end accounts that provide a grace period remain subject to 21 day requirement 	Fed. Res. Reg. Z, § 226.5 and § 226.9

	<ul style="list-style-type: none"> • 45 day advance written notice for rate increases or other significant change in terms <ul style="list-style-type: none"> ○ Includes rate increase due to default, delinquency or as a penalty ○ Notice to disclose consumer's right to cancel the account prior to the effective date of the change ○ Applies to credit card accounts (not home secured) 	
<p>October 1, 2009</p> <ul style="list-style-type: none"> • New transactions for which the creditor receives an application on or after 10/01/09. 	<p>Higher priced mortgage loans; prohibited acts or practices</p> <ul style="list-style-type: none"> • Consumer credit secured by consumer's principal dwelling where loan APR exceeds "average prime offer rate" for comparable loan by 1.5% or more for first lien or 3.5% or more for subordinate lien • lending on collateral value prohibited: <ul style="list-style-type: none"> ○ verification of repayment ability required, including verification of income, assets, employment, current obligations and mortgage related obligations using 3rd party documents ○ compliance safe harbor - verify income and assets to be relied upon and determine consumer's ability to pay highest principal and interest payment expected in first 7 years, considering current and mortgage related obligations and using either DTI or residual income ○ no pattern or practice required for violation • Prepayment penalties restricted: <ul style="list-style-type: none"> ○ prohibited if loan payment amount can change during first 4 years ○ prohibited if prepayment results from refinancing by same creditor or affiliate ○ prepayment penalty may not extend beyond first 2 years 	<p>Fed. Res. Reg. Z, § 226.34(a) and § 226.35</p>

<p>October 1, 2009</p> <ul style="list-style-type: none"> • New transactions for which the creditor receives an application on or after 10/01/09 • Servicing rules apply to all covered loans serviced on or after 10/01/09 	<p>Credit secured by a consumer's principal dwelling; prohibited acts or practices</p> <ul style="list-style-type: none"> • Coercion of appraiser - prohibits creditor, mortgage broker or any affiliate from attempting to coerce, influence or encourage appraiser to misstate value of a dwelling • Servicing practices: <ul style="list-style-type: none"> ○ payments credited as of date of receipt except where delay will not result in additional charge or reporting of negative information to credit bureau <ul style="list-style-type: none"> ▪ servicer may impose in writing reasonable requirements for making of payments in order to receive immediate credit ○ pyramiding of late charges prohibited ○ payoff statements to be provided within reasonable time after request <ul style="list-style-type: none"> ▪ safe harbor - 5 calendar days ▪ statement must reflect total amount to satisfy loan as of specified date 	<p>Fed. Res. Reg. Z, § 226.36</p>
<p>October 1, 2009</p> <ul style="list-style-type: none"> • New transactions for which the creditor receives an application on or after 10/01/09. 	<p>HOEPA changes</p> <ul style="list-style-type: none"> • verification of ability to repay standard revised (see higher priced mortgage loans above); pattern or practice standard for violation eliminated • prepayment penalty restrictions revised (see higher priced mortgage loans above) 	<p>Fed. Res. Reg. Z, § 226.32(d) and § 226.34(a)</p>
<p>October 1, 2009</p> <ul style="list-style-type: none"> • Advertisements occurring on or after 10/01/09. 	<p>Truth in Lending advertising disclosures</p> <ul style="list-style-type: none"> • open-end credit including home equity lines of credit <ul style="list-style-type: none"> ○ revised advertising disclosures for promotional rates and payments, balloon payments, rates on variable rate plans, tax implications ○ additional disclosures must be with equal prominence and in close proximity to triggering terms • dwelling secured closed-end credit <ul style="list-style-type: none"> ○ advertising promotional or discounted rates or payments triggers disclosure of rates and payments for full term ○ additional disclosures must be with equal prominence and in close proximity to triggering terms • certain advertising practices banned as deceptive or misleading 	<p>Fed. Res. Reg. Z, §§ 226.16 and 226.24</p>

<p>October 1, 2009</p> <ul style="list-style-type: none"> • New transactions for which the creditor receives an application on or after 10/01/09, or any transaction which closes on or after 01/01/10. 	<p>HMDA rate spread reporting for higher priced mortgage loans</p> <ul style="list-style-type: none"> • conforms reporting of price information to definition of higher priced mortgage loans under Reg. Z • lenders will report spread between loan APR and average prime offer rate for comparable loan if spread 1.5% or more on first lien loan or 3.5% or more on subordinate lien loan 	<p>Fed. Res. Reg. C, § 203.4</p>
<p>January 1, 2010</p>	<p>RESPA GFE and HUD-1/1A</p> <ul style="list-style-type: none"> • Mandatory 3 page GFE form includes disclosure of loan terms and estimated settlement costs <ul style="list-style-type: none"> ○ must be provided within 3 business days after receipt of application and before any fee imposed other than for credit report ○ settlement charges disclosed in GFE must remain available for at least 10 business days ○ tolerances for accuracy ○ re-disclosure must be provided within 3 business days of changed circumstances • Revised HUD-1/1A <ul style="list-style-type: none"> ○ lines re-organized and include reference to corresponding blocks on GFE ○ contains comparison with GFE disclosures and disclosure of compliance with tolerance levels ○ includes disclosure of final loan terms 	<p>HUD Reg. X, § 3500.7 and § 3500.8</p>
<p>January 1, 2010</p>	<p>Overdrafts</p> <ul style="list-style-type: none"> • Disclosure of aggregate overdraft fees - periodic statements must disclose aggregate amount of overdraft fees and returned item fees for statement period and year-to-date. Previously, only institutions that promote or advertise payment of overdrafts must disclose. • Disclosure of balance information - institutions that provide account balance information through automated system must provide balance that excludes amount made available to cover overdrafts. 	<p>Fed. Res. Reg. DD, § 230.11</p>
<p>February 14, 2010</p>	<p>Truth in Lending Private education loans; disclosures</p> <ul style="list-style-type: none"> • Disclosure requirements for private education loans for post secondary educational expenses not made, insured or guaranteed under Title IV of Higher Education Act of 1965 • Disclosures at application to provide general information about loan rates, fees and terms and potential availability of Federal student loans • Disclosures at time of approval include transaction specific disclosures of rate, fees and terms including estimates of total repayment amount based on both current rate and maximum rate that may be charged; consumers have 30 days to accept • Consummation disclosures include updated cost 	<p>Fed. Res. Reg. Z, §§ 226.46, 226.47 and 226.48</p>

	<p>disclosures similar to those at approval; consumer has three day right to rescind</p> <ul style="list-style-type: none"> • Model disclosure forms and clauses • Marketing materials may not use name, logo or mascot of educational institution to imply school endorsement of the loan offered • No exemption for loans \$25,000 or more 	
<p>February 22, 2010 And July 1, 2010</p> <ul style="list-style-type: none"> • Some provisions take effect 2/22/10 as required by the Credit CARD Act; all others have a mandatory compliance date of July 1, 2010 (See. 75 Fed. Reg. 7658, 7659, February 22, 2010) 	<p>Truth in Lending; open-end credit; credit cards</p> <ul style="list-style-type: none"> • Stage 2 of implementation of Credit CARD Act. Revises account opening, application and solicitation, periodic statement, and change in terms disclosures including format and terminology requirements. Other major revisions include the following: <ul style="list-style-type: none"> ○ Prohibits credit card issuers from applying rate increases to existing balances except for expiration of temporary rate, index fluctuations on a variable rate account, rate increase due to delinquency of more than 60 days and expiration of a workout arrangement ○ Prohibits rate increases within first year of account opening and requires 45 day notice of change in terms for subsequent increases ○ Requires card issuers to evaluate consumer's ability to pay before opening account or increasing credit line, assuming full utilization of credit line and minimum payment amount ○ Prohibits issuing a credit card to consumer below age 21 unless application indicates underage consumer or a co-signer 21 or older has the ability to pay ○ Prohibits offering tangible items to college students to encourage opening or applying for an open-end account on or near campus or at school events ○ Requires colleges and card issuers to make certain disclosures of marketing agreements with credit card issuers ○ Restricts over the limit fees by: <ul style="list-style-type: none"> ▪ Requiring card issuers to obtain consumer's express consent before imposing a fee for over the limit transactions ▪ Limits fees to one per billing cycle and no more than 3 billing cycle fees for the same transaction ▪ Prohibits fees for over limit transaction due to creditor fees or charges including interest ○ Requires payments on credit card accounts to be allocated to highest rate balances first 	<p>Fed. Res. Reg. Z, §§ 226.5 thru 226.16, and 226.51 thru 226.58</p>

	<ul style="list-style-type: none"> ○ Requires card issuers with 10,000 or more open accounts to post credit card agreements on issuer's website and to submit to the Fed. Res. quarterly for posting on its website ○ Prohibits all fees (other than late payment, returned payment and over limit fees) during the first year to no more than 25% of the initial credit limit ○ Prohibits "double cycle billing" or imposition of finance charge on balances for days in a prior billing cycle after expiration or loss of a grace period and prohibits assessment of finance charge on any portion paid during the grace period. ○ Requires new payment disclosures on billing statements including: <ul style="list-style-type: none"> ▪ Time period and total cost (principal and interest) to pay off balance making only minimum payment ▪ Monthly amount and total cost required to pay off balance in 36 months ○ Fed. Res. withdrew its January 2009 changes to Reg. Z and Reg AA concerning open-end credit and credit cards which had been scheduled to take effect July 1, 2010 	
<p>April 1, 2010</p> <ul style="list-style-type: none"> • New transactions for which the creditor receives an application on or after 04/01/10. 	<p>Mandatory escrows for taxes and insurance</p> <ul style="list-style-type: none"> • required on first lien higher priced mortgage loans covering a site built dwelling 	<p>Fed. Res. Reg. Z, § 226.35</p>
<p>June 1, 2010</p> <ul style="list-style-type: none"> • Original compliance date of December 1, 2009 extended to June 1, 2010 	<p>Prohibition on Funding of Unlawful Internet Gambling</p> <ul style="list-style-type: none"> • Requires reasonable policies and procedures designed to identify and block restricted transactions involving transfers of funds in connection with unlawful internet gambling 	<p>Fed. Res. Reg. GG, Part 233</p> <p>Treas. Regs, Part 132</p>

<p>July 1, 2010</p>	<p>Accuracy and Integrity Guidelines for Furnishers of Credit Information</p> <ul style="list-style-type: none"> • Policies and procedures for implementing guidelines for furnishers of information to consumer reporting agencies • Duty to investigate direct disputes from consumers regarding accuracy of information in credit report 	<p>Fed. Res. Reg. V, §§ 222.40 to 222.43</p> <p>FDIC Regs, §§ 334.40 to 334.43</p> <p>OCC Regs, §§ 41.40 to 41.43</p> <p>OTS Regs, §§ 571.40 to 571.43</p> <p>NCUA Regs, §§ 717.40 to 717.43</p> <p>FTC Regs, 16 CFR Part 660</p>
<p>July 1, 2010</p>	<p>Overdrafts; limitations on overdraft fees on ATM and one-time debit card transactions</p> <ul style="list-style-type: none"> • Consumers must be given right to opt in to overdraft service for ATM and one-time debit card transactions • No fee may be assessed for paying overdraft on ATM or debit card transaction unless consumer affirmatively opts in • Prohibits conditioning payment of overdrafts for checks or other transactions on consumer opt in for ATM and debit cards • Consumers who do not opt in must receive the same account terms, conditions and features provided to consumers who do opt in, except for overdraft service on ATM and one-time debit card transactions • Content and format of notice and opt in to be substantially similar to model form • Applies to new accounts opened on or after July 1, 2010 • For accounts opened prior to July 1, 2010, no fee may be assessed for paying overdraft on ATM or one-time debit card transaction on or after August 15, 2010 unless consumer has opted in 	<p>Fed. Res. Reg. E, § 205.17</p>
<p>July 6, 2010</p> <ul style="list-style-type: none"> • October 1, 2010 for change in required terminology for disclosure of total overdraft fees (§226.11(a)(1)(i)) 	<p>Overdraft services – disclosure of balances and retail sweep programs</p> <ul style="list-style-type: none"> • Clarification of earlier rules regarding disclosure of total overdraft fees on account statements • Clarification that disclosure of account balances by automated systems should include balance transferred to savings “subaccount” established to minimize reserves under Reg. D, but not balances transferred to separate account or investment product 	<p>Fed. Res. Reg. AA, §§ 230.6 and 230.11</p>

<p>August 22, 2010</p> <ul style="list-style-type: none"> Mandatory compliance date for certain disclosures on face of card/certificate delayed until January 31, 2011 for cards/certificates produced prior to April 1, 2010 	<p>Gift cards and gift certificates</p> <ul style="list-style-type: none"> Applies to gift certificates, store gift cards and general use pre-paid cards Restricts fees, requires disclosures and limits expiration dates Prohibits dormancy, inactivity or service fees except where no activity on the card for at least one year, no more than one fee per calendar month and requires disclosures before card/certificate is purchased and on card/certificate itself Service fees include account maintenance and activity fees such as transaction, balance inquiry and re-load fees Expiration dates must be at least 5 years after issuance or last re-load and disclosures regarding expiration required on face of card/certificate 	<p>Fed. Res. Reg. E, § 205.20</p>
<p>August 22, 2010</p>	<p>Credit card accounts, penalty fees and reconsideration of rate increases</p> <ul style="list-style-type: none"> Stage 3 of implementation of Credit CARD Act of 2009 Prohibits credit card issuers from charging penalty fee of more than \$25 for late payment or other violation except for repeat violations or where issuer can show higher fee proportional to costs Prohibits penalty fees that exceed dollar amount of violation Bans inactivity fees Prohibits multiple penalty fees based on a single event Requires issuers that increased rates after January 1, 2009 to re-evaluate increase every 6 months Requires disclosure of principal reasons for rate increase in notice of change in terms Revises penalty fee disclosures in application/solicitation, account opening and periodic statement disclosures 	<p>Fed. Res. Reg. Z, §§ 226.5a, 226.6, 226.7, 226.9, 226.52, and 226.59</p>
<p>October 1, 2010</p> <ul style="list-style-type: none"> New transactions for which the creditor receives an application on or after 10/01/10. 	<p>Mandatory escrows for taxes and insurance</p> <ul style="list-style-type: none"> required on first lien higher priced mortgage loans covering a manufactured home 	<p>Fed. Res. Reg. Z, § 226.35</p>

<p>October 1, 2010</p> <ul style="list-style-type: none"> NMLSR not expected to be ready to accept federal registrations before January 28, 2011. Covered persons will have 180 days after announcement of system readiness to complete registration 	<p>Registration of Mortgage Loan Originators</p> <ul style="list-style-type: none"> Mortgage loan originators employed by insured depository institutions and their subsidiaries to be registered in nationwide registry Fingerprints, personal history and statement of experience required Renewed annually 	<p>OCC Regs, §§ 34.101-105</p> <p>Fed. Res. Reg. H, §§ 208.101-105</p> <p>FDIC Regs, §§ 365.101-105</p> <p>OTS Regs, §§ 563.101-105</p> <p>NCUA Regs, Part 761</p> <p>Farm Credit Admin Regs, Part 610</p>
<p>December 10, 2010</p>	<p>Interagency Appraisal and Evaluation Guidelines</p> <ul style="list-style-type: none"> Replaces existing supervisory guidance on appraisals and evaluations Guidelines on independence of appraisal/evaluation program including separation from loan production staff, selection and qualifications of appraisers, minimum appraisal standards, transactions that require evaluations, exemptions, evaluation development and content, reviewing appraisals and evaluations, accepting appraisals from other lenders, and third party arrangements Guidelines supplement and clarify the agencies' existing appraisal regulations 	<p>75 Fed. Reg. 77450 (December 10, 2010)</p>
<p>December 31, 2010</p> <ul style="list-style-type: none"> Regulations effective December 31, 2009 	<p>Privacy-Model privacy form under GLBA</p> <ul style="list-style-type: none"> Interagency model form for initial and annual privacy notices Use of model form not required, but provides compliance safe harbor Safe harbor for use of previous model forms and clauses expires for notices given after December 31, 2010 	<p>Fed. Res. Reg. P, §§ 216.2, 216.6 and 216.7</p> <p>FDIC Regs, §§ 332.2, 332.6 and 332.7</p> <p>OCC Regs, §§ 40.2, 40.6 and 40.7</p> <p>OTS Regs. §§ 573.2, 573.6 and 573.7</p> <p>NCVA Regs, §§ 716.2, 716.6 and 716.7</p> <p>FTC Regs, 16CFR §§ 313.2, 313.6 and 313.7</p>

<p>January 1, 2011</p>	<p>Risk-based pricing notices</p> <ul style="list-style-type: none"> • Risk-based pricing notices to consumers when pricing based on credit report and consumer does not receive most favorable terms • Alternatives for determining when terms are materially less favorable • Exception notices 	<p>Fed. Res. Reg. V, §§ 222.70-222.75</p> <p>FTC Regs, 16 CFR Part 640 and Part 698, App B</p>
<p>January 30, 2011</p> <ul style="list-style-type: none"> • Interim rule October 25, 2010 with compliance mandatory for transactions where application received on or after January 30, 2011 • Clarifications issued December 22, 2011 • Creditors may comply with original interim rule or revised interim rule until October 1, 2011 mandatory compliance for revised interim rule 	<p>Truth-in-lending – mortgage loans; rate and payment disclosures</p> <ul style="list-style-type: none"> • Applies to closed-end consumer loans secured by real property or a dwelling, other than a timeshare • Requires disclosure of rate and payment amount information in tabular format including: <ul style="list-style-type: none"> ○ The rate at consummation and for variable rate or step rate loan, the time until first rate adjustment, the maximum rate possible in first 5 years, the maximum rate possible during life of loan and earliest dates those rates may occur ○ Payment amounts for each rate disclosed including principal and interest and escrows ○ Statement that consumer may not be able to refinance • Additional disclosures for introductory rates, interest only payments, balloon payments and negative amortization loans • Formatting requirements 	<p>Fed. Res. Reg. Z, § 226.18</p>
<p>April 1, 2011</p> <ul style="list-style-type: none"> • New transactions where application received on or after April 1, 2011 	<p>Compensation of mortgage loan originators</p> <ul style="list-style-type: none"> • Prohibits payments to mortgage loan originators, brokers and loan officers based on loan terms other than principal amount • Prohibits any other person from paying originator where consumer pays originator directly • Prohibits steering consumers to loans not in their interest to receive greater compensation 	<p>Fed. Res. Reg. Z, § 226.36</p>
<p>April 1, 2011</p> <ul style="list-style-type: none"> • Rules effective December 27, 2010 • Compliance optional until April 1, 2011 	<p>Truth-in-Lending – open-end and closed end credit secured by consumer’s principal dwelling; appraiser independence</p> <ul style="list-style-type: none"> • Replaces HVCC • Prohibits coercion, bribery or attempts to influence appraiser • Prohibits appraisers and appraisal management companies from having a financial interest in the property or loan transaction • Prohibits a creditor from extending credit if it knows of a violation before consummation • Mandates parties report appraiser misconduct to state appraiser licensing authorities • Mandates payment of reasonable and customary compensation to a fee appraiser who is not a salaried employee of creditor or appraisal management company 	<p>Fed. Res. Reg. Z, §§ 226.56 and 226.42</p>

<p>July 1, 2011</p>	<p>Overdrafts; FDIC guidance on automated overdraft payment programs</p> <ul style="list-style-type: none"> • FDIC expects institutions to implement compliance and risk management policies and procedures for overdraft payment programs • Board review of program's key features • Promote responsible use; distinguish account balances from OD coverage; monitor for excessive use (more than 6 ODs in 12 month period) and offer less expensive alternatives • Daily limits on OD fees; no fee for de minimus OD; avoid processing in manner designed to maximize fees 	<p>FDIC FIL-81-2010</p>
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