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Many Dodd-Frank Provisions May Be on House Chopping Block Next Week

House Majority Leader Kevin McCarthy (R-CA) has told reporters he expects a full House vote next week on H.R. 10, The Financial Choice Act which was voted out of the Financial Services Committee (FSC) on May 4. The Act, sponsored by FSC Chairman Jeb Hensarling (R-TX) would repeal or modify many of the changes made by the Dodd-Frank Wall Street Reform and Consumer Protection Act, including **broad changes in financial regulations**, revising the structure of the Consumer Financial Protection Bureau, and **limiting much of its authority**. It also includes provisions that will affect the home mortgage industry. In the latter area, the bill would incorporate more than two dozen proposed regulatory relief bills for community financial institutions, which we include for reader's reference; H.R. 2896, H.R. 1210, and H.R. 766.

Information provided by associates at the Ballard and Spahr law firm, Richard J. Andreano and Pavitra Bacon has been used to explain some of the impact passage of the law could bring to the mortgage industry. Barbara Mishkin, another Ballard & Spahr attorney, has also written to clarify the impact on CFPB, and other regulatory agencies.

H.R. 10 would create a safe harbor under the Regulation Z ability to repay requirements if a depository institution holds a loan in portfolio from the time of origination and complies with a limitation on prepayment penalties. Originators working for depository institutions would have a safe harbor from a related anti-steering provision if they informed the consumer that the institution intended to hold the loan in portfolio for the life of the loan.

Another provision would affect the definition of points and fees under Regulation Z and high-cost mortgage loan requirements to exclude charges for title insurance and/or title examinations and similar purposes. Under current rules such exclusions were only allowed if the vendor was not affiliated with the lender. Escrowed funds for taxes are currently excluded from points and fees and H.R. 10 would also include insurance escrows in that exclusion. Certain small lenders, those with consolidated assets of $10 billion or less, would be excluded from Regulation Z escrow requirements for higher priced mortgages if the creditor portfolios the loan for a **minimum of three years.**

The Act would also create, under the S.A.F.E. Mortgage Licensing Act, a temporary authority for a loan originator to continue to originate loans while licensing issues are resolved if he or she moves from a depository to a non-

National Average Mortgage Rates

	Rate	Change	Points
Mortgage News Daily			
30 Yr. Fixed	7.07%	+0.02	0.00
15 Yr. Fixed	6.45%	0.00	0.00
30 Yr. FHA	6.51%	+0.02	0.00
30 Yr. Jumbo	7.26%	0.00	0.00
5/1 ARM	7.02%	-0.01	0.00
Freddie Mac			
30 Yr. Fixed	6.86%	-0.01	0.00
15 Yr. Fixed	6.16%	+0.03	0.00
Mortgage Bankers Assoc.			
30 Yr. Fixed	7.02%	-0.05	0.65
15 Yr. Fixed	6.60%	-0.15	0.55
30 Yr. FHA	6.87%	0.00	0.92
30 Yr. Jumbo	7.18%	-0.03	0.54
5/1 ARM	6.45%	+0.08	0.81

Rates as of: 6/28

Recent Housing Data

		Value	Change
Mortgage Apps	Jun 12	208.5	+15.58%
Building Permits	Mar	1.46M	-3.95%
Housing Starts	Mar	1.32M	-13.15%
New Home Sales	Mar	693K	+4.68%
Pending Home Sales	Feb	75.6	+1.75%
Existing Home Sales	Feb	3.97M	-0.75%

depository lender or from a non-depository lender in one state to another non-depository lender in a different state.

		Value	Change
Builder Confidence	Mar	51	+6.25%

Several changes will affect reporting under CFPB's revised Home Mortgage Disclosure Act (HMDA) rule. The volume threshold for a reporting institution would change to 100 closed-end mortgage loans or 200 open-end lines of credit in each of the prior two years from the CFPB threshold of 25 closed-end and 100 open-end loans. The Act would also compel the Comptroller General to study the issue surrounding the privacy of consumers that has arisen from the proposed expansion of consumer and loan level data to be collected and report his or her findings to Congress. It would also **roll back requirements for information reporting institutions** must make available to the public to those that existed under HMDA immediately prior to adoption of Dodd-Frank.

The Act would also increase the threshold for exemption of small servicers from some servicing requirements. The current minimum is 5,000 loans annually and the servicers and its affiliates must be the creditor or assignee of all of them. This would be expanded to 20,000 loans and the bill makes no reference to ownership or assignment.

Passage of H.R. 10 would have a profound impact on CFPB. First, its name would change to the "Consumer Law Enforcement Agency" (CLEA) and, while its single director format would not change, that director would no longer serve a set term, but at the pleasure of the President. The agency would also be brought into the Congressional appropriations process (as would the Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA,) and Office of Comptroller of the Currency (OCC), have its own Inspector General, and be subject to the same oversight by the Office of Information and Regulatory Affairs (OIRA) as other non-independent regulatory agencies. The Deputy Director would also be a presidential appointee.

The CLEA would have no supervisory authority, no authority to make or enforce rules under Unfair, Deceptive and Abusive Acts and Practices (UDAAP) that affect payday, vehicle title or similar loans, and no authority over arbitration agreements concerning consumer financial products or services.

CLEA could not use an administrative proceeding in a case that could result in a cease and desist (CID) order or penalty and must instead bring a civil action. The recipient of a CID could file a petition with a federal district court to modify or set it aside. The CLEA would be required to maintain a segregated Civil Penalty Fund for all penalties it receives, with any undistributed funds reverting to the U.S. Treasury after two years.

CLEA would have to establish an Office of Economic Analysis to conduct an impact analysis of all proposed rules, review them at regular intervals, and conduct a cost-benefit analysis of proposed administrative actions, civil lawsuits, or consent order.

The law would also significantly interject Congress into the rulemaking process, not only of CFPB, but also other regulators including the Federal Reserve, FDIC, OCC, and NCUA. It creates categories of major and non-major rules and requires a joint resolution of Congress for the former to take effect and allows joint resolutions of disapproval of the latter.

The act would also **repeal the amendment** to the Equal Opportunity Act made through Dodd-Frank that requires financial institutions to collect and maintain certain data in connection with credit applications made by women- or minority-owned businesses and small businesses.

The Act also proports to provide an "off-ramp" from Dodd-Frank's supervision requirements and Basel II capital and liquidity standards. A bank can elect to be "a strongly capitalized, well managed financial institution," and thus receive certain levels of regulatory relief. This includes exemption from any federal limitation on mergers, consolidations, or acquisitions of assets or control, "to the extent the limitations relate to capital or liquidity standards or concentrations of deposits or assets," and disallows a banking agency to consider risk "to the stability of the United States banking or financial system," when reviewing an application to consummate a transaction or commence an activity.

It also retroactively repeals the authority of the Financial Stability Oversight Council (FSOC) to designate firms as systematically important financial institutions (SIFIs) and replaces Title II of Dodd-Frank with a new chapter of the Bankruptcy code designed to accommodate the failure of a large, complex financial institution.

Real Talk

At The Rate Shop, we're not your average mortgage banker. We specialize in bringing you ridiculously low interest rates that will make you wonder what the other guys are doing. In fact the ONLY objection we ever hear is “your rates sound too good to be true”. Well they’re not, and here is why…

After 15 years in the retail banking world I was frustrated with the high interest rates that came from that business model. As I looked around at all the bloated layers of management and their expensive salaries and the overhead of running a larger company (think rent costs, employee health and benefit costs, payroll taxes, and on and on) it dawned on me that I was a part of the problem, and the solution, for me at least, was so easy to see.

Start my own mortgage brokerage shop. No expensive executive salaries, no expensive building to pay rent at, no unnecessary employees and all the costs that are associated with that. What happens when you cut out all the fat? You can provide lower rates and lower closing costs. It’s simple. Now here is the best part, you still get great service from a local Kansas City Lender. My mission is to let everyone know that low rates and great customer service are NOT mutually exclusive.

Thanks for coming along on this journey where Low Rates meet Great Service. The two do NOT have to be mutually exclusive. It’s just a lie that the big box mortgage companies have been telling you for years. Don’t believe me? Give me a call or shoot me a text on my personal cell phone today and compare my rates and costs up against any other lender in the country, and be prepared to be blown away.

Mike Baker