

Proposed Rules

Federal Register

Vol. 84, No. 147

Wednesday, July 31, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 2019–11]

Rulemaking Petition: Amending the Definition of Contribution To Include “Valuable Information”

AGENCY: Federal Election Commission.

ACTION: Rulemaking Petition: notification of availability.

SUMMARY: On April 29, 2019, the Federal Election Commission received a Petition for Rulemaking asking the Commission to amend the existing regulation defining “contribution.” The Commission seeks comments on the Petition.

DATES: Comments must be submitted on or before September 30, 2019.

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission’s website at <http://sers.fec.gov/fosers/>, reference REG 2019–01. Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Esther Gyory, Acting Assistant General Counsel, 1050 First Street NE, Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, and state. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission’s website and in the Commission’s Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver’s license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Ms. Esther Gyory, Acting Assistant General Counsel, or Mr. Tony Buckley, Attorney, Office of the General Counsel, 1050 First Street NE, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On April 29, 2019, the Commission received a Petition for Rulemaking (“Petition”) from Sai, Fiat Fiendum, Inc., Make Your Laws PAC, Inc., and Make Your Laws Advocacy, Inc. (collectively “Petitioners”). The Petitioners ask the Commission to amend 11 CFR part 100, subpart B, by adding a new section 100.57 to include within the definition of contribution certain “valuable information.” Petition at 3.

Commission regulations define a “contribution” as “any gift, subscription, loan . . . advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.” 11 CFR 100.52(a). “Anything of value” includes all in-kind contributions, such as the provision of goods and services without charge or at a charge that is less than the usual and normal charge. 11 CFR 100.52(d)(1). Commission regulations further identify the following as contributions: Payment for attendance at a fundraiser, political event, or the purchase price of a fundraising item sold by a political committee (11 CFR 100.53); compensation by a third party for personal services an individual provides unpaid to a political committee (11 CFR 100.54); an extension of credit, unless the extension is extended in the ordinary course of a person’s business and under terms and conditions that are substantially similar to credits extended to nonpolitical entities (11 CFR 100.55); and anything of value given to a national party committee for the purchase or construction of an office building or facility (11 CFR 100.56).

The Petition proposes to define “Valuable Information” as information that: (1) Is not freely available to the public; (2) is provided to a person regulated by the Federal Election Campaign Act, 52 U.S.C. 30101–45 (the “Act”), at a cost less than the market rate or by a person not hired by the recipient to generate such information; (3) would cost a non-trivial amount for the recipient to obtain at their own expense; and (4) is information that would likely have the effect of

influencing any election for federal office or that parties or candidate committees have traditionally expended money to obtain. Petition at 3.

The proposal sets out two types of “Valuable Information” that would require special treatment: “Foreign Information” and “Compromising Information.” *Id.* “Foreign Information” would include any information that comes from a source that is prohibited from making contributions under the Act. *Id.* “Compromising Information” would include “any information that could be used to blackmail or otherwise compromise any candidate for Federal office (including indirect coercion, such as of a candidate’s family), regardless of source.” *Id.*

The Petition would require any person who receives “Foreign” or “Compromising Information,” or is offered any “Foreign” or “Compromising Information,” to notify the Commission in writing within three days. Petition at 3–4. Any “Compromising Information” the Commission received would have to be maintained under seal unless the information was otherwise available to the public, or all persons against whom the information could be used had consented to the information being made public. *Id.*

Under the Petitioners’ proposal, upon learning of any “Foreign” or “Compromising Information,” the Commission would be required, automatically and without a vote of the Commission, to: (1) Initiate investigations pursuant to 11 CFR 111.3 and 111.10; (2) provide a report to the Federal Bureau of Investigation; and (3) in the case of “Compromising Information,” provide a report to every reasonably identifiable person against whom such information could be used, or whose private information is disclosed by such information. *Id.* The Petitioners’ proposal would also require the Commission, upon learning of any “Foreign” or “Compromising Information,” to: (1) Immediately provide a report to any other law enforcement entity with likely jurisdiction over the matter; (2) within 14 days, publicly issue a report on the matter, redacting any material under seal and any material the disclosure of which could compromise an ongoing law enforcement investigation; and (3) within 30 days after the conclusion of

any law enforcement investigation, issue a public report on the matter, redacting any material under seal. *Id.*

The Commission seeks comments on the Petition. The public may inspect the Petition on the Commission's website at <http://sers.fec.gov/fosers/>, or in the Commission's Public Records Office, 1050 First Street NE, 12th Floor, Washington, DC 20463, Monday through Friday, from 9 a.m. to 5 p.m.

The Commission will not consider the Petition's merits until after the comment period closes. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. The Commission will announce any action that it takes in the **Federal Register**.

On behalf of the Commission.

Dated: July 25, 2019.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 2019-16240 Filed 7-30-19; 8:45 am]

BILLING CODE 6715-01-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB-2019-0039]

RIN 3170-AA98

Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for "qualified mortgages" obtain certain protections from liability. One category of qualified mortgages (QMs) is loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac). Under Regulation Z, this category of QMs (Temporary GSE QM loans) is scheduled to expire no later than January 10, 2021. The Bureau currently plans to allow the Temporary GSE QM loan category to expire in January 2021 or after a short extension, if necessary, to facilitate a smooth and orderly transition away from the Temporary GSE QM loan category. The Bureau is considering whether to propose

revisions to Regulation Z's general qualified mortgage definition in light of that planned expiration and is issuing this ANPR to request information about possible revisions.

DATES: Comments must be received on or before September 16, 2019.

ADDRESSES: You may submit comments, identified by Docket No. CFPB-2019-0039 or RIN 3170-AA98, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Email:* 2019-ANPR-ATRQM@cfpb.gov. Include Docket No. CFPB-2019-0039 or RIN 3170-AA98 in the subject line of the email.

- *Mail:* Comment Intake—ATR/QM ANPR, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

- *Hand Delivery/Courier:* Comment Intake—ATR/QM ANPR, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202-435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary or sensitive personal information, such as account numbers, Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Seth Caffrey, Joseph Devlin, or Courtney Jean, Senior Counsels, Office of Regulations, at 202-435-7700. If you require this document in an alternative electronic format, please contact CFPB_accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: The Bureau is issuing this ANPR to request information regarding Regulation Z's

definition of qualified mortgage loans.¹ The Bureau invites comment on all aspects of this ANPR from all interested parties, including consumers, consumer advocacy groups, industry members and trade groups, and other members of the public.

I. Background

A. Dodd-Frank Amendments to the Truth in Lending Act

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Truth in Lending Act (TILA) to establish, among other things, ability-to-repay (ATR) requirements in connection with the origination of most residential mortgage loans.² The amendments were intended "to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive or abusive."³ As amended, TILA prohibits a creditor from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan.⁴

TILA identifies the factors a creditor must consider in making a reasonable and good faith assessment of a consumer's ability to repay. These factors are the consumer's credit history, current and expected income, current obligations, debt-to-income ratio or residual income after paying non-mortgage debt and mortgage-related obligations, employment status, and other financial resources other than equity in the dwelling or real property that secures repayment of the loan.⁵ A creditor, however, may not be certain whether its ATR determination is reasonable in a particular case, and it risks liability if a court or a regulator, including the Bureau, later concludes

¹ See 12 CFR 1026.43.

² Public Law 111-203, sec. 1411-12, 1414, 124 Stat. 1376 (2010); 15 U.S.C. 1639c.

³ 15 U.S.C. 1639b(a)(2).

⁴ 15 U.S.C. 1639c(a)(1). TILA section 103 defines "residential mortgage loan" to mean, with some exceptions including open-end credit plans, "any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling." 15 U.S.C. 1602(dd)(5). TILA section 129C also exempts certain residential mortgage loans from the ability-to-repay requirements. See, e.g., 15 U.S.C. 1639c(a)(8) (exempting reverse mortgages and temporary or bridge loans with a term of 12 months or less).

⁵ 15 U.S.C. 1639c(a)(3).