

**The Dodd-Frank Act  
and It's impact on HomeOwnership**

Statements, comments and verbal information discussed  
in conjunction with this presentation should be  
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advice is desired, consult an attorney.

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**Dodd-Frank Act**

The Wall Street Reform and Consumer Protection Act  
(AKA Dodd-Frank Act or the DFA)

- Is a law that places major regulations on the financial industry. It grew out of the Great Recession of 2008 with the intention of preventing another collapse of a major financial institution.
- Dodd-Frank is also geared toward protecting consumers with rules like keeping borrowers from abusive lending and mortgage practices by banks.

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**Dodd-Frank Act**

The Dodd-Frank Act was named after the two legislators who created it.

- Senator Christopher Dodd
- Congressman Barney Frank



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## Dodd-Frank Act

Represents some of the most comprehensive financial regulatory reform since the Great Depression.

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## Consumer Financial Protection Bureau

The Dodd-Frank Act granted rule-making authority to the newly formed Consumer Financial Protection Bureau (CFPB).

The director of the CFPB  
Richard Cordray

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## Rulemaking Update

398 Action Items required by the Dodd-Frank Act

- \_\_\_\_\_ of been met
- \_\_\_\_\_ have been proposed
- \_\_\_\_\_ have not been touched

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### Consumer Financial Protection Bureau

- Mortgages and Banks
- Pay Day Loans
- College Financial Aid
- Automobile Financing
- Credit Cards
- Debt Collectors
- Credit Reporting Agencies
- Foreclosure Relief Services

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### Dodd-Frank Act

- Regulation B: Equal Credit Opportunity
- Regulation C: Home Mortgage Disclosure
- Regulation D: Alternative Mortgage Parity Act
- Regulation E: Electronic Fund Transfers
- Regulation F: Fair Debt Collection Practices Act
- Regulation G: S.A.F.E. Mortgage Licensing Act – Federal Registration of Residential Mortgage Loan Originators
- Regulation H: S.A.F.E. Mortgage Licensing Act – State Compliance and Bureau Registration System
- Regulation I: Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance
- Regulation J: Land Registration
- Regulation K: Purchasers' Revocation Rights, Sales Practices and Standards
- Regulation L: Special Rules of Practice
- Regulation M: Consumer Leasing
- Regulation N: Mortgage Acts and Practices-Advertising
- Regulation O: Mortgage Assistance Relief Services
- Regulation P: Privacy of Consumer Financial Information
- Regulation V: Fair Credit Reporting
- Regulation X: Real Estate Settlement Procedures Act
- Regulation Z: Truth in Lending
- Regulation DD: Truth in Savings

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### Consumer Financial Protection Bureau

According to the Dodd–Frank Wall Street Reform and Consumer Protection Act, the CFPB can seek to impose civil penalties of up to:

- \$ \_\_\_\_\_ per day for the violation of a CFPB rule
- \$ \_\_\_\_\_ per day for the reckless violation of a federal consumer protection law
- \$ \_\_\_\_\_ per day for a knowing violation of a federal consumer financial law

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### Real Estate Settlement Procedures Act

- Been in effect since 1975
- Was governed under HUD
- Now enforced by the CFPB
- Also known as Regulation X

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### Real Estate Settlement Procedures Act

The purpose of RESPA is to provide consumers with better disclosure of settlement costs and to eliminate kickbacks or referral fees that unnecessarily increase settlement costs.

RESPA's purpose is twofold:

1. To help consumers become better shoppers for settlement services
2. To eliminate kickbacks and referral fees that unnecessarily increase the costs of certain settlement services

More on the disclosures *later* -- first let's talk about kickbacks and referral fees!

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### Real Estate Settlement Procedures Act

Services that occur at, or prior to, the purchase of a home are generally considered settlement services. These services include:

- Real estate licensees, including principal brokers
- Mortgage bankers and mortgage brokers
- Title companies and title agents
- Home warranty companies
- Home insurance agents
- Property appraisers
- Flood and tax service providers
- Property survey providers, home, pest and environmental inspectors
- Overnight delivery / couriers ?!?

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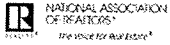
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### Real Estate Settlement Procedures Act

In response to RESPA, The National Association of REALTORS® and its legal counsel have developed a list of Do's and Don'ts and a FAQ white paper.

For more information visit REALTOR.org



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### Affiliated Business Arrangements

- Disclose in writing that it may benefit from the referral.
- Disclose an estimate of market prices for the referred service.
- Advise the consumer that there may be lower prices available and that he/she should shop around.
- Obtain a written acknowledgment from the home buyer that he/she has reviewed these disclosures.
- Not require the use of the affiliated service.
- Not pay or receive any referral fees from the affiliated company.

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### Ability to Repay

Effective January 10<sup>th</sup>, 2014

If you apply for a mortgage, you have to be able to prove that you can afford to repay it in full.

- Lender must verify financial income, employment history and credit history.
- Even if the mortgage has a lower initial interest rate (ARM) the ability to repay is based on the higher rate.

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### Ability to Repay

Back to Basics Approach to Lending

QM loans cannot:

- Contain risky features
- Carry more than 3% in upfront points and fees
- Push a borrower's total debt load above 43% of his or her monthly income

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### Ability to Repay

Appendix Q – Standards for determining monthly debt and income under Ability to Repay / QM.

\*\*\*QM offer Safe Harbor protections which makes it harder for a consumer to sue a lender for giving a loan they cannot afford.

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### Ability to Repay

Seller Financing –

May be subject to Ability to Repay requirements!

Generally if a seller finances more than 3-5 sales a year ATR applies as under the SAFE ACT – the seller is defined as a lender.

BUT it depends;  
buyer/occupant,  
buyer/investor, seller is a corporation, balloon note, negative amortization etc..

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**Know Before You Owe**

The Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act. Each required two separate disclosures.

Dodd-Frank Act integrates the TILA and RESPA disclosures.

TILA-RESPA Integrated Disclosure (TRID)

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**Why New Disclosures?**

Based on consumer feedback!

- Not enough time to review the documents
- Large amount of documents
- Errors in document

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**The Loan Estimate**

Replaces the GFE

- Creditor is responsible for ensuring the LE is received by the borrower
- If a mortgage broker is involved it is still the ultimate responsibility of the bank to ensure it was received by the borrower
- Must be provided 3-business days after the loan application

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### Triggers ...

A Loan Estimate is required

1. Consumers name
2. Consumers income
3. Consumers Social Security number
4. Address of the property
5. Estimate of the value of the property
6. The mortgage loan amount sought

Six items (was Seven)

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### Home Mortgage Disclosure Act

**HMDA (hum-da)**

Regulation C is now regulated by the CFPB  
Requires lending institutions to report public loan data

This Act tracks loan data statistics:

- To view loan trends and needs in various communities
- To identify discrimination practices
- To give public officials information so they can market and attract private investment
- Also identifies underserved counties

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### What is a Business Day?

"A day on which the creditor's office is open to the public for carrying out substantially all of its business functions." \*\*\*

Saturday *may* or *may not* be a business day!

\*\*\*Applies to LE not CD

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### Proof of Delivery

- Mail \*\*\*
- Electronically \*\*\* (consumer consent required)
- Hand deliver
- Pick-up
- Fed-Ex – UPS (signature confirmation)
- Electronically Delivery system (Provides delivery confirmation via electronic messages even better logs when the document was downloaded) (consumer consent required)
- Notary signatures?

\*\*\*Federal Mail Box Rule – assumed after 3 business days has passed

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### Disclosures!

Beginning August, 2015

- The Closing Statement (HUD 1) goes away and is replaced with the Closing Disclosure!
- Tolerances

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### Consummation

DODD-FRANK definition:

Consummation occurs when the consumer becomes contractually obligated to the creditor on the loan NOT when the consumer becomes contractually obligated to a seller on a real estate transaction.

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### Closing Disclosure

In the regulation the 3-day rule is defined differently between the LE and the CD.

Business day is all calendar days except Sundays and the legal public holidays specified by federal law; New Years Day, The birthday of Martin Luther King Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

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### New 3-day Waiting Period

- The APR becomes inaccurate
- The loan product changes
- Prepayment penalty is added

If anything changes there is not a new waiting period UNLESS the consumer requests review then the consumer must have one business day in advance to review.

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# AUGUST

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
2		3	4	5	6	7	8
9		10	11	12	13	14	15
16		17	18		20	21	22
23		24	25	26	27	28	29
30		31					

# SEPTEMBER

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
30			1	2	3	4	5
6		7	8	31	10	11	12
13		14	15	16	17	18	19
20		21	22	23	24	25	26
27		28	29	30			

### Consider ....

- The creditor needs homeowners insurance pricing before figures can be created
- The creditor needs to know all terms/changes to the contract asap
- Working with a local lender may help the process
- Preferred closing should be a minimum of 45-days
- Domino transactions – one hiccup and the whole chain can be thrown off
- Consumers should respond to all creditor / title company requests immediately
- Expect the worst – hope for the best

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### The eClosing Pilot Project

This Pilot Project launched in late 2014 (limited areas) with the goals of:

- Enable consumer understanding
- Allow the consumer to review all documents 3-days in advance
- Facilitate error protection

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### HPML / HOEPA

HPML loan:

High Priced Mortgage Loan

A loan with an APR higher than a benchmark rate called the Average Prime Offer Rate (APOR)

HOEPA Loan:

- The Home Ownership and Equity Protection Act (HOEPA)
- Enacted as an amendment to the Truth in Lending Act 1994

- Non QM-loans
- Require additional disclosures
- Homeownership counseling required

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## What is a Flip

The CFPB defines a 'flip' when:

- You buy a home from a seller who bought the home less than six months ago and;
- You pay a certain amount more than the seller paid for the home:
  - 10 percent more if the seller bought the home within the past 90 days.
  - 20 percent more if the seller bought the home in the past 91 to 180 days.

\*\*Depending on the type of loan, the lender may need more than one appraisal!

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## Equal Credit Opportunity Act

Also known as Regulation B (ECOA Valuations Rule) and Regulation Z?

### New appraisal standards!

- The Consumer must receive notice within 3 business days of application of right to receive copies of the appraisal \*\*
- The Applicant must receive all copies of appraisals and property valuation reports promptly upon completion BUT no more than 3 business days prior to closing

\*\*no matter the loan status

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## Additional Regulation X Reforms

- Error resolution and information requests
- Forced placed insurance guidelines
- Servicing policies, procedures and requirements
- Early intervention with delinquent consumers requirements
- Continuity of contact with delinquent consumers requirements
- Loss mitigation requirements

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### Additional Regulation Z Reforms

- Interest rate adjustment notice for ARM's
- Prompt crediting of mortgage payments and responses for payoff amounts
- Periodic statements for mortgage loans

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### More Regulation ??

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### Tips

- Develop an in-house policy and procedures program for dealing with consumer complaints
- Loans WILL take a bit longer to process
- Warn your buyers that this is the land of change and to expect more paperwork, more scrutiny and the importance of responding to all requests from the lender
- Talk to your Settlement Service Provider Friends – they may not be aware of the RESPA rules
- If someone offers you something for free or at a substantially lower cost (that you would normally have to pay for) – just say NO!
- Be kind to your lender and title company friends

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