



TILA AND REGULATION Z *THE LAY OF THE LAND TODAY*

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What changes became effective since last May?

- **Higher-Priced Mortgage Loan Restrictions and Requirements**

Firsts - APOR \geq 1.5

Seconds - APOR \geq 3.5

- **No “no doc” loans**
- **Prepayment penalty limits**
- **Escrows required for firsts**

Prohibited Practices

- Appraisals (“HVCC – like” but will last)
- Servicing (payment posting, late charges and statements)

- Advertising
- MDIA





**Mandatory escrow for first priority
higher-priced mortgage loans secured
by a principal dwelling for:**

- **Property taxes**
- **“Mortgage-related” creditor-required insurance premiums**

Principal dwelling could include:


- Mobile homes
- Boats
- Trailers



Exceptions:

- Shares in a co-operative
- Condos with master policy





**Escrows must be maintained
in compliance with RESPA
and Regulation X.**

Consumer-initiated cancellation if:

- **Written request**
- **Received no earlier than 365 days post-closing**



Preempts inconsistent state laws:

- Prohibiting escrows
 - Otherwise limiting escrows
- 

Advertising

If more than one rate can apply, ads of rate must include:

- All rates *or* describe ARM
- Time limit
- APR

Advertising

Ads of payment must include:

- Amount of each payment (including balloon)
- Time period for each payment
- Payment does not include escrows (for firsts) and will be greater

Advertising

Fixation on “fixed”

ARMS:

- “ARM” *before* “fixed”
- “ARM” close to and same as “fixed”
- When rate/payment increase

Non-ARMS:

- Time period for “fixed” payment
- Fact that payment will then increase

Advertising



Careful with comparisons!

- **Must be comprehensive, term by term**
- **Rate AND payment**

Advertising



“Government” ad must be for FHA, VA or other loan endorsed or sponsored by a governmental entity.

Advertising



No masquerading as the consumer's current lender.

- **Equal prominence of advertiser**
- **Advertiser is not associated with or acting for current lender**

Advertising



Don't promise:

- Elimination of debt
- “Waiver” or “forgiveness” of another loan

Advertising



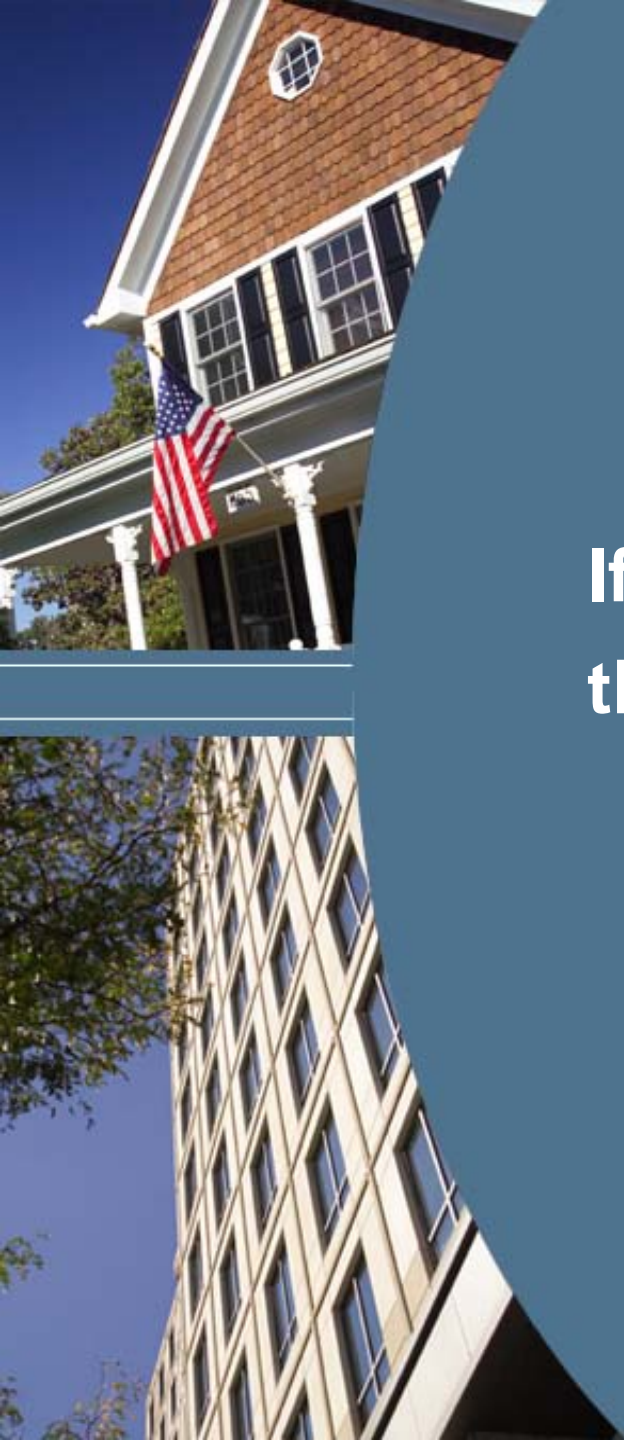
Don't use the term “counselor” in your ad to refer to your team.



Advertising




If using a foreign language, use it throughout the ad.



Advertising

If advertising >100% LTV, must include:

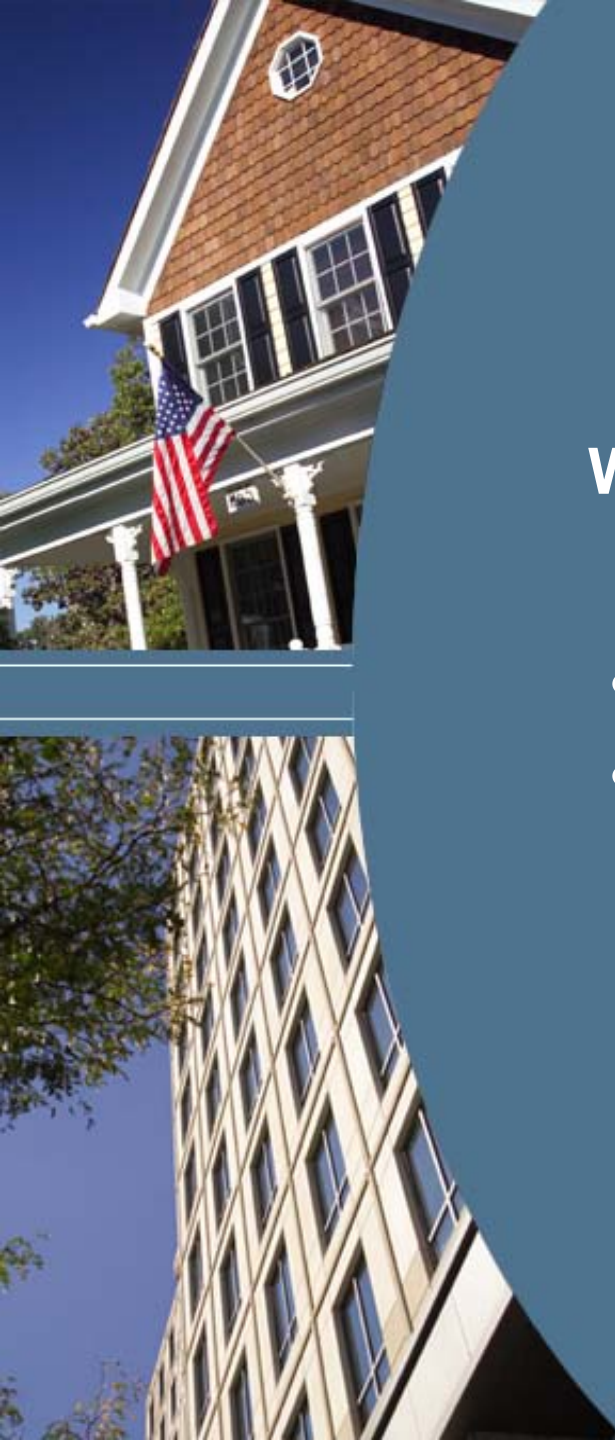
- Interest on portion >100% is not tax deductible
- Consult a tax advisor



MDIA – Lingerin Challenges

Marrying MDIA and RESPA:

- **Responsible party: loan originator v. creditor**
- **Timing: to wait or not to wait?**
- **Finance charges: where'd they go?**
- **Tolerances: up or down?**



MDIA – Lingering Challenges

Wholesale lenders:

- “Application” timing
- Reliance on v. support of brokers



When will the other shoe drop?