

Subtitle A—Residential Mortgage Loan Origination Standards

SEC. 1401. DEFINITIONS.

Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:

“(cc) DEFINITIONS RELATING TO MORTGAGE ORIGINATION AND RESIDENTIAL MORTGAGE LOANS.—

~~“(1) COMMISSION. Unless otherwise specified, the term ‘Commission’ means the Federal Trade Commission.~~

~~“(2) MORTGAGE ORIGINATOR. The term ‘mortgage originator’—~~

~~“(A) means any person who, for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain—~~

~~“(i) takes a residential mortgage loan application;~~

~~“(ii) assists a consumer in obtaining or applying to obtain a residential mortgage loan; or~~

~~“(iii) offers or negotiates terms of a residential mortgage loan;~~

~~“(B) includes any person who represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such person can or will provide any of the services or perform any of the activities described in subparagraph (A);~~

~~“(C) does not include any person who is (i) not otherwise described in subparagraph (A) or (B) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such subparagraph, or (ii) an employee of a retailer of manufactured homes who is not described in clause (i) or (iii) of subparagraph (A) and who does not advise a consumer on loan terms (including rates, fees, and other costs);~~

~~“(D) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless such person or entity is compensated by a lender, a mortgage broker, or other mortgage originator or by any agent of such lender, mortgage broker, or other mortgage originator;~~

~~“(E) does not include, with respect to a residential mortgage loan, a person, estate, or trust that provides mortgage financing for the sale of 3 properties in any 12-month period to purchasers of such properties, each of which is owned by such person, estate, or trust and serves as security for the loan, provided that such loan—~~

~~“(i) is not made by a person, estate, or trust that has constructed, or acted as a contractor for the construction of, a residence on the property in the ordinary course of business of such person, estate, or trust;~~

~~“(ii) is fully amortizing;~~

~~“(iii) is with respect to a sale for which the seller determines in good faith and documents that the buyer has a reasonable ability to repay the loan;~~

~~“(iv) has a fixed rate or an adjustable rate that is adjustable after 5 or more years, subject to reasonable annual and lifetime limitations on interest rate increases; and~~

~~“(v) meets any other criteria the Board may prescribe;~~

~~“(F) does not include the creditor (except the creditor in a table funded transaction) under paragraph (1), (2), or (4) of section 129B(c); and~~

~~“(G) does not include a servicer or servicer employees, agents and contractors, including but not limited to those who offer or negotiate terms of a residential mortgage loan for purposes of renegotiating, modifying, replacing and subordinating principal of existing mortgages where borrowers are behind in their payments, in default or have a reasonable likelihood of being in default or falling behind.~~

~~“(3) NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. The term ‘Nationwide Mortgage Licensing System and Registry’ has the same meaning as in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.~~

~~“(4) OTHER DEFINITIONS RELATING TO MORTGAGE ORIGINATOR. For purposes of this subsection, a person ‘assists a consumer in obtaining or applying to obtain a residential mortgage loan’ by, among other things, advising on residential mortgage loan terms (including rates, fees, and other costs), preparing residential mortgage loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.~~

“(5) RESIDENTIAL MORTGAGE LOAN.—The term ‘residential mortgage loan’ means 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, other than a consumer credit transaction under an open end credit plan or, for purposes of sections 129B and 129C and section 128(a) (16), (17), (18), and (19), and sections 128(f) and 130(k), and any regulations promulgated thereunder, an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.

~~“(6) SECRETARY. The term ‘Secretary’, when used in connection with any transaction or person involved with a residential mortgage loan, means the Secretary of Housing and Urban Development.~~

~~“(7) SERVICER. The term ‘servicer’ has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).”~~

SEC. 1402. RESIDENTIAL MORTGAGE LOAN ORIGINATION.

~~(a) IN GENERAL. Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended—~~

~~(1) by redesignating the 2nd of the 2 sections designated as section 129 (15 U.S.C. 1639a) (relating to duty of servicers of residential mortgages) as section 129A; and~~