

REAL ESTATE LENDING IN 2011

*The impact
of FDIC and
Federal
restrictions
on bank
real estate
portfolios*

TOPICS

■ **Regulatory hurdles**

- What regulations have been implemented since the real estate housing bust?
- What are we expecting in the pipeline for more regulation
- Too much too soon! Some regulations are good for consumers, but they are being implemented too fast.

■ **FDIC expectations** of banks in regards to Commercial Real Estate (CRE) lending & monitoring of bank loan portfolios

■ **Impact of restrictions** on commercial real estate, and (subsequently) residential real estate

REGULATORY HURDLES

A brief
look at
what
banks and
mortgage
companies
have been
dealing
with

RESPA (“REG X”)

- January 2009
 - Reg X (RESPA) law changes – Major overhaul of the Good Faith Estimate & HUD Settlement Statement

GOOD FAITH ESTIMATE

*Intended to
allow
borrowers to
“shop” for
loan and
settlement
services*

Use this chart to compare GFEs from different loan originators. Fill in the information by using a different column for each GFE you receive. By comparing loan offers, you can shop for the best loan.

	This loan	Loan 2	Loan 3	Loan 4
Loan originator name				
Initial loan amount				
Loan term				
Initial interest rate				
Initial monthly amount owed				
Rate lock period				
Can interest rate rise?				
Can loan balance rise?				
Can monthly amount owed rise?				
Prepayment penalty?				
Balloon payment?				
Total Estimated Settlement Charges				

MORTGAGE DISCLOSURE IMPROVEMENT ACT

- **Implemented July 30, 2009**
 - Established a mandatory 7 day waiting period following loan term disclosures
 - If transaction changes (loan amount, fees, etc.), an additional waiting period is required to allow for “re-disclosure”

LOAN DISCLOSURE CHANGES

- January 1, 2010

- Revised Good Faith Estimate

- Intended to assist borrowers in shopping for the best loan and settlement services (based on price)

- Revised HUD-1 Settlement Statement

- Makes a comparison of the Good Faith Estimate figures to the FINAL settlement costs on the day of closing – 10% tolerance on certain categories (lender has to “eat” the difference if necessary)
- If borrower uses a closing attorney or other services not on the bank’s approved list, the bank is not subject to the “10% tolerance rule”

TRUTH IN LENDING ACT

- **April 1, 2010 – changes to Truth in Lending act**
 - **Mandatory escrow for HPML (higher priced mortgage loans)**
 - Puts community banks at a disadvantage
 - Discourages mobile home lending (difficult to lend at higher rate, but higher rate may be necessary due to the risk of the collateral)

S.A.F.E. ACT

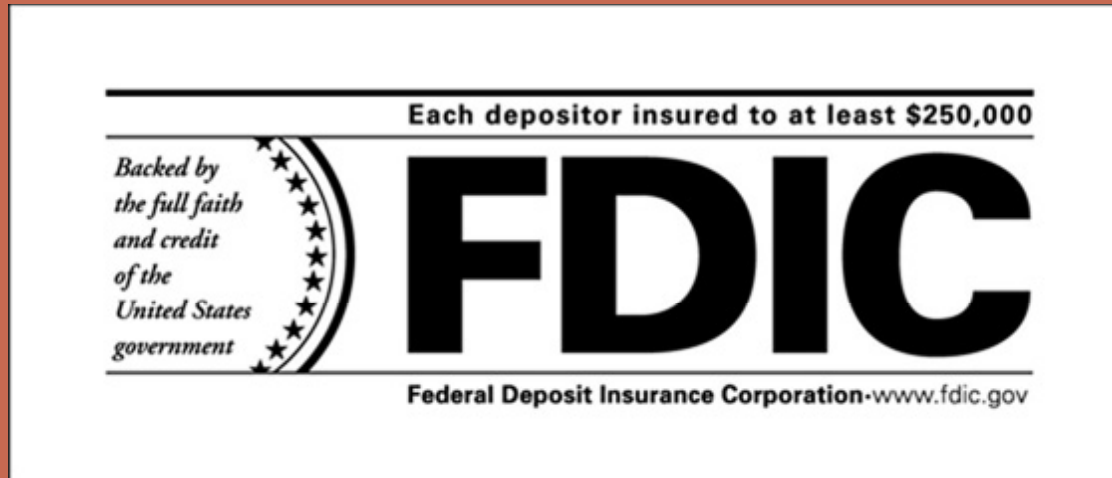
- **October 1, 2010**
 - “Secure and Fair Enforcement for Mortgage Licensing Act”
 - Registration requirement implemented by government to require registration of all mortgage loan originators
 - Made mandatory on this day, but registry was not available until January 2011

REG Z – VALUATION INDEPENDENCE

- April 1, 2011
 - Regulates the independence of appraisal ordering, appraiser selection

DODD FRANK → A BANKER'S PERSPECTIVE

- Passed July 22, 2010
- 2,300 pages of challenges for banks
 - Oppressive – most small banks do not have the resources necessary to easily handle the flood of new rules
 - It will raise the cost and reduce the availability of credit
 - consumers ultimately bear the consequences of government restrictions
 - overly burdensome regulation can pose severe harm to the economy
 - CFPB should focus energies on supervision and examination of non-banks. *Many of the problems that led to the financial crisis occurred outside the regulated banking sector (we learned after the S & L Crisis)*
 - *Is sure to affect REALTORS, builders, developers. This will ultimately affect consumers and main street.*



FDIC expectations of banks
in regards to Commercial Real
Estate (CRE) lending & monitoring
of bank loan portfolios

PART 365
Real
Estate
Lending
Standards

Established
1993

FDIC PART 365

- 1993 - Established to give banks guidance on lending in commercial real estate – guidance meaning *not* mandatory but a good “rule of thumb”
- 2009 – became the unspoken rule, and has caused a slow down in certain areas of lending
- Loan to Value Guidelines:

FDIC “PART 365”

- **LOAN TO VALUE GUIDELINES ~ affects on your industry**
(LOAN AMOUNT DIVIDED BY APPRAISED VALUE)

These guidelines are meant to promote safety and soundness in the banking system

Many banks were liberal with these guidelines, which led to a multitude of problems in construction, development, and land

Banks should still be flexible in these categories for the right borrower and right situation- unfortunately many banks have too much exposure and cannot be flexible

FDIC “PART 365”

- **LOAN TO VALUE GUIDELINES ~ affects on your industry**
(LOAN AMOUNT DIVIDED BY APPRAISED VALUE)

- **65% Raw land**

- **75% Land development**
- **80% Construction**
 - Commercial, multifamily and other non residential
- **85% Construction**
 - 1- to 4-family residential
- **85% Improved property**
 - Commercial Real Estate
- **90% Residential Owner-occupied 1- to 4-family and home equity***
**any residential loan > 90% must include credit enhancement
(i.e. Private Mortgage Insurance or other collateral)*

PROBLEM LOANS (AS OF 12/31/10) IN ALL U.S. BANKS

Non-performing **(all residential loans)**

\$194.2 Billion
(out of \$4.2 Trillion (4.6%))



Non-performing **(all construction, land & development)**

\$87.3 Billion
(out of \$321.5 Billion (27.1%))



FDIC “PART 365”

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(LOAN AMOUNT DIVIDED BY APPRAISED VALUE)

- **65% Raw land**

- **75% Land development**
- **80% Construction**
 - **Commercial, multifamily and other non residential (usually includes “Spec” homes)**

- **85% Construction**
 - 1- to 4-family residential

- **85% Improved property**
 - Commercial Real Estate

- **90% Residential Owner-occupied 1- to 4-family and home equity***
**any residential loan > 90% must include credit enhancement (i.e. Private Mortgage Insurance or other collateral)*

**Impact on bankers,
REALTORS[®],
and our clients**

***Government
restrictions
on real
estate
lending***