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Legislative Update Report

Industry News

Labor Department: Loan Officers Not Exempt from Overtime Coverage. The MBA reported that The Labor Department issued a ruling March 24, 2010 stating that employees who perform "loan officer" duties are not exempt from overtime coverage under the Fair Labor Standards Act. The ruling reverses previous DOL interpretation of that mortgage loan officers could qualify as exempt from overtime coverage under the FLSA's "administrative exemption." "Based upon a thorough analysis of the relevant factors, the Administrator has determined that mortgage loan officers who perform the typical duties...have a primary duty of making sales for their employers and, therefore, do not qualify as bona fide administrative employees exempt under section 13(a)(1) of the *Fair Labor Standards Act*, 29 U.S.C. § 213(a)(1)," wrote DOL Deputy Administrator Dorothy Leppnick. The MBA, which has long held that the nature of loan officer duties and compensation made them exempt from overtime coverage, disagreed.

A complete copy of the article can be found at:

<http://www.mortgagebankers.org/tools/FullStory.aspx?ArticleId=11854>

A copy of the Labor Department ruling can be found at:

http://www.dol.gov/WHD/opinion/adminIntrprtn/FLSA/2010/FLSAAI2010_1.htm

FHA Issue Mortgagee Letter Updating Appraisal Policy. Mortgagee Letter 2010-13 provides additional guidance to that contained in Mortgagee Letter 2009-51, which advised of FHA's adoption of the Appraisal Update and/or Completion Report Form. Specifically, this Mortgagee Letter: (1) Provides two additional prohibitions on use of the Appraisal Update Report; (2) Clarifies that the Market Conditions Form must be completed in conjunction with the Appraisal Update Form; and (3) Defines the validity periods for appraisals with and without an Appraisal Update Report. A copy of the Mortgagee Letter may be found at: <http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/>

Fannie Mae Updates Home Valuation Code of Conduct FAQs. On March 15, Fannie Mae revised its Home Valuation Code of Conduct FAQs by amending question 18 and adding new questions 29, 48, and 61. For a copy of the revised FAQs, please see

<https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/appcode/pdf/hvccfaqs.pdf>.

FHA to Accept Electronic Signatures on Third Party Documents. FHA will accept electronic signatures on third party documents included in the case binder for mortgage insurance endorsement in accordance with Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA), as applicable. This policy is effective immediately for forward mortgages as well as Home Equity Conversion Mortgages. To read this mortgagee letter 2010-14 in its entirety, please visit: <http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/>

Obama Administration Seeks Public Input on Reform in the Housing Finance System. The Obama Administration will seek input in two ways. First, the public will have the opportunity to submit written responses to the questions published in the Federal Register online at www.regulations.gov. Second, the Administration intends to hold a series of public forums across the country on housing finance reform.

Questions for Public Solicitation of Input:

1. How should federal housing finance objectives be prioritized in the context of the broader objectives of housing policy?

** Commentary could address: policy for sustainable homeownership; rental policy; balancing rental and ownership; how to account for regional differences; and affordability goals.*

2. What role should the federal government play in supporting a stable, well-functioning housing finance system and what risks, if any, should the federal government bear in meeting its housing finance objectives?

** Commentary could address: level of government involvement and type of support provided; role of government agencies; role of private vs. public capital; role of any explicit government guarantees; role of direct subsidies and other fiscal support and mechanisms to convey such support; monitoring and management of risks including how to balance the retention and distribution of risk; incentives to encourage appropriate alignment of risk bearing in the private sector; mechanisms for dealing with episodes of market stress; and how to promote market discipline.*

3. Should the government approach differ across different segments of the market, and if so, how?

** Commentary could address: differentiation of approach based on mortgage size or other characteristics; rationale for integration or separation of functions related to the single-family and multi-family market; whether there should be an emphasis on supporting the production of subsidized multifamily housing ; differentiation in mechanism to convey subsidies, if any.*

4. How should the current organization of the housing finance system be improved?

** Commentary could address: what aspects should be preserved, changed, eliminated or added; regulatory considerations; optimal general organizational design and market structure; capital market functions; sources of funding; mortgage origination, distribution and servicing; the role of the existing government-sponsored enterprises; and the challenges of transitioning from the current system to a desired future system.*

5. How should the housing finance system support sound market practices?

** Commentary could address underwriting standards; how best to balance risk and access; and extent to which housing finance systems that reference certain standards and mortgage products contribute to this objective.*

6. What is the best way for the housing finance system to help ensure consumers are protected from unfair, abusive or deceptive practices?

** Commentary could address: level of consumer protections and limitation; supervising agencies; specific restrictions; and role of consumer education.*

Continuation of FHA Reform - Strengthening Risk Management through Responsible FHA-Approved Lenders. A final copy of the rule adopting changes pertaining to the approval of mortgage lenders by the Federal Housing Administration mentioned in previous Legislative updates can be

found at: http://portal.hud.gov/portal/page/portal/HUD/federal_housing_administration/5356F-02RiskMgmtFinalRuleforWebPosting.pdf

FFIEC Releases 2010 Bank Secrecy Act/Anti-Money Laundering Examination Manual. On April 29, the Federal Financial Institutions Examination Council (FFIEC) released the 2010 version of its Bank Secrecy Act/Anti-Money Laundering Examination (BSA/AML) Manual. The manual clarifies guidance and supervisory expectations. A copy of the press release can be found at: http://fincen.gov/news_room/nr/pdf/20100429.pdf. A copy of the 2010 manual can be found at: http://www.ffiec.gov/bsa_aml_infobase/documents/BSA_AML_Man_2010.pdf.

April 30, 2010 was the Final Day to Qualify for Federal Homebuyer Tax Credit
The \$8,000 federal tax credit for first-time home buyers expired on April 30, 2010. As of Feb. 20, the treasury Department estimates that 1.8 million Americans had claimed the tax break. Potential buyers must have a binding contract to purchase a home by the end of business April 30, and must close on that property by June 30.

HUD Webcast on implementing RESPA changes. Deputy Assistant Secretary for Single Family presents an instructive video cast on RESPA. This insightful presentation is a good primer or refresher course. Ms Vicki Bott walks you through the entire Good Faith Estimate (GFE) providing examples and answering questions. Click on the following link to watch the presentation on Implementing RESPA's New Rules" [Watch the Webcast](#)