



Pennsylvania Proposed Mortgage Lending Rules Thursday, August 09, 2007

The Pennsylvania Department of Banking has proposed rules with respect to the proper conduct of mortgage lending and brokering within the Commonwealth. These rules will apply to all licensed persons and entities engaged in mortgage lending activities under the Mortgage Bankers and Brokers and Consumer Equity Protection Act and the Consumer Discount Company Act.

The proposed regulations would require various disclosures regarding escrow arrangements, interest rate locks, payment and prepayment terms and amortization features. Further, licensees may not offer a loan without having reasonably determined that the borrower has the ability to repay the loan at the fully indexed rate, assuming full amortization. In making this determination, a licensee must consider, verify and document the borrower's income, and may not primarily rely upon the sale or refinancing of the collateral in determining the borrower's ability to repay the loan. Licensees are expressly advised to consider and defer to the "Guidance on Non-Traditional Mortgage Product Risk" (issued by the Department of Banking on April 13, 2007) in developing underwriting guidelines that comply with these rules.

The proposed regulations are the latest in a series of rulemaking efforts designed to curb abusive practices and instill sound risk management principles within the mortgage lending industry in Pennsylvania. For non-depository institutions, these regulations should be read in conjunction with the Department's Statement of Policy issued on

January 12, 2007, as well as the Guidance referenced above. Depository institutions should refer to the Federal banking agencies' joint guidance, issued in September, 2006, regarding sound business practices in the area of non-traditional mortgage lending. As noted in a previous Financial Services Alert, dated June 18, 2007, it remains to be seen how this enhanced state scrutiny of the mortgage industry will impact Federal bank regulatory oversight of this area following the preemption ruling by the U.S. Supreme Court in *Watters v. Wachovia*.

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