Small creditors operating in a rural or underserved area

Small creditors that operate in a rural or underserved area can originate balloon-payment qualified mortgages and balloon-payment high cost mortgages. They would also be exempt from the requirement to maintain escrow accounts for certain higher-priced mortgage loans, unless they establish such an account for an application received on or after May 1, 2016 (except as an accommodation to a distressed borrower).

The Bureau recently issued rules that changed the small creditor and rural-or-underserved tests. The Bureau also established an application process to request that the Bureau designate a county or census block as rural. Importantly, the Bureau anticipates that most small creditors already satisfy the new rural-or-underserved test and will not need to use the application process to take advantage of the special provisions mentioned above. Before submitting an application under that process, you should review the changes discussed below to make sure the application is truly necessary.

Small creditor

A creditor is a small creditor if, during the prior calendar year: (1) the creditor and its affiliates together originated 2,000 or fewer first-lien covered transactions that were sold, assigned or otherwise transferred (with no limit on loans held in portfolio); and (2) the creditor, together with its affiliates that regularly extend first-lien covered transactions, have less than $2 billion in assets (adjusted annually for inflation). Additionally, there is a grace period. For loan applications received before April 1 of a particular year, a creditor is a small creditor if it meets these requirements during either of the two prior calendar years.

Generally, a covered transaction is a consumer credit transaction that is secured by a dwelling (i.e., mortgage loan). Certain mortgage loans that are exempt from the Ability to Repay Rule, such as open-end lines of credit, are not covered transactions.

Operating in a rural or underserved area

A creditor operates in a rural or underserved area if it originated at least one covered transaction secured by a first lien on a property located in a rural or underserved area in the prior calendar year. There is also a grace period for the rural-or-underserved test. For loan applications received before April 1 of a particular year, a creditor meets the test if it originated at least one covered transaction secured by a first lien on a property located in a rural or underserved area in either of the two prior calendar years. A creditor is no longer required to "operate predominantly" (i.e., make more than half of its covered transactions) in rural or underserved areas to qualify for these provisions.

A rural area includes not only a rural county but also a census block that is not in an urban area as defined by the Census Bureau. The Bureau has provided a tool that creditors can use to determine whether a specific property is located in a rural or underserved area.