

## **Fed's Proposed Mortgage Rule Will Eliminate Key Foreclosure Protections**

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At the depths of the worst foreclosure crisis since the Great Depression, the Federal Reserve Board has proposed new rules that make it much harder for homeowners to escape abusive loans, avoid foreclosure or obtain refinancing.<sup>1</sup> The rules could be finalized before the July 21, 2011 transfer of the Board's authority to the new Consumer Financial Protection Bureau. *The rules should be withdrawn and reconsidered by the CFPB in the context of its comprehensive evaluation of mortgage protections.*

The changes to rescission and disclosure provisions of the Truth in Lending Act (TILA):

- ***Create a huge obstacle to escaping an illegal mortgage.*** Since 1968, TILA has allowed homeowners to demand that a lender release the mortgage lien if the loan violates the law. The homeowner can then refinance or negotiate a loan modification to repay any amount owed. The Fed reverses the statutory rule and requires consumers to obtain a new loan before the first loan is cancelled. Most homeowners cannot qualify for two mortgages, making TILA's remedy for illegal loans useless to all but the wealthiest homeowners.
- ***Lower standards for accurate loan information.*** Lenders would have greater latitude to provide inaccurate information. For example, lenders could understate the monthly payment by \$100, more than 10% of the average mortgage payment. Large tolerances are also proposed for the loan amount.
- ***Favor lenders and reduce consumer protection.*** Creditors could replace the Fed's consumer-tested disclosures with their own, untested forms, potentially omitting key disclosures altogether. A myriad of other changes in the 250-page rule rewrite the disclosure regime and further limit consumer protections. The Fed is clear in the proposal that its primary aim is to relieve creditor burden, not further consumer protections.

The proposed rule is not only bad policy; it exceeds the Fed's authority to change the protections Congress enacted. There is no urgency to the proposed changes or justification to rush them through before the Consumer Financial Protection Bureau takes over for the Fed on July 21, 2011. The Fed should withdraw the proposed rule and allow the CFPB to consider the proposal as part of its comprehensive review of mortgage disclosures and protections.

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<sup>1</sup> See <http://www.federalreserve.gov/newsevents/press/bcreg/20100816e.htm>.