



CALIFORNIA
BANKERS
ASSOCIATION

2025 Risk & Compliance Conference **October 8, 2025**

CONSUMER LENDING BOOTCAMP: THE CRITICAL ELEMENTS YOU NEED TO KNOW ABOUT REGULATION Z AND FLOOD INSURANCE

Speakers:

Joel N. Cook, Esq.

Principal and CEO

Aldrich & Bonnefin, PLC

JCook@ABLawyers.com

Harry S. Khalsa, Esq.

Associate

Aldrich & Bonnefin, PLC

HKhalsa@ABLawyers.com

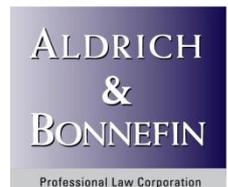


**ALDRICH
&
BONNEFIN**

Professional Law Corporation

Disclaimer

This presentation is intended solely for educational purposes to provide you general information about laws and regulations and not to provide legal advice. There is no attorney-client relationship intended or formed between you and the presenters or you and the authors of these materials. Consult your institution's legal counsel for advice about how this information impacts your institution.



Introduction

- Introductory Remarks
- Seminar Materials
 - Agenda & Outline
- Review Agenda



ALDRICH
&
BONNEFIN

Professional Law Corporation

Objectives

- Understand when Regulation Z applies and what loans are covered by Regulation Z
- Understand some of the key requirements under Regulation Z, such as disclosure requirements, rules for finance charges, advertising rules and issues to consider for mortgage loans
- Understand the basics of the flood insurance regulations, such as when flood insurance is required, the amount required for flood insurance, and force placement requirements



TRUTH IN LENDING ACT INTRODUCTION



ALDRICH
&
BONNEFIN

Professional Law Corporation

Introduction

- In 1968 Congress signed the Truth in Lending Act into law as Title I of the Consumer Credit Protection Act
- TILA requires:
 - Extensive credit disclosures
 - Regulates credit advertising
 - Makes certain transactions rescindable
 - Regulates the issuance of credit cards
 - Limits a cardholder's liability
 - Among other things



Introduction

- The 2010 Dodd-Frank Reform Act
- Passed interpretive and rulemaking authority over Regulation Z to the Consumer Financial Protection Bureau on July 21, 2011



Regulation Z Coverage

- Reg Z implements the TILA
- TILA/Reg Z applies to credit that a creditor:
 - Extends to consumers (natural persons and family trusts)
 - That is primarily for personal, family or household purposes (a “consumer purpose”)



Exemptions

- Reg Z has three exemptions
- Reg Z Exemption #1 – The “3(b) Exemption”
 - Called the “3(b)” exemption b/c located in Reg Z Section 1026.3(b)



Exemptions

- For 2025, 3(b) applies to loans
 - Over \$71,900
 - Not secured by any real property or dwelling
 - Not a private education loan



Exercise #1



Exercise #1

Bart walks into the Bank of Last Resort and speaks with Flanders, a lending specialist, asking for an application to apply for several loans. Help Flanders determine which of these loans qualify for the 3(b) exemption. All these loans will be made to Bart, an individual.



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.				
2. A \$72,000 unsecured, consumer- purpose line of credit.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N			
2. A \$72,000 unsecured, consumer- purpose line of credit.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N	Y		
2. A \$72,000 unsecured, consumer- purpose line of credit.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N	Y	Y	
2. A \$72,000 unsecured, consumer- purpose line of credit.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N	Y	Y	N
2. A \$72,000 unsecured, consumer- purpose line of credit.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer-purpose line of credit.	N	Y	Y	N
2. A \$72,000 unsecured, consumer-purpose line of credit.	Y			



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N	Y	Y	N
2. A \$72,000 unsecured, consumer- purpose line of credit.	Y	Y		



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N	Y	Y	N
2. A \$72,000 unsecured, consumer- purpose line of credit.	Y	Y	Y	



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
1. A \$69,000 unsecured, consumer- purpose line of credit.	N	Y	Y	N
2. A \$72,000 unsecured, consumer- purpose line of credit.	Y	Y	Y	Y



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.				
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y			
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y		
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y	Y	
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y	Y	Y
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y	Y	Y
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.	Y			



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y	Y	Y
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.	Y	N		



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y	Y	Y
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.	Y	N	Y	



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
3. A \$72,000 CD-secured, consumer-purpose line of credit.	Y	Y	Y	Y
4. A \$500,000 loan to purchase her dwelling. The loan will be secured by rental property.	Y	N	Y	N



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan				
6. A \$72,000 unsecured private education loan.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N			
6. A \$72,000 unsecured private education loan.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y		
6. A \$72,000 unsecured private education loan.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y	N	
6. A \$72,000 unsecured private education loan.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y	N	N
6. A \$72,000 unsecured private education loan.				



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y	N	N
6. A \$72,000 unsecured private education loan.	Y			



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y	N	N
6. A \$72,000 unsecured private education loan.	Y	Y		



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y	N	N
6. A \$72,000 unsecured private education loan.	Y	Y	N	



Exercise #1

	Over \$71,900? (Y/N)	Not secured by any real property or a dwelling? (Y/N)	Not a private education loan? (Y/N)	In sum, does the 3(b) exemption apply? (Y/N)
5. A \$69,000 unsecured private education loan	N	Y	N	N
6. A \$72,000 unsecured private education loan.	Y	Y	N	N



Reg Z Exemption #2

- Loans made to organizations
 - Corporations, partnerships, LLPs, LLCs, etc.
 - Organizations include family LLCs.
 - But not family trusts
- Regardless of loan's purpose & type of collateral



Exercise #2



Exercise #2

**Does the organizational credit exemption apply?
(Y/N)**

1. A loan made to Bart, an individual.

2. A loan made to Kwik-E-Mart, Inc.



Exercise #2

**Does the organizational credit exemption apply?
(Y/N)**

1. A loan made to Bart, an individual.

N

2. A loan made to Kwik-E-Mart, Inc.



Exercise #2

Does the organizational credit exemption apply? (Y/N)	
1. A loan made to Bart, an individual.	N
2. A loan made to Kwik-E-Mart, Inc.	Y



Exercise #2

Does the organizational credit exemption apply? (Y/N)	
3. A loan made to Simpson LLC, a family LLC.	
4. A loan made to Simpson, LLC to buy the family home. That home will also secure the loan. (Remember, all we care about is whether the loan is made to an organization. For purposes of this exemption, we don't care about the collateral or the loan's purpose.)	



Exercise #2

Does the organizational credit exemption apply? (Y/N)	
3. A loan made to Simpson LLC, a family LLC.	Y
4. A loan made to Simpson, LLC to buy the family home. That home will also secure the loan. (Remember, all we care about is whether the loan is made to an organization. For purposes of this exemption, we don't care about the collateral or the loan's purpose.)	



Exercise #2

Does the organizational credit exemption apply? (Y/N)	
3. A loan made to Simpson LLC, a family LLC.	Y
4. A loan made to Simpson, LLC to buy the family home. That home will also secure the loan. (Remember, all we care about is whether the loan is made to an organization. For purposes of this exemption, we don't care about the collateral or the loan's purpose.)	Y



Reg Z Exemption #3

- Loans made primarily for business, commercial or agricultural purposes
- Focus = loan's purpose
- Don't care
 - Who borrower is or
 - What type of collateral secures the loan



Reg Z Exemption #3

- For exemption to apply:
 - More than 50% of loan's purpose
 - Must be for a business, commercial or agricultural purpose



Exercise #3



Exercise #3

Help the Bank of Last Resort figure out whether the business-purpose credit exemption applies to any of these loan applications Lisa submits.



Exercise #3

	Exemption Applies?	
	Yes	No
1. A loan made to Lisa. She will use 50 percent of the loan proceeds for personal use, and the other 50 percent for her company, Saxophone, Inc., to purchase new inventory.		



Exercise #3

	Exemption Applies?	
	Yes	No
1. A loan made to Lisa. She will use 50 percent of the loan proceeds for personal use, and the other 50 percent for her company, Saxophone, Inc., to purchase new inventory.		✓



Exercise #3

	Exemption Applies?	
	Yes	No
2. Change of facts – Lisa will use 55 percent of the loan proceeds for business purposes.		
3. Change of facts – Lisa will use 100 percent of the loan proceeds for business purposes and the loan will be secured by Lisa's principal residence.		



Exercise #3

	Exemption Applies?	
	Yes	No
2. Change of facts – Lisa will use 55 percent of the loan proceeds for business purposes.	✓	
3. Change of facts – Lisa will use 100 percent of the loan proceeds for business purposes and the loan will be secured by Lisa's principal residence.		



Exercise #3

	Exemption Applies?	
	Yes	No
2. Change of facts – Lisa will use 55 percent of the loan proceeds for business purposes.	✓	
3. Change of facts – Lisa will use 100 percent of the loan proceeds for business purposes and the loan will be secured by Lisa's principal residence.	✓	



Investment Loans to Individuals

- Don't assume that
 - A loan to invest in a LP or other form of business
 - Is a business-purpose loan
- Individual can invest in business venture as a personal investment to increase net worth
- *Thorns v. Sundance Props.*, 726 F.2d 1407 (9th Cir. 1984)



Reg Z's Five Factors

- A business purpose is more likely to be found if most or all of the following statements apply
- The first three factors are usually the most important



Factor #1

- Consumer's primary occupation & how it relates to the use of the proceeds
 - The higher the correlation between the consumer's occupation & the property purchased from the loan proceeds, the greater the likelihood that the loan has a business purpose
 - Example: proceeds used to purchase dental supplies for a dentist would indicate a business purpose



Factor #2

- Level of the borrower's involvement in managing the investment
 - The more involvement the borrower has in managing the investment (or enterprise) purchased with the loan proceeds, the more likely the loan will have a business purpose



Factor #2

- For example, if an individual invests in a restaurant and will serve as the bookkeeper, it weighs in favor of the investment being seen as a business-purpose investment



Factor #2

- On the other hand:
 - An individual who invests in a restaurant who delivers produce to the restaurant will not be involved in managing the restaurant
 - Which suggests the investment will be viewed more as a personal investment



Factor #3

- The amount of income derived from the property acquired by the loan proceeds relative to the borrower's total income
- The greater the ratio of the income derived from the investment versus the borrower's total income, the more likely the loan will be viewed as a business-purpose loan



Factor #3

- For example, if the borrower:
 - Has an annual salary of \$100,000 and
 - Receives about \$2,000 in annual dividends from the investment
 - That would indicate a consumer purpose



Factor #3

- On the other hand, if:
 - The borrower's annual income is \$100,000 and
 - It is estimated that the borrower will receive an annual return from the investment of \$15,000
- It would weigh in favor of the investment being considered a business-purpose investment



Factor #4

- The size of the transaction
- The larger the size of the transaction, the more likely the loan will have a business purpose
- For example, if the loan is for a \$5 million real estate transaction, that might indicate a business purpose



Factor #5

- Probably the least important factor
- Borrower's view of the investment
 - Does the borrower view the investment as a personal investment or more as a business investment?



Factor #5

- If the loan has a mixed purpose
 - For example, proceeds will be used to buy a car that will be used for personal and business purposes
 - The lender must look to the primary purpose of the loan to decide whether disclosures are necessary
 - A statement of purpose from the consumer will help the lender make that decision



Factor #5

- A checked box indicating that the loan is for a business purpose
- Absent any documentation showing the intended use of the proceeds
- Could be insufficient evidence that the loan did not have a consumer purpose



Practical Implementation

- Interagency TILA Exam Procedures
- Consider all factors
- Normally, no one factor is sufficient
- When in doubt provide disclosures
 - Disclosures do not control whether transaction is covered
 - But can assure protection to the institution and compliance with the law



Special Rental Property Rules

- Reg Z also contains special rental property rules
- Depending on
 - Property's occupancy status &
 - Loan's purpose
 - It may be automatically exempt as a business-purpose loan



Special Rental Property Rules

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			
Non-owner occupied*	Exempt (regardless of the number of units)			

*Non-owner occupied = borrower doesn't intend to occupy the rental property for >14 days in the coming year



Exercise #4



Exercise #4

Mrs. Krabappel, a lending specialist, with the Bank of Last Resort, receives a number of loan applications from Homer. Figure out whether any of these specific loans are exempt under the special rental property rules. All of these loans will be made to Homer, an individual.



Exercise #4

	Exempt Under Rental Property Rules?	
	Yes	No
1. A loan to acquire a two-unit rental property. Homer will occupy one of the units.		
2. A loan to acquire a three-unit rental property. Homer will occupy one of the units.		
3. A loan to improve a three-unit rental property. Homer will occupy one of the units		
4. A loan to purchase a condominium unit that Homer intends to occupy for only two weeks every October.		
5. Change of facts – what if instead Homer intends to occupy the condo for the entire month of October?		



Question #1

Occupancy Status	Purpose			
Owner occupied	Acquire		Improve/Maintain	
	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
Non-owner occupied*	Exempt (regardless of the number of units)			



Question #1

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			
Non-owner occupied*	Exempt (regardless of the number of units)			



Exercise #4

	Exempt Under Rental Property Rules?	
	Yes	No
1. A loan to acquire a two-unit rental property. Homer will occupy one of the units.		✓
2. A loan to acquire a three-unit rental property. Homer will occupy one of the units.		
3. A loan to improve a three-unit rental property. Homer will occupy one of the units		
4. A loan to purchase a condominium unit that Homer intends to occupy for only two weeks every October.		
5. Change of facts – what if instead Homer intends to occupy the condo for the entire month of October?		



Question #2

Occupancy Status	Purpose			
Owner occupied	Acquire		Improve/Maintain	
	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
Non-owner occupied*	Exempt (regardless of the number of units)			



Question #2

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			



Exercise #4

	Exempt Under Rental Property Rules?	
	Yes	No
1. A loan to acquire a two-unit rental property. Homer will occupy one of the units.		✓
2. A loan to acquire a three-unit rental property. Homer will occupy one of the units.	✓	
3. A loan to improve a three-unit rental property. Homer will occupy one of the units		
4. A loan to purchase a condominium unit that Homer intends to occupy for only two weeks every October.		
5. Change of facts – what if instead Homer intends to occupy the condo for the entire month of October?		



Question #3

Occupancy Status	Purpose			
Owner occupied	Acquire		Improve/Maintain	
	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
Non-owner occupied*	Exempt (regardless of the number of units)			



Question #3

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			



Exercise #4

	Exempt Under Rental Property Rules?	
	Yes	No
1. A loan to acquire a two-unit rental property. Homer will occupy one of the units.		✓
2. A loan to acquire a three-unit rental property. Homer will occupy one of the units.	✓	
3. A loan to improve a three-unit rental property. Homer will occupy one of the units		✓
4. A loan to purchase a condominium unit that Homer intends to occupy for only two weeks every October.		
5. Change of facts – what if instead Homer intends to occupy the condo for the entire month of October?		



Question #4

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			
Non-owner occupied*	Exempt (regardless of the number of units)			

- * "Non-owner occupied" means the borrower does not intend to occupy the rental property for more than 14 days in the coming year.



Question #4

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units:	3+ units:	1 to 4 units:	5+ units:
	Not exempt	Exempt	Not exempt	Exempt
Non-owner occupied*	Exempt (regardless of the number of units)			

* "Non-owner occupied" means the borrower does not intend to occupy the rental property for more than 14 days in the coming year.



Exercise #4

	Exempt Under Rental Property Rules?	
	Yes	No
1. A loan to acquire a two-unit rental property. Homer will occupy one of the units.		✓
2. A loan to acquire a three-unit rental property. Homer will occupy one of the units.	✓	
3. A loan to improve a three-unit rental property. Homer will occupy one of the units		✓
4. A loan to purchase a condominium unit that Homer intends to occupy for only two weeks every October.	✓	
5. Change of facts – what if instead Homer intends to occupy the condo for the entire month of October?		



Question #5

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			
Non-owner occupied*	Exempt (regardless of the number of units)			

- * "Non-owner occupied" means the borrower does not intend to occupy the rental property for more than 14 days in the coming year.



Question #5

Occupancy Status	Purpose			
	Acquire		Improve/Maintain	
Owner occupied	1 to 2 units: Not exempt	3+ units: Exempt	1 to 4 units: Not exempt	5+ units: Exempt
	Exempt (regardless of the number of units)			
Non-owner occupied*	Exempt (regardless of the number of units)			

- * "Non-owner occupied" means the borrower does not intend to occupy the rental property for more than 14 days in the coming year.



Exercise #4

	Exempt Under Rental Property Rules?	
	Yes	No
1. A loan to acquire a two-unit rental property. Homer will occupy one of the units.		✓
2. A loan to acquire a three-unit rental property. Homer will occupy one of the units.	✓	
3. A loan to improve a three-unit rental property. Homer will occupy one of the units		✓
4. A loan to purchase a condominium unit that Homer intends to occupy for only two weeks every October.	✓	
5. Change of facts – what if instead Homer intends to occupy the condo for the entire month of October?		✓



Other Regulation Z Provisions

- Requires lenders to provide disclosures to borrowers
 - Varies whether the credit is closed-end credit or open-end credit
 - Extensive rules regarding the contents of the disclosures, and timing for providing them



Other Regulation Z Provisions

- Closed-end disclosures
 - Standard closed-end disclosure statement
 - TRID
 - Reverse mortgages
 - Adjustable rate mortgages



Other Regulation Z Provisions

- Open-end disclosures
 - Account opening disclosures for open-end (not home secured) credit
 - Account opening disclosures for HELOCs
 - Periodic Statements for both open-end (not home-secured) credit, and HELOCs



Determining the Finance Charge

- The most critical issues a creditor faces in preparing Regulation Z disclosures:
 - The proper characterization of fees and charges as either finance charges or other (non-finance) charges
 - Improper characterization of a fee can lead to improper disclosure of the finance charge and the annual percentage rate



Determining the Finance Charge

- Finance charge is defined as the cost of consumer credit expressed as a dollar amount
- Improper characterization could ultimately cause the creditor to have to make restitution to the affected consumers
- There are extensive rules for determining what is and what is not a finance charge



Advertising Rules

- Reg Z rules
 - Regulating the content of advertisements, including certain disclosures that may be necessary depending on the advertisement
 - An “advertisement” is defined as a commercial message in any medium that promotes, directly or indirectly, a credit transaction
 - Separate rules apply for closed-end and open-end credit



Advertising Rules

- There are also additional advertising rules if the advertisement is for closed-end credit secured by a residence



Rules Related to Mortgage Loans

- Regulation Z provisions
 - Ability-to-Repay Rule
 - Loan originator compensation rules
 - Anti-steering rules
 - Mortgage servicing rules
 - Credit card rules
 - TILA corrective action



FLOOD INSURANCE REGULATION BASICS



ALDRICH
&
BONNEFIN

Professional Law Corporation

Background

- National Flood Insurance Act of 1968 created NFIP
- NFIP = National Flood Insurance Program
- FEMA = Administers the NFIP
- FDPA amended 1968 Act
- .Designated loan = mandatory purchase requirement



Background

- Major recent flood laws
 - Biggert-Waters
 - HFIAA
- Implemented through two final rules



Interagency Flood Insurance Q&As

- Q&As issued to help lenders comply with the flood insurance regulations
 - Originally issued in 1997
 - Amended in 2009 and 2011
 - Updated interagency Q&As in May 2022
 - Reorganized;
 - Revised; and
 - Expanded Former Q&As



Basic Requirements



Basic Requirements: Step One

- Loan secured by building or mobile home?
 - Building is a structure with two or more rigid walls and a fully secured roof that is affixed to a permanent site and resists flotation, collapse and lateral movement
 - Has at least 51 percent of the value of the building above ground level
 - Includes mobile homes affixed to a permanent foundation



Basic Requirements: Step Two

- When MIREing a loan secured by building must pull Standard Flood Hazard Determination Form (SFHDF)
- SFHDF states whether building is in
 - Standard Flood Hazard Area (SFHA), and
 - NFIP-participating community



Basic Requirements: Step Three

- If building is in SFHA
 - Send SFHA Notice
 - Refer to Exhibit A to this Outline for a sample SFHA Notice



Basic Requirements: Step Four

- If building is located in an NFIP-participating community:
 - It is a “designated loan”
 - Do not MIRE until you receive evidence adequate flood insurance is in place
 - Unless exemption applies



Not Triggering Event Examples

- Purchase of a loan from another lender
- A loan restructuring that does not increase the amount of the loan nor extend or renew the terms of the loan
- Assumption of the loan by another borrower
- Remapping of a building securing the loan into an SFHA
- Purchase by a lender of an interest in a loan, either by participation or syndication



Amount of Flood Insurance Required



General Rule

- A regulated lender may not MIRE a “designated loan” without proof that sufficient flood insurance is in place
- Lesser of
 - Loan’s outstanding principal balance, or
 - Maximum available under NFIP:
 - Maximum limit available for type of property; or
 - Insurable value of structure



NFIP Coverage Limits

Building Coverage	Regular Program
Single-family Home & 2-4 Family Building	\$250,000
Other Residential Building (5+ dwelling units)	\$500,000
Non-residential Building	\$500,000
Residential Condominium Buildings (in the case of a Residential Condominium Building Association Policy (RCBAP))	\$250,000 x the number of units
Contents Coverage	Regular Program
Single-family Home & 2-4 Family Building	\$100,000
Other Residential Building	\$100,000
Non-Residential Building	\$500,000



EXERCISE #5



ALDRICH
&
BONNEFIN

Professional Law Corporation

Exercise #5

Ned went to the Bank of Last Resort and applied for a loan to buy a new single-family principal residence. Because the loan will be secured by a building, the Bank pulled an SFHDF.

According to the SFHDF, the home is located in an SFHA and in an NFIP-participating community.



Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require?

\$ _____



Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence	\$600,000		
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require?

\$ _____



Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence	\$600,000	\$250,000	
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require?

\$ _____



Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence	\$600,000	\$250,000	\$250,000
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require?

\$ _____



Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence	\$600,000	\$250,000	\$250,000
Loan Amount (D)			\$500,000
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require?

\$ _____



ALDRICH
&
BONNEFIN

Professional Law Corporation

Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence	\$600,000	\$250,000	\$250,000
Loan Amount (D)			\$500,000
<u>Lesser</u> of (C) and (D)			\$250,000

How much flood insurance must the Lender require?

\$ _____



Exercise #5

The loan amount is \$500,000. The insurable value of the home is \$600,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Principal Residence	\$600,000	\$250,000	\$250,000
Loan Amount (D)			\$500,000
<u>Lesser</u> of (C) and (D)			\$250,000

How much flood insurance must the Lender require?

\$ **250,000**



Insurable Value

- RCV vs. ACV
 - RCV = Cost to replace property with same kind of material and construction w/o deducting for depreciation
 - ACV = RCV - depreciation



Insurable Value

- Lender must figure out RCV versus ACV b/c
 - “Lesser of three” calculation
 - Don’t over insure (because Q&A Amount 8 and Section 2955.5(a) say so!)



Insurable Value

- Avoid over-insuring by looking to what FEMA will pay on the property, which is based on RCV or ACV



Insuring Multiple Structures on the Same Loan

- Lender must determine the amount of insurance required on each building
- Amount of total required flood insurance can be allocated among the secured buildings in varying amounts
- All buildings in an SFHA must be covered in accordance with the statutory requirement



Exercise #6



Exercise #6

Bart and Lisa decide they need more space. They found a property for sale with a single-family residential building, and a detached Accessory Dwelling Unit (ADU), and went to the Bank of Last Resort and applied for a loan.

According to the SFHDF, both buildings will be located in an SFHA and in an NFIP-participating community.



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1			
Single Family (ADU) #2			
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			



How much flood insurance must the Lender require, allocated between the two buildings? \$ _____

Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000		
Single Family (ADU) #2			
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	
Single Family (ADU) #2			
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2			
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000		
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000	\$250,000	
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000	\$250,000	\$100,000
Aggregate of Maximum Building Coverage			
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000	\$250,000	\$100,000
Aggregate of Maximum Building Coverage			\$350,000
Loan Amount (D)			
<u>Lesser</u> of (C) and (D)			

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000	\$250,000	\$100,000
Aggregate of Maximum Building Coverage			\$350,000
Loan Amount (D)			\$1,000,000
<u>Lesser</u> of (C) and (D)			



How much flood insurance must the Lender require, allocated between the two buildings? \$ _____

Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000	\$250,000	\$100,000
Aggregate of Maximum Building Coverage			\$350,000
Loan Amount (D)			\$1,000,000
<u>Lesser</u> of (C) and (D)			\$350,000

How much flood insurance must the Lender require, allocated between the two buildings? \$ _____



Exercise #6

The loan amount is \$1,000,000. The insurable value of the primary single-family residential building is \$700,000, and the insurable value of the single family ADU is \$100,000.

Structure	(A) Insurable Value	(B) Max NFIP Available	(C) <u>Lesser</u> of A and B
Single Family #1	\$700,000	\$250,000	\$250,000
Single Family (ADU) #2	\$100,000	\$250,000	\$100,000
Aggregate of Maximum Building Coverage			\$350,000
Loan Amount (D)			\$1,000,000
<u>Lesser</u> of (C) and (D)			\$350,000

How much flood insurance must the Lender require, allocated between the two buildings? \$ **\$350,000**



Private Flood Insurance



Eight Criteria

- Mandatory acceptance criteria
- Biggert-Waters
 - Required Agencies to issue rules mandating acceptance of private flood insurance (PFI) policies if the policies meet “Eight Criteria”



Compliance Aid Statement

- A policy meets the Eight Criteria without further review if the following statement is included:

This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation.



Compliance Aid Statement

- What happens if the language is different from the Compliance Aid Statement?
 - Lender cannot rely on it and should review the policy to determine if it meets the definition of private flood insurance
 - However, a lender need not reject the CAS if there are stylistic differences



Compliance Aid Statement

- There are rules for a lender to have the discretion to accept a PFI policy
- Should it choose to do so even if it does not meet the Eight Criteria in satisfaction of flood insurance purchase requirements



Force Placement Requirements



Force Placement: General Rule

- If lender determines at any time during loan's term that building is
 - Not covered by flood insurance or
 - Covered by inadequate amount
- Must send 45-day notice



45-day Notice

- The 45-day notice notifies borrower that borrower must obtain flood insurance at borrower's expense
- In amount at least equal to amount lender requires for remaining term of loan



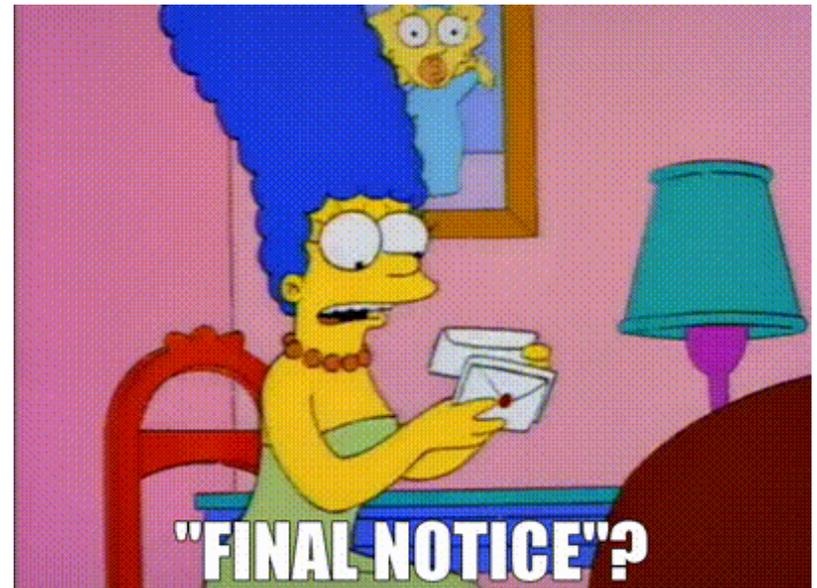
45-day Notice

- Lender may not send the required 45-day notice to the borrower prior to making a determination that flood insurance coverage is inadequate
- Lenders must send the 45-day notice following the date of lapse or insufficient coverage on the borrower's policy



45-day Notice

- In addition to the 45-day notice, lenders may send one or more additional notices prior to a policy's expiration as a courtesy



Lender's Duty to Force Place

- What happens if the borrower fails to obtain adequate coverage within 45 days after notification?
- Lender must purchase insurance on the borrower's behalf
 - May force place on day one
 - Must force place by day 46



Termination of Force-placed Insurance

- Within 30 days of evidence of coverage from borrower
 - Notify insurance provider to terminate force-placed insurance, and
 - Refund overlapping premium to borrower



Termination of Force-placed Insurance

- Lender has up to 30 days to terminate force-placed policy and refund
- But, the refund amount must relate back to date the borrower's policy went into effect



Termination of Force-placed Insurance

- Sufficiency of borrower's documentation of coverage
 - A lender must accept from a borrower an insurance policy declarations page that includes:
 - Existing policy number
 - Insurer's identity & contact info



Escrow Requirements



Escrow Requirements: General Rule

- Must escrow
 - All premiums & fees for insurance required under flood insurance regs
- For a loan that meets all of the below requirements:
 - It's a designated loan
 - Secured by residential improved real estate or a mobile home
 - And that is MIREd on or after January 1, 2016



Escrow Requirements: Coverage

- “Residential Improved Real Estate”
 - Defined as real estate upon which home or other residential building is located
 - No limit on number of units
 - SFRs
 - 2-4 family dwellings
 - 5+ family dwellings
- For mixed-use properties,
 - Lender should look to primary use of building to determine whether it meets definition of residential



Loan-Related Exceptions

- Business, commercial, or agricultural purpose loans
- Subordinate lien loans for which the borrower has sufficient flood insurance coverage for both loans
- Residential improved real estate (or mobile home) covered by a flood insurance policy that:
 - Provides for sufficient amount of coverage,
 - The policy is provided by a condo association or HOA and paid by that group
- HELOCs
- Nonperforming loans
- Exception applies if loan is extended or renewed for an additional term of 12 months or less term



Duration of Loan-Related Exceptions

- If lender determines Loan-Related Exception no longer applies, then it must begin to escrow all premiums
- Must be done as soon as reasonably practicable



Small Lender Exception

- Scope
 - Assets under \$1 billion
 - As of December 31st
 - Either of 2 prior calendar years, and . . .

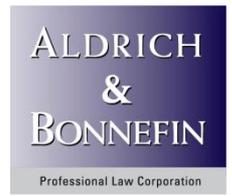


Small Lender Exception

- On or before July 6, 2012:
 - Not required under federal or state law to escrow for:
 - Taxes;
 - Insurance; or
 - Any other charge for loan term
 - Did not have a policy requiring borrowers to escrow for:
 - Taxes;
 - Insurance; or
 - Any other charges



Flood Insurance Updates



Final Rule on NFIP Installment Payments

- Until recently, policyholders were required to pay their full premium payment as a lump sum annual payment
- In November 2024, FEMA passed a new rule:
 - Allows for the payment of premiums on an annual basis or through monthly installments
 - FEMA will not issue or renew a policy unless it receives the full amount due (which is either presentment of the full annual premium) or presentment of the first of a series of monthly premium installment payments inclusive of all surcharges, fees, and assessments
 - FEMA also issued a new *Installment Plan Frequently Asked Questions*



Status of the NFIP

- Congress must periodically renew the NFIP's statutory authority to operate
- Unfortunately, this authorization is frequently only extended for short terms
- On October 1, 2025, the NFIP lapsed (but it may have been renewed by the time of this Bootcamp)



Status of the NFIP

- What happens with the NFIP lapses? Q&A Applicability 12 addresses the matter
 - Lenders may continue to make loans subject to the flood insurance regulations without requiring flood insurance coverage
 - Lenders must continue to make flood determinations, provide timely, complete, and accurate notices to borrowers, and comply with other applicable parts of the regulations



Status of the NFIP

- Lenders should take appropriate measures or consider possible options in consultation with the borrower to mitigate loss exposures in the event of a flood during such periods
- For example:
 - Determine the risk of loss is sufficient to justify a postponement in closing the loan until the NFIP coverage is available again
 - May require the borrower to obtain private flood insurance if available, as a condition of closing the loan
 - May make the loan without requiring the borrower to apply for flood insurance and pay the premium while NFIP coverage is unavailable (but poses a number of risks)
 - Once NFIP coverage becomes available again, the Agencies expect that flood insurance will be obtained for these loans, including, if necessary, by force placement.
 - Before making such loans, lenders should make borrowers aware of the flood insurance requirements and that force-placed insurance is typically more costly than borrower obtained insurance. Lenders also should have a process to identify these loans to ensure that insurance is promptly purchased when NFIP coverage becomes available subsequent to their closing



QUESTIONS?



ALDRICH
&
BONNEFIN

Professional Law Corporation



CALIFORNIA
BANKERS
ASSOCIATION

We're adjourned!

Speakers:

Joel N. Cook, Esq.

Principal and CEO

Aldrich & Bonnefin, PLC

JCook@ABLawyers.com

Harry S. Khalsa, Esq.

Associate

Aldrich & Bonnefin, PLC

HKhalsa@ABLawyers.com



ALDRICH
&
BONNEFIN

Professional Law Corporation