

Creditors must comply with the MDIA on July 30, 2009. Since the MDIA's application is broader than the July 2008 final rule, creditors will need to accelerate implementation of the July 2008 final rule to coincide with that of the MDIA with one exception. That exception being the provisions governing higher-priced mortgage loans. Remember, the Board's implementing regulations apply to dwelling-secured consumer loans for which a creditor receives an application on or after July 30, 2009.

Timeless Quote

"If you owe the bank \$100, that's your problem. If you owe the bank \$100 million, that's the bank's problem."

- J. Paul Getty

# The Oak Tree Advantage

Published By



## OAK TREE BUSINESS SYSTEMS, INC.

P.O. Box 6967  
Big Bear Lake, CA 92315  
(909) 585-7753 • (800) 537-9598

FAX (877) 585-4226  
e-mail - mail@oaktreebiz.com

Please visit our website:  
[www.oaktreebiz.com](http://www.oaktreebiz.com)

*The Oak Tree Advantage* is produced as an informational newsletter for the benefit of Oak Tree customers only and should not be construed as the offering of legal advice. All rights are reserved and no portion of *The Oak Tree Advantage* may be reproduced without express written permission from Oak Tree Business Systems, Inc.

Volume Eleven Edition One

### CEO

Richard D. Gallagher

### President

Genelle Rich

### Director Of Sales

Michael D. Maloney

### Director Of Data Services

Rachel Mayson

### Director Of Product Management

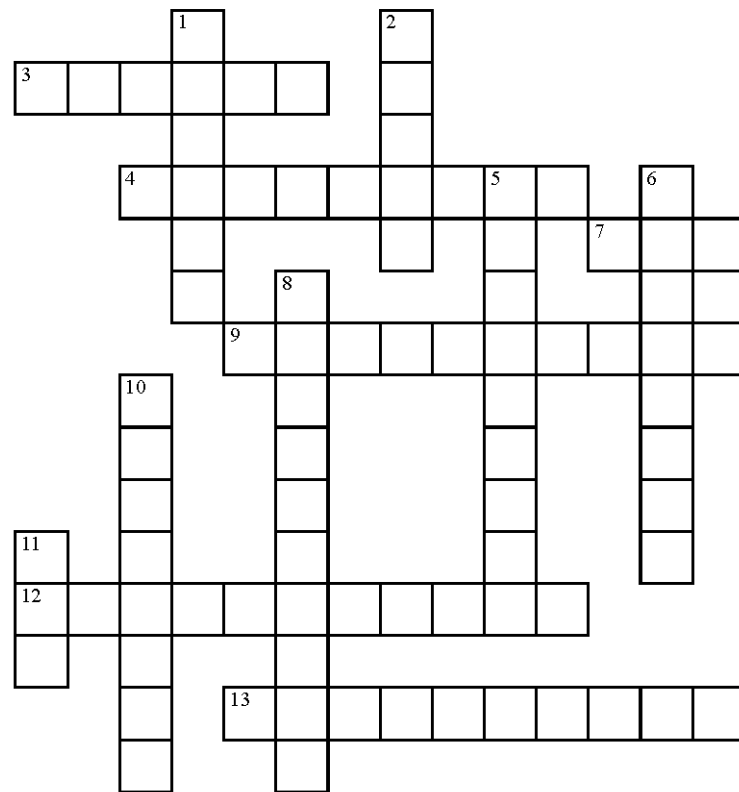
Rod G. Terry

### Legal Advisors

Michael A. Kus  
KUS, RYAN & ASSOCIATES, PLLC

[www.OakTreeBiz.com](http://www.OakTreeBiz.com)

## Advantage Crossword Puzzle



### ACROSS

- 3 Some lenders require an \_\_\_\_\_ account to hold funds
- 4 Newsletter; having Oak Tree as a forms provider
- 7 \_\_\_\_\_ 1-A
- 9 T44; Agreements and Disclosures
- 12 "New" Truth-in-Lending Disclosure Statements
- 13 Security \_\_\_\_\_; Deed of Trust

### DOWN

- 1 Union; Card; Score
- 2 Good \_\_\_\_\_ Estimate
- 5 Co-signer in open-end lending
- 6 Oak Tree \_\_\_\_\_ Systems
- 8 Statement that follows Good Faith
- 10 A table to help in decision making increasing or decreasing interest on a loan
- 11 The cost of credit as a yearly rate



OAK TREE BUSINESS SYSTEMS, INC.

Summer 2009

# The Oak Tree Advantage

## EXCLUSIVE INSIDER INFORMATION FOR OAK TREE CUSTOMERS

Genelle Rich, President

### In This Issue...

- Exclusive Information for Oak Tree Customers 1
- Reg. D Amendment 1
- Amendment to Home Mortgage Lending 2
- Our Regulators at Work Part 3 3
- Credit Card Act of 2009 3
- Crossword 4



With President Obama in the White House and a country in economic unrest, the regulators have been hard at work making changes that have already affected several products that Oak Tree provides.

In this issue, Oak Tree's Director of Product Management, Rod Terry, has provided an inside look into several updates taking place on your forms now and in the near future. Your consideration is recommended for the Credit CARD Act of 2009, which is being offered as an exclusive to Oak Tree customers via our Web site ([www.oaktreebiz.com](http://www.oaktreebiz.com)) and a passcode. The information is regarded as sensitive and confidential, so we have briefed its content in this newsletter and have provided you with contact information in order to read the article in its entirety. See page 3 for details!

## AMENDMENT TO REGULATION D Rod G. Terry, Director of Product Management

In May 2009, the Federal Reserve Board (Board) approved a final rule that amended Regulation D (Reserve Requirements of Depository Institutions) as it relates to the definition of a savings deposit. The Board defines a savings account based on the ease with which a depositor may make transfers or withdrawals from the account. Until now Regulation D had limited the number of these transfers and withdrawals from savings deposits to not more than six withdrawals from or transfers to another account or to a third party by means of a pre-authorized or automatic transfer or telephonic order or instruction, and no more than three of the six transfers could be made by check, draft, debit card, if applicable, or similar order to third party.

Effective July 2nd, the definition has changed such that while the overall limit of six remains unchanged, financial institutions may eliminate the three-transaction sub-limit. Since this new change represents a relaxation of a tighter standard, your credit union is not required to eliminate the three sub-limit rule, but is now permitted to do so. Should the credit union wish to relax its policy, it will be necessary to contact Oak Tree in order to have their Membership Disclosures edited to conform to their new policy.

## ► AMENDMENTS TO REGULATION Z (HOME MORTGAGE LENDING)

### Rod G. Terry, Director of Product Management

In July 2008, the Federal Reserve Board (Board) approved a final rule that amended Regulation Z (Truth in Lending) as it relates to home mortgage loans. The intent of that final rule is to better protect consumers and facilitate responsible lending. The rule prohibits unfair, abusive or deceptive home mortgage lending practices and restricts certain other mortgage practices. The final rule also established advertising standards and requires certain mortgage disclosures to be given to consumers earlier in the transaction.

The final rule adds four key protections for consumer credit transactions secured by the consumer's principal dwelling with an annual percentage rate that exceeds the average prime offer rate published by the Board for a comparable transaction as of the date the interest rate is set by: (a) 1.5 or more percentage points for loans secured by a first lien; or (b) 3.5 or more percentage points for loans secured by a subordinate lien. For loans in this new category of "higher-priced mortgage loan", creditors are: (i) Prohibited from making a loan without regard to the borrowers' ability to repay the loan from income and assets other than the home's value (creditors assessing repayment ability based on the highest scheduled payment in the first seven years of the loan, in part, will be deemed in compliance); (ii) Required to verify the income and assets they rely upon to determine repayment ability; (iii) Banned from requiring any prepayment penalty if the payment can change in the initial four years (for other higher-priced loans, a prepayment penalty period cannot last for more than two years); and (iv) Required to establish escrow accounts for property taxes and homeowner's insurance for all first-lien mortgage loans.

In addition to the provisions governing higher-priced mortgage loans, the final rule adopted the following protections for loans secured by a consumer's principal dwelling, regardless of whether the loan is higher-priced: (i) Creditors and mortgage brokers are prohibited from coercing a real estate appraiser to misstate a home's value; (ii) Companies that service mortgage loans are prohibited from engaging in certain practices, such as pyramiding late fees, and are required to credit consumers' loan payments as of the date of receipt and provide a payoff statement within a reasonable time of request; and (iii) Creditors must provide a good faith estimate of the loan costs, including a schedule of payments, within three days

after a consumer applies for any mortgage loan secured by a consumer's principal dwelling, such as a home improvement loan or a loan to refinance an existing loan, and cannot charge the consumer any fee until after they receive the early disclosures (except a reasonable fee for obtaining the consumer's credit history).

*"Oak Tree has added the required regulatory statement to their clients' forms and has sent a proof for review and approval. If the proof has not yet been approved and returned, please do so at this time."*

The above rules were to be effective on October 1, 2009, except for the requirement to establish escrow accounts for property taxes and homeowner's insurance for first-lien mortgage loans, which becomes effective on April 1, 2010. However, in early May of this year, the Federal Reserve Board approved final rules that revise the disclosure requirements for mortgage loans under Regulation Z (Truth in Lending), and implemented the Mortgage Disclosure Improvement Act (MDIA). In several respects, the MDIA is substantially similar to the final rule issued by the Board in July 2008. However, the MDIA also broadens and adds to those regulatory requirements.

Consistent with the Board's July 2008 final rule (which applied to loans secured by a consumer's principal dwelling), the MDIA also requires creditors to give good faith estimates of mortgage loan costs ("early disclosures") within three business days after receiving a consumer's application for a mortgage loan and before any fees are collected from the consumer, other than a reasonable fee for obtaining the consumer's credit history. However, the MDIA broadens this requirement by also requiring early disclosures for loans secured by dwellings other than the consumer's principal dwelling, such as a second home. In addition, the MDIA requires that: (i) Creditors wait seven business days after they provide the early disclosures before closing the loan; and (ii) Creditors provide new disclosures with a revised annual percentage rate (APR), and wait an additional three business days before closing the loan, if a change occurs that makes the APR in the early disclosures inaccurate beyond a specified tolerance. The rules would, however, permit a consumer to expedite the closing to address a personal financial emergency, such as a foreclosure. Finally, the MDIA requires creditors to include additional language in the Preliminary Truth-In-Lending Disclosure they furnish. Consistent with this last item, Oak Tree has added the required regulatory statement to their clients' forms and has sent a proof for review and approval. If the proof has not yet been approved and returned, please do so at this time.

*continued on page 4*

## ► OUR REGULATORS AT WORK — Part 3

### Rod G. Terry, Director of Product Management

Over two years ago, Oak Tree first reported on the status of the then-proposed amendments to the open-end [not home-secured] credit rules under Regulation Z. In 2007, new amendments—along with revisions to earlier proposed amendments—were introduced and, in 2008 (after the additional comment period closed), those amendments were largely adopted as proposed. In doing so, the regulators recognized that the changes could not occur overnight and, as a result, the effective date of the changes was set for July 1, 2010. The goal of the amendments was to improve the effectiveness of the disclosures that creditors provide to consumers at application and throughout the life of an open-end account.

Perhaps one of the most noteworthy changes has to do with the introduction of new Official Commentary that states in pertinent part that "The creditor may occasionally or routinely verify credit information such as the consumer's continued income and employment status or information for security purposes but, to meet the definition of open-end credit, such verification of credit information may not be done as a condition of granting a consumer's request for a particular advance under the plan" and "Creditors that otherwise meet the requirements of §226.2(a)(20) extend open-end credit notwithstanding the fact that the creditor must verify collateral values to comply with federal, state, or other applicable law or verifies the value of collateral in connection with a particular advance under the plan". This means that except for collateral valuation purposes, a creditor *may not* individually underwrite and decision subsequent

advances at the individual product or feature level.

Of equal importance are the additional layers of disclosure documentation that will be required: (i) with credit card applications and solicitations; (ii) at account opening; (iii) on periodic statements; (iv) with change in terms notices; and (v) in advertisements. The revised early disclosure that is required with credit card applications and solicitations expands on the previously required information to include new and important information, as well as new format and layout requirements. Additionally, the disclosures that are provided at account opening will need to include a summary page that consists of key account terms that conform to certain formatting requirements. The periodic statements will need to be formatted differently than in the past with new and additional information. The final rule also extended the advance notice period to 45 days, expanded the circumstances in which a notice is required and in certain instances the format of such notice. Lastly, the rules for advertising of open-end credit have been revised to help ensure that consumers better understand the credit terms offered through more meaningful and conspicuous content.

Oak Tree will begin updating the electronic versions of credit card applications and account opening disclosures by July. The intent is to have the changes typed, proofed and with your timely approval, to your data processor by the end of the year. For those of you that obtain these forms on a preprinted basis, changes will be made when you place your next reorder. 🌳

## ► CREDIT CARD ACT OF 2009

### Rod G. Terry, Director of Product Management

On May 22nd, President Obama signed into law the "Credit Card Accountability, Responsibility and Disclosure Act of 2009" otherwise known as the "Credit CARD Act of 2009" (Act). While the various components of the Act will become effective at different times, ranging from August 20th of this year to August 22nd of next year, certain sections require the Board of Governors and/or other Federal Agencies to first issue implementing guidelines. In a general sense, the Act covers: (i) Consumer Protection; (ii) Enhanced Consumer Disclosures; (iii) Protection of Young Consumers; (iv) Gift Cards; and (v) Miscellaneous Provisions.

Perhaps the most notable of the changes are the ones that become effective August 20th under the Consumer Protection section. Those being the requirement to provide not less than 45-days advance notice prior to making a significant change or increasing a rate, and to provide periodic statements at least 21 days prior to the payment due date. Of the Enhanced Consumer Disclosures the one that carries the potential for increased credit union cost is the requirement for all creditors to post their Credit Card Agreement on their web site, while also supplying an electronic copy to the Federal Reserve Board.

The Act is discussed in depth on our web site, which can be accessed at [www.oaktreebiz.com](http://www.oaktreebiz.com). This article is password protected to ensure Oak Tree's customers exclusive rights to its content. Email [support@oaktreebiz.com](mailto:support@oaktreebiz.com) to acquire a password for the article titled "Credit CARD Act of 2009". In your request, please include your name, title, and credit union name. 🌳