

## Chapter DFI-Bkg 46

### RESPONSIBLE HIGH COST MORTGAGE LENDING

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**DFI-Bkg 46.01 Definitions.** In subch. II of ch. 428, Stats., and ch. DFI-Bkg 46:

(1) “Disclosure” means any of the following:

(a) A loan product choice disclosure under s. 428.207 (2) (b), Stats.

(b) A disclosure to a borrower under s. 428.208, Stats.

(2) “Interest of the customer” means what is proper and prudent for the customer under the circumstances. Factors to be considered in determining the interest of the customer shall include the terms of the refinanced loan, the borrower’s economic and non-economic circumstances, the purpose of the refinanced loan, the cost of the refinanced loan, and any other similar factors.

(3) (am) Except as provided in par. (bm), “points and fees” means any of the following:

1. All items required to be disclosed as points and fees under 12 CFR 226.32.

2. The premium of any single premium credit life, credit disability or credit unemployment insurance.

**Note:** This subdivision does not authorize the financing of single premiums in a covered loan; instead, this paragraph considers these single premiums solely for the purpose of determining whether a sufficient amount of points and fees are imposed in order to make the transaction a covered loan.

(bm) “Points and fees” does not include reasonable fees paid to affiliates or nonaffiliates of the lender for bona fide services listed in 12 CFR 226.4 (c) (7).

(4) “Total loan amount” has the meaning set forth in 12 CFR 226.32 and shall be calculated in accordance with the Federal Reserve Board’s Official Staff Commentary to that regulation.

**History:** CR 04-089: cr. Register December 2004 No. 588, eff. 2-1-05; **2013 Wis. Act 136: renum. (3) to (3) (am) and am., cr. (3) (bm) Register March 2014 No. 699, eff. 4-1-14.**

**DFI-Bkg 46.02 Ability to repay.** (1) GUIDELINES FOR ABILITY TO REPAY BASED UPON DEBT-TO-INCOME RATIO. Acceptable debt-to-income ratio tests include, but are not limited to, any of the following:

(a) The debt-to-income ratio of the loan, computed pursuant to 38 CFR 36.4337 (d), is 50% or less, and the customer has adequate monthly residual income, computed pursuant to 38 CFR 36.4337 (e).

(b) The debt-to-income ratio requirement but not the monthly residual income requirement specified under par. (a) is satisfied, and the lender fully justifies in writing that the applicant is a satisfactory credit risk when considering the compensating factors described in 38 CFR 36.4337 (c) (5).

(c) The monthly residual income requirement but not the debt-to-income ratio requirement specified under par. (a) is satisfied, and the lender fully justifies in writing that the applicant is a satisfactory credit risk when considering the compensating factors described in 38 CFR 36.4337 (c) (5).

(2) VERIFICATION OF ABILITY TO REPAY. The lender shall verify a borrower’s ability to repay a covered loan by all of the following:

(a) Having the borrower prepare and submit to the lender a personal income and expense statement.

**Note:** Acceptable personal income and expense statements include a Fannie Mae uniform residential loan application, available at [www.fanniemae.com](http://www.fanniemae.com), or a Freddie Mac uniform residential loan application, available at [www.freddiemac.com](http://www.freddiemac.com).

(b) Having the borrower submit to the lender a tax return, pay stub, accounting statement or other similar document.

(c) Obtaining the borrower’s credit report, if available.

**History:** CR 04-089: cr. Register December 2004 No. 588, eff. 2-1-05.

**DFI-Bkg 46.03 Disclosure forms.** (1) A disclosure form shall be designed to call attention to the nature and significance of the information provided, and shall use a typeface and type size that are easy to read.

(2) A disclosure form shall contain an acknowledgment provision. The acknowledgment provision shall indicate that the borrower has read and understood the terms of the disclosure. No disclosure is valid unless a borrower has initialed or signed the acknowledgment provision. At the time the borrower initials or signs the acknowledgment provision, the borrower shall also date the acknowledgment provision.

(3) A disclosure shall include the following statement: “A list of adjustment services companies (companies that help consumers budget money) licensed to do business in the state of Wisconsin is available at the Wisconsin department of financial institutions’ website, [www.wdfi.org](http://www.wdfi.org).”

(4) Upon completion of the disclosure, the lender shall provide a copy of the completed disclosure to the borrower.

**History:** CR 04-089: cr. Register December 2004 No. 588, eff. 2-1-05.