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Compliance: *A Self-Assessment Guide*

Office of Thrift Supervision

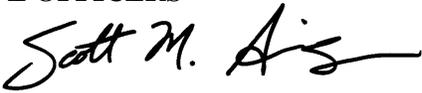


Office of Thrift Supervision
Department of the Treasury

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December 19, 2002

MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS
FROM: Scott M. Albinson 
SUBJECT: Revised Compliance Self-Assessment Guide

In 1988, the Federal Home Loan Bank Board published a Compliance Self-Assessment Guide. From the beginning, the purpose of the guide has been to promote compliance with consumer protection laws and regulations by outlining a process that an institution can use to evaluate its compliance control structure and to enhance the effectiveness of its compliance program. OTS has updated and republished this reference guide on subsequent occasions since its initial launch. We recently posted our latest revision on the OTS website under the “Handbooks” section of the “Supervision” tab.

The new edition emphasizes the importance of a compliance management strategy predicated on system controls, real-time monitoring, periodic self-assessment, organizational accountability, responsiveness to needed improvements and effective training. This strategy is incorporated into the acronym we call “Working S-M-A-A-R-T: **S**ystems, **M**onitoring, **A**ssessment, **A**ccountability, **R**esponse, and **T**raining.”

Sound compliance management, like other areas of operational management, is predicated on establishing a comprehensive program of risk controls and reviews. The SMAART approach provides guidance for creating a comprehensive compliance management program. Each institution should apply the SMAART approach in a manner tailored to its business goals, operational complexity, market circumstances, product diversity and staffing resources. While the sophistication of compliance programs will vary by institution, risk management and customer service should be the guiding principles in developing and implementing your compliance management program.

This latest revision of the Guide also incorporates new regulatory sections on the Home Owner Equity Protection Act, Disclosure and Reporting of CRA-Related Agreements, Insurance Consumer Protection, and Privacy of Consumer Financial Information into the contents of Part C – Overview of Laws and Regulations.

We have additional revisions planned in the course of the next year to further amplify on how you can implement the SMAART approach at your institution. In the meanwhile, we hope that this latest version of the Guide helps you in your continuing efforts to build a compliance program that fulfills your obligation to meet regulatory requirements and your aspiration to better serve your customers.

COMPLIANCE: A Self-Assessment Guide

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INTRODUCTION

PURPOSE

This version of Compliance: A Self-Assessment Guide updates the edition issued by the Office of Thrift Supervision in September 1999. That edition helped promote compliance with consumer protection laws and regulations by outlining a process that a savings association should use to evaluate its compliance operations and to enhance the effectiveness of its compliance program. This revised version accomplishes the same basic objectives, by emphasizing a compliance management strategy that reduces risk and promotes high quality customer service.

The revised Guide reflects and highlights a compliance management strategy predicated on system controls, real-time monitoring, and periodic self-assessment. This strategy is incorporated into the acronym we call “Working S-M-A-A-R-T: Systems, Monitoring, Assessment, Accountability, Response, and Training”. OTS encourages and expects your institution to develop, adopt, and implement the fundamental components of **S-M-A-A-R-T** into your compliance management program. Of course, a successful compliance management program requires the commitment of the institution’s board of directors and the active involvement of senior management. Ultimately your goal as it relates to compliance management is to work **S-M-A-A-R-T**.

The Guide serves as a resource to help you identify or discern primary regulatory requirements and evaluate the effectiveness of your institution’s compliance management program. While covering most of the federal consumer protection laws and regulations that affect savings associations, this Guide does not address all such laws and regulations or any state laws.

This revision incorporates new regulatory sections on the Home Owner Equity Protection Act, Disclosure and Reporting of CRA-Related Agreements, Insurance Consumer Protection, and Privacy of Consumer Financial Information into the contents of Part C - Overview of Laws and Regulations.

While striving for precision, the OTS does not warrant the accuracy and applicability of all of the information contained herein. This Guide neither replicates all regulatory requirements nor supplants the need to create a compliance program geared to the specific circumstances of a given institution. The institution’s officers and staff must be vigilant about ensuring that concepts derived from this Guide are not taken out of context or employed erroneously. They should confirm independently that any revisions to the institution’s compliance practices are being made in conformity with all applicable laws and regulations; exclusive reliance on this Guide is strongly discouraged.



COMPONENTS OF AN EFFECTIVE COMPLIANCE PROGRAM

COMPONENTS OF AN EFFECTIVE COMPLIANCE MANAGEMENT PROGRAM

Introduction

The Office of Thrift Supervision (OTS) expects that savings associations will monitor and assess their compliance with various civil rights, consumer protection, and public policy laws and regulations, and take appropriate corrective action to remedy identified violations or operational deficiencies.

Sound compliance management, like other areas of operational management, is predicated on establishing a comprehensive program of risk controls and reviews. Compliance risk is the current and prospective adverse impact on earnings, capital, and market viability, as well as on investor, customer and regulator relationships arising from violations of, or nonconformance with laws, rules, regulations, industry practices, internal policies and procedures, ethical standards, or customer service goals. It is a risk that could expose the institution to fines, civil money penalties, litigation costs, payment of damages, diminished reputation, erosion of consumer trust, reduced franchise value, and restrictions on future business opportunities. Therefore, it is important that the institution actively manage this risk from the board of directors' level through senior and middle management down to frontline staff.

An effective compliance management strategy is one that reduces risk, promotes operational efficiencies and fosters high quality customer service. There are many ways to accomplish this, so each institution must develop a program tailored to its organizational and business unit structure, business strategy, complexity of operations, market, products offered, and staff expertise. While the sophistication of compliance programs will vary by institution, risk management and customer service should be the guiding principles in developing and implementing your compliance management program.

It is the priority of OTS to encourage institutions to tailor compliance management programs to their circumstances and make them self-monitoring, self-assessing and self-correcting. Ultimately, our goal is to have you working S-M-A-A-R-T.



COMPONENTS OF AN EFFECTIVE COMPLIANCE PROGRAM

Fundamental Components of a Compliance Management Program

The fundamental components of a customized compliance management program are:

<u>S</u> ystems	The embodiment of task-specific procedures and internal controls that ensure that transactions are conducted and recorded in compliance with legal obligations and customer service goals.
<u>M</u> onitoring	The process of supervising the day-to-day or week-to-week functioning of your compliance systems to assure real time execution in accordance with your program standards.
<u>A</u> ssessment	The periodic review of system records and operations to identify transactional violations and program deficiencies.
<u>A</u> ccountability	The arrangement of responsibility, authority and reporting relationships that provides direction to staff for implementing institution compliance policy and appraises senior management and the directors about compliance program performance.
<u>R</u> esponse	The process of addressing consumer complaints, remedying regulatory violations, amending procedures and controls, correcting internal oversight deficiencies and implementing policy and system revisions or updates.
<u>T</u> raining	The communication of compliance policies, procedures, directives, regulatory requirements, product information and service goals, including maintaining staff expertise.

OTS encourages institutions to develop, adopt, and implement a compliance management program that covers these six components. Your version of working S-M-A-A-R-T will vary depending upon your institution's size, staff resources, business strategy, operational complexity, market demands and risk profile. It is the responsibility of the institution's board of directors, senior management and compliance officer to customize its program to meet the circumstances of its own business activities, as well as those activities conducted through any subordinate entities. When devising your program, you should evaluate your organizational options in light of the best practices of your thrift peers and other business competitors.

A description of your compliance program should be set forth in a written document such as a policy statement or plan that articulates the objectives of the program and how the institution will achieve them. This statement or plan is the starting point for an internal environment that emphasizes the importance of operating in accordance with compliance obligations. It should match the fundamental components with institution operational cir-



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cumstances and resources and clearly delineate relevant roles and responsibilities for executing the program. The board of directors should approve an institution's compliance policy statement or plan and maintain its consistency with the institution's overall strategic direction and business plan.

Systems

Your compliance systems embody the task-specific procedures and internal controls that ensure your banking operations occur in a manner that satisfies your legal obligations and customer service goals.

Procedures describe the methodology for conducting an activity and integrating it into the daily functions performed by staff in fulfillment of your business operations. Generally, the degree of detail or specificity of the procedures varies based on the size of the institution, the complexity of its business, and the expertise of existing staff. Centralized operations will be different from decentralized ones. A large operation with varied products and numerous employees with differing assignments will require more extensive and formal procedures to control consistency of service delivery. In contrast, a small institution with an uncomplicated business plan, hands-on management and a seasoned staff may operate effectively with simplified procedures.

Compliance system procedures can take different formats. They may be contained in written manuals, checklists, flow charts, vendor contracts, operating routines, data entry practices, transaction forms or record keeping requirements. Whatever format they take, they generally must:

- establish operating standards ensuring compliance with applicable regulatory requirements and internal policies;
- be adapted to reflect the thrift's particular products and services;
- control front and back office functions of the institution's operations;
- clearly assign responsibility for execution of specific steps for developing and delivering products and services;
- be understandable to those employees or agents with responsibilities;
- provide for uniformity and consistency;
- generate records sufficient to support monitoring and self-assessment; and
- promote efficiency and good customer service.



COMPONENTS OF AN EFFECTIVE COMPLIANCE PROGRAM

Effective recordkeeping is an integral part of a comprehensive compliance system for several reasons:

- records are the legal evidence of products delivered or services transacted;
- records document compliance with system controls or regulatory obligations; and
- some regulations require retention of records for specific periods.

Records enable the institution to fulfill other components of its compliance management program. They facilitate monitoring of system standards and provide the requisite paper trail that permits self-assessment reviews.

Compliance systems should also reach product and service development. They should be reflected in product design, marketing plans and roll-out strategies. This will enhance the institution's ability to manage new product compliance obligations from the beginning.

Monitoring

Essentially, monitoring is workflow supervision integrated into daily activities of each department or business unit to assure real-time execution of compliance responsibilities in accordance with program standards.

As opposed to system controls that direct line staff actions, monitoring is a form of control used to supervise operational performance. These day-to-day controls are incorporated into the workflow and may include manager signoffs, listening in on employee/customer interactions, automated reconciliations, verifications of input against source documents, or pre-closing reviews. Especially critical points for monitoring are where a transfer of documents or responsibility occurs and prior to any action that may be difficult to reverse (such as loan closing) or that will have systemic impact (such as input of index information.)

Monitoring involves a continuous process of collecting and analyzing information on compliance performance within a particular manager's area of responsibility. To provide useful feedback, you should track the results of monitoring activities. This will allow management to identify trends and to correct systemic, procedural, or training weaknesses on an ongoing basis.

Compliance monitoring should include a role for feedback from your consumer complaint process. This is useful because many complaints arise in the course of completing transactions and may afford an early indication of operating weaknesses in a particular department or business unit. Managers should consider consumer appeals from their staff's decision-making, not a nuisance, but an opportunity to confirm that compliance performance is meeting expected standards.



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When an institution outsources business operations or relies on third party delivery of products or services, thorough monitoring controls become the institution's first line of defense against compliance risk. In these situations, you should pay special attention to obtaining complete information about service provider activities and to establishing real-time scrutiny of that information from a compliance standpoint.

Assessment

Assessments are periodic reviews of system records or operations to identify regulatory violations and program deficiencies. Regular self-assessments or self-evaluations afford management an opportunity to step back from day-to-day operations and evaluate them against institution policy goals and objectives. An institution should conduct an appropriate level of self-assessment within its compliance management program.

A good self-assessment will underscore your institution's compliance management proficiency. A comprehensive program of self-assessment contains several elements: Risk scheduled reviews, independent self-evaluations of past performance including select transactions, and appropriate use of testing methodology.

Risk scheduled reviews

You should plan assessments using a risk-sensitive approach. This means that an institution should have a thorough understanding of its compliance risk allowing it to prioritize the scheduling of transactions or operations for evaluation over time. Within the course of a two or three year period, the institution's self-review schedule should cover all sources of compliance risk and establish a frequency for particular reviews that varies depending on the magnitude of risk assigned to different functions or activities during the period. In other words, some reviews should be conducted biannually, some annually and others (the least risky) biennially or triennially. You should revise compliance review risk-sensitive frequency schedules as the institution launches new products, as underlying systems are modified, as staff or management expertise changes or as new legal obligations become effective.

Independent self-evaluation

A self-assessment program consistent with the complexity and diversity of the institution's operations should:

- be a formal periodic process distinct from day-to-day monitoring;
- be organized and conducted with sufficient scope and frequency in accordance with a risk-sensitive analysis of operations;
- compare policies, procedures, forms, and disclosures with regulatory and other requirements;



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- evaluate transactions against procedures and legal and regulatory requirements;
- address all products and services offered by the institution;
- cover all operations, departments, and branches, including any thrift business operations conducted through or by subordinate organizations, affiliates, and /or third party vendors;
- identify regulatory violations in the institution's transactional record;
- disclose deficiencies or potential weaknesses in the overall compliance management program;
- be supported by accurate and comprehensive work papers;
- require written reports to senior management and the board detailing significant findings (deficiencies), conclusions and recommendations for corrective action; and
- include a follow-up reporting process ensuring initiated corrective action is monitored for effectiveness.

Management should assign responsibility for conducting self-evaluations after consideration of the need for independence and competence of the person(s) doing the reviews. In smaller institutions, it is often not possible to achieve a completely independent review since the requisite expertise may be vested in the compliance officer or other senior officer with direct responsibility for the underlying functions being reviewed. You can address or counter-balance a lack of independence by making appropriate use of internal or even external audit, taking care to assure that the standards of review are clearly articulated. Typical audit standards based on material impairment of finances or functions establish thresholds for performance that are not sufficiently demanding for compliance self-assessment.

Another option for obtaining the desired degree of reliability in your self-assessment when the compliance officer is reviewing his or her own work, is to emphasize the importance of independence in the institution's general counsel or board committees that may oversee the compliance officer's self-evaluation work product.

Transactional analysis

As part of the institution's self-assessment schedule, institutions should conduct an analysis of selected transactions covering the business activities and product lines of your institution. The transactions sampled must be sufficient to support a reliable judgment about the compliance performance of the operations evaluated.

Transaction analysis work papers that are prepared, retained, and made available for review by OTS examiners will streamline and expedite the OTS oversight process. Work papers should clearly document and identify the:



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- Scope of the analysis;
- Date of analysis;
- Person performing the analysis and the person reviewing it;
- Rationale used to select samples for testing;
- Sampling method or other procedures used;
- Time period covered;
- Functions, activities and/or products reviewed;
- Size of the sample and identification of files or accounts reviewed;
- Any summaries or spreadsheets used to record reviewed file or account information;
- Results of transaction analysis; and
- All substantive conclusions and recommendations.

For maximum efficiency, the transaction analysis conducted should emulate the examination standards established by the OTS or FFIEC for the compliance obligations being evaluated. The scope and frequency of any violations identified by the review should be recorded. Report system or monitoring deficiencies in accordance with your internal compliance governance process.

Testing

“Testing” is a method of self-assessment. Unlike self-evaluation methods predicated on a retrospective analysis of transaction records or other operational activity generated in the normal course of business, testing generally runs controlled inputs through institution systems to measure associated outputs. Mystery shopping is an example of “testing.” Testing can be a valuable self-assessment tool, particularly when reviewing operations that are difficult to capture in a “paper trail,” such as oral sales presentations.

Accountability

Accountability comprises the arrangement of responsibility, authority and reporting that provides direction to staff for implementing compliance policy and appraises senior management and the directors about compliance program performance.

Effective compliance management begins at the top, with the board establishing direction to be carried out by senior management throughout all levels of the institution. They in turn can assign responsibilities to a compliance officer, department or line managers, and employees directly responsible for administering and carrying out the program. This ensures a sense of ownership in the compliance program at all management and staff levels within the institution’s organizational structure.



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The Board of Directors' Role

The role of the institution's board is to provide governance, guidance, and oversight. In fulfilling its role, the board needs to:

- possess a general awareness of various consumer protection and public interest laws and regulations significant to the institution's business;
- adopt and maintain a written compliance policy statement or plan that covers the six essential components of a comprehensive compliance management program;
- promote the environment for compliance ensuring it is a high-priority built-in to all departments or business units, including subordinate organizations;
- delineate relevant staff roles and responsibilities for carrying out compliance policy including defining and appointing a compliance officer;
- study and respond to reports on compliance program performance;
- maintain an awareness of peer and competitor best practices for managing compliance;
- allocate sufficient institution resources for accomplishing your comprehensive compliance management program; and
- ensure material compliance deficiencies are promptly and effectively addressed and corrected.

In discharging its compliance oversight responsibilities, the board needs to receive and diligently review periodic self-assessment or exam reports evaluating the effectiveness of the program. The board should study and discuss these reports and other relevant information concerning the institution's compliance management program before taking any action with policy ramifications.

Senior Management's Role

Along with the board of directors, senior management plays a significant role in developing and implementing an effective compliance management program. In its role, senior management should be responsible for:

- establishing comprehensive compliance procedures and internal control mechanisms;
- hiring, developing, and overseeing a qualified staff;
- ensuring primary objectives of the program are fully realized;



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- establishing and promoting the tone and climate for department or line management and personnel of the individual business units to support a positive compliance and control environment;
- maintaining a heightened level of regulatory awareness of the substance of laws and regulations corresponding to their areas of responsibility;
- self-monitoring, self-identifying and self-assessing compliance risks, weaknesses, and exceptions in their area(s) of responsibility; and
- identifying weaknesses in staff performance and recommending training to correct these.

Senior management should also be cognizant of their individual training needs in compliance related areas. Because of a constantly changing market and regulatory environment, they should seek out continuing education opportunities to keep abreast of current compliance issues and developments that affect their area(s) of responsibility. Trade group committees, conferences, and workshops presented by financial regulators, and industry publications are valuable sources of information.

Designation of Compliance Officer

One of the most important factors of a successful program is the designation of a compliance officer responsible for the administration, oversight, and direction of the program. No matter what size institution, someone must take on the responsibilities of a compliance officer.

Regardless of how the institution structures this position, it must ensure the person possesses proficient knowledge and expertise to interpret consumer protection, fair lending, and other public policy laws, and have an overall understanding of the institution's operating structure.

The position calls for sufficient autonomy and independence to implement and administer the program and the authority necessary to report deficiencies and implement corrective actions. It is essential the authority, duties and responsibilities of the compliance officer include accessibility and accountability to the board and senior management.

The authority granted to a compliance officer should include the ability to:

- Cross department lines;
- Access all areas of operations (including those conducted through subordinate organizations);
- Formulate internal compliance standards for systems;



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- Formulate corrective action/changes in policies and procedures; upon discovering deficiencies;
- Initiate follow-up measures to ensure any corrective actions recommended are correctly implemented; and
- Have complete and direct accessibility to the board and senior management.

General Counsel's Role

One area of responsibility often times overlooked by the institution is the role of general counsel in a compliance management program. General counsel commonly assists in the interpretation of new laws and regulations and renders legal opinions or advice on a variety of compliance related matters that influence the institution. Additionally, depending on the institution's operating structure, general counsel is called upon to provide legal advice in areas such as loan documentation, contracts with third-party vendors, and consumer complaints. A thrift should make appropriate use of its legal resources in connection with its compliance management program.

Response

Response is a concept that embraces addressing consumer complaints, remedying regulatory violations, amending procedures and controls, correcting internal oversight deficiencies (in monitoring or self-assessment), and implementing policy revisions or updates.

Whenever compliance violations or deficiencies arise, the compliance officer and/or management needs to take prompt corrective action(s). Corrective action ensures that specific violations or deficiencies are resolved in a timely manner and prevent reoccurrence of compliance violations. No amount of monitoring, self-assessment or independent testing is beneficial unless followed by prompt, effective corrective action to eliminate deficiencies.

Responsibility for developing and implementing corrective action must be clear, proposed actions should be realistic and sufficiently specific to verify, and reasonable priorities and timeframes for their accomplishment should be established. Make responsible functional management accountable for the assimilation and effectiveness of any corrective actions in their areas.

Proposed corrective actions should be:

- appropriate and address identified issues and their underlying causes in an effective and efficient manner;
- timely to avoid increasing the institution's risk exposure;
- feasible;



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- consistent with customer service goals;
- used to modify internal compliance controls and procedures to prevent further violations; and
- included in training staff working in operational areas where the deficiencies and/or violations occurred.

A corrective action process does not end with proposals for corrective action. Subsequent reviews should be conducted by the compliance officer to ensure that:

- corrective actions have, in fact, been implemented;
- implementation of corrective action is within the established timeframes;
- corrective action is effective; and
- underlying causes have been resolved to prevent recurrence.

Senior management and the board of directors must be careful to portray self-identification of regulatory violations, procedural exceptions and control weaknesses as favorable performance attributes as long as they are accompanied by self-correcting actions or strategies.

Training

Training covers both the development and maintenance of staff compliance expertise, as well as, the communication of institution policies, procedures, directives and goals.

A comprehensive ongoing training program is conceivably the best tool the institution has in preventing adverse consequences in compliance. It is essential to maintaining a sound compliance program. The purpose of a compliance-training program is to ensure relevant legal, regulatory requirements and procedural guidelines are clearly communicated to management and staff level personnel.

Training should include communicating and disseminating information on new or amended laws and regulations, new products and services, as well as changes in internal procedures or systems. This ensures personnel maintain a necessary level of compliance expertise and proficiency and enables employees to understand their role in the program and to seek assistance as needed. Furthermore, this type of communication integrates relevant compliance information into business planning and operations so the board and senior management may consider any compliance implications in their strategic planning.

Ideally, you should conduct compliance training in accordance with a well-planned and monitored cycle meeting the institution's needs. In formulating this plan, it is useful for management to think of training as part of a continuous learning cycle.



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The training cycle includes:

- Introductory training for new employees;
- Periodic training for existing employees to enhance and reinforce compliance concepts;
- Job advancement training prior to or upon promotion or assumption of increased responsibilities to ensure staff has the required expertise to perform their new duties;
- Training to introduce changes in policy, procedures, new products, or regulatory/legal changes;
- Corrective or remedial training for individuals and departments, based on results of internal compliance reviews; and
- Training to provide senior managers and directors with a broader perspective on existing risks and consequences as well as emerging compliance issues.

Training also contemplates supporting the development and maintenance of expertise in the compliance officer and professional staff to ensure that they can perform at their respective requisite levels of competence and can identify changing obligations and evolving best practices.

You should consider periodic testing of employees and management on their knowledge, to ensure they understand the subject matter and to monitor training effectiveness. Keeping track of employee training allows the institution to monitor staff preparedness to meet institution compliance expectations.

Conclusion

OTS encourages all institutions to work S-M-A-A-R-T. Establishing and executing a comprehensive compliance management program is the key to realizing customer service goals and risk reduction strategies.



OVERVIEW OF LAWS AND REGULATIONS

LAWS AND REGULATIONS COVERED IN THE SELF-ASSESSMENT GUIDE

Overview of Laws and Regulations.

This section contains core information on the complex consumer protection laws and regulations. Each law/regulation covered includes: (1) an executive summary; (2) a listing of potential business areas impacted; and, (3) a table highlighting the major requirements or recommendations of that law/regulation, along with references to applicable time frames and documentation. The tables (other than for CRA) are set up in three columns with the following headings: (a) "Requirements/Recommendations"; (b) "Time Frame"; and (c) "Written Document, Record or Report". The first column is intended to portray the significant requirements of each law/regulation as well as recommended elements or components that should be considered in establishing the compliance program. In most cases, direct regulatory or statutory requirements are provided, although some of the items referenced in the first column represent recommendations taken from examination procedures, best practices, or general guidelines. The reader is strongly encouraged to use this guide in connection with the applicable laws and regulations. This guide does not substitute for the laws and regulations. The second column indicates the time frame associated with each of the requirements or recommendations. The third column describes the appropriate document, record, or report generated by or containing each of the requirements or recommendations depicted in the first column. Following the table, matrices may be included to clarify or illustrate parts of a particular law/regulation. Any matrices used will follow the table containing the requirements and recommendations for a particular law/regulation.

The following consumer compliance laws and regulations featured in this section are:

- Truth in Lending Act
- Real Estate Settlement Procedures Act
- Home Mortgage Disclosure Act
- National Flood Insurance Act
- Equal Credit Opportunity Act
- Fair Housing Act
- Community Reinvestment Act
- Electronic Fund Transfer Act
- Expedited Funds Availability Act
- Truth in Savings Act
- Bank Secrecy Act
- Disclosure and Reporting of CRA-Related Agreements
- Insurance Consumer Protection (ICP)
- Privacy



OVERVIEW OF LAWS AND REGULATIONS

Truth in Lending Act

Truth in Lending Act (Regulation Z)

Executive Summary:

Regulation Z, which implements the Truth in Lending Act (TILA), promotes the informed use of consumer credit by requiring disclosures about its terms and cost. Regulation Z: (i) requires that creditors provide specified disclosures in connection with all consumer credit transactions; (ii) regulates certain credit card practices; (iii) imposes certain requirements relating to the form and content of advertisements of consumer credit products; (iv) provides a means for resolution of credit billing disputes; and (v) furnishes consumers with the right to cancel certain credit transactions involving a lien on their principal residence. In the case of high-cost mortgages (as defined by Regulation Z), Regulation Z furnishes consumers with additional rights and imposes on lenders certain restrictions as well. The regulation does not regulate or limit the charges assessed in a consumer credit transaction (with certain exceptions for high-cost mortgages) nor does it require financial institutions to grant a loan in any given instance.

Regulation Z applies to credit extended primarily for personal, family, or household purposes. The regulation divides credit transactions into two categories: “open-end” credit and “closed-end” credit. Open-end credit involves consumer credit extended under a plan in which: (i) repeated transactions are contemplated; (ii) a finance charge may be imposed on outstanding unpaid balances; and (iii) credit extensions are available to the extent that any outstanding balance is repaid. (Examples: credit card accounts, home equity lines of credit) Closed-end credit encompasses all consumer credit transactions not extended under an open-end plan. (Examples: residential mortgage transactions, automobile loans)

Noncompliance with the requirements of Regulation Z can result in administrative actions, civil liability, and/or criminal liability. Administrative actions based on inaccurate (understated) disclosures of finance charges or annual percentage rates may result in a requirement that a creditor reimburse affected customers.

The following summary discusses: (i) general requirements applicable to both closed-end and open-end credit transactions; (ii) open-end credit requirements exclusively; and (iii) closed-end credit requirements exclusively.

Business Areas Impacted:

- Retail and Mortgage Lending Units
- Credit Application Processing
- Credit Operations
- Credit Product Marketing
- Customer Service



Highlights:

GENERAL REQUIREMENTS

Applicable to Both Closed-End and Open-End Extensions of Credit

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Policy/Procedures</p> <p>Adopt a policy for implementing the TILA and Regulation Z. Ensure that comprehensive procedures are maintained and that actual practices are consistent with the procedures.</p>	<p>Continuing</p>	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Coverage</p> <p>Ensure a firm understanding of coverage requirements of Regulation Z. Basically, the regulation applies to any individual or business offering/extending credit if:</p> <ol style="list-style-type: none"> 1. the credit is offered or extended to consumers; 2. the offering or extension of credit occurs regularly; 3. the credit is subject to a finance charge or is payable by a written agreement in more than four installments; and 4. the credit is primarily for personal, family, or household purposes. <p>Note: A flow chart outlining coverage considerations under Regulation Z is included as Exhibit Z-1.</p>	<p>Continuing</p>	<p>Loan Origination Manuals</p>



GENERAL REQUIREMENTS

Applicable to Both Closed-End and Open-End Extensions of Credit

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Exempt Transactions include:</p> <ol style="list-style-type: none"> 1. Business, commercial, agricultural, or organizational credit (unless tied to a credit card); 2. Credit over \$25,000 not secured by real property or personal property used as principal dwelling; 3. Public utility credit; 4. Securities or commodities accounts in which credit is extended by a registered broker-dealer; 5. Home fuel budget plans; and 6. Student Loan Programs. <p>Note: A flow chart outlining coverage considerations under Regulation Z is included as Exhibit Z-1.</p>	<p>Continuing</p>	<p>Loan Origination Manuals</p>
<p>Finance Charge</p> <p>Ensure that the concept of "Finance Charge" is clearly understood by appropriate employees. It represents the cost of consumer credit as a dollar amount, including any charge payable directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge that would be payable in a comparable cash transaction.</p> <p>Section 226.4 provides: (i) specific examples of finance charges; (ii) charges excluded from the finance charge; and (iii) insurance and debt-cancellation coverage.</p> <p>Note: A flow chart outlining finance charges and excludable/exempt charges is included as Exhibit Z-2.</p>	<p>Continuing</p>	<p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>



GENERAL REQUIREMENTS

Applicable to Both Closed-End and Open-End Extensions of Credit

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Calculations</p> <p>In preparing disclosures, notices, periodic statements, and internal account records, ensure that all calculation devices are in proper working order and that employees are properly trained to use these devices. Also ensure that completed disclosures reflect the terms of the legal contract between the institution and consumer.</p> <p>The most important of these calculations include:</p> <ol style="list-style-type: none"> 1. "Annual Percentage Rate" as described in Sections 226.14 and 226.22 (and Appendices F and J); 2. "Finance Charge" as described in Section 226.4; and 3. Determination of account balances to which periodic rates apply. 	<p>Continuing</p>	<p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p> <p>Disclosure Forms</p>
<p>General Disclosure Requirements</p> <p>Disclosures must be made clearly and conspicuously in writing, in a form that the customer may keep. The terms "finance charge" and "annual percentage rate," when required to be disclosed with a corresponding amount or percentage rate, must be more conspicuous than any other required disclosure. (For exceptions, see footnotes to Sections 226.5(a) and 226.17(a).)</p>	<p>Continuing</p> <p>(Timing of disclosures depends upon the specific type of transaction disclosed)</p>	<p>Disclosure Statement</p> <p>Loan Origination Manuals</p> <p>Disclosure Forms</p>



GENERAL REQUIREMENTS

Applicable to Both Closed-End and Open-End Extensions of Credit

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Right of Rescission</p> <p>In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, any consumer with an ownership interest has the right to rescind (cancel) the transaction until midnight of the third business day following the latest of:</p> <ol style="list-style-type: none"> 1. consummation of a closed-end transaction (Section 226.23(a)) or the opening of a credit plan for an open-end transaction (or one of the other triggering events described in Section 226.15(a) including extending credit under the plan, adding or increasing a security interest in an existing plan, or increasing the credit limit on the plan); 2. delivery of all the material disclosures; or 3. delivery of the required rescission notice. <p>Ensure that each person with the right to cancel a credit transaction is given two copies of the rescission notice and that no funds are disbursed until the rescission period has expired.</p> <p>Sections 226.15 (open end) and 226.23 (closed end) include the content requirements for rescission notices that the creditor must deliver, the manner in which the right may be exercised, the effect of rescission, and the consumer's waiver of the right to rescind.</p>	<p>The consumer has the right to rescind within the 3-business day period described to the left.</p> <p>If the required notice and material disclosures are not delivered, the consumer has the right to rescind until the first of one of the following occurs:</p> <ul style="list-style-type: none"> • three years after (a) the occurrence giving rise to the right of rescission (for open-end credit) or (b) consummation (for closed-end credit) • transfer of all of the consumer's interest in the property; or • the property is sold. 	<p>Notice of Right of Rescission</p> <p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>



GENERAL REQUIREMENTS

Applicable to Both Closed-End and Open-End Extensions of Credit

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Advertising</p> <p>Ensure that credit advertisements, including those found on or in newspapers, radio, television, Internet, brochures, and billboards comply with Sections 226.16 (open end) and 226.24 (closed end), and:</p> <ol style="list-style-type: none"> 1. state only those terms arranged or offered by the creditor (no “bait” advertising); 2. include all required disclosures when “triggering terms” are present; and 3. follow requirements for catalogs and multiple-page advertisements. 	<p>Continuing</p>	<p>Marketing Materials</p> <p>Internet Web Sites</p>
<p>Record Retention</p> <p>Retain evidence of compliance with the regulation for two years after the date disclosures are required to be made or action is required to be taken. Retain only enough information to reconstruct the required disclosures or other records.</p>	<p>Two years after required disclosures are given or action is performed</p>	<p>Loan Operations Manuals</p> <p>Record Retention Guidelines</p> <p>Retain sufficient information via paper copies, microfiche, computer programs, or any other method that reproduces records accurately.</p>
<p>Training</p> <p>Provide initial and ongoing training to employees involved in the origination, processing or marketing of consumer credit as well as to any other personnel who may be involved in various functions that relate to consumer credit or residential real estate transactions.</p>	<p>Continuing</p>	<p>Training Materials</p>



GENERAL REQUIREMENTS

Applicable to Both Closed-End and Open-End Extensions of Credit

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Updating</p> <p>Update policies, procedures, loan origination and operation manuals, and disclosure forms as necessary to reflect changes in the TILA and/or Regulation Z as well as changes in the hardware and/or software used to generate disclosures. Ensure effective notification and distribution of updated information.</p>	<p>Continuing</p>	<p>All affected documentation</p>
<p>Internal Review</p> <p>Conduct an internal review or audit at least annually to assess compliance with the regulation and conformity of an institution's practices with its policies and procedures. Correct errors detected during the review or audit.</p>	<p>Annual (or sooner)</p>	<p>Internal Review Procedures/Reports</p> <p>Audit Procedures/Reports</p> <p>Review may include some or all documentation</p>



REQUIREMENTS THAT APPLY TO OPEN-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Identification of "Open-End Credit"</p> <p>Consumer credit extended by a creditor under a plan in which:</p> <ol style="list-style-type: none"> 1. the creditor reasonably contemplates repeated transactions; 2. the creditor may impose a finance charge from time to time on an outstanding unpaid balance; and 3. the amount of credit extended to the consumer during the term of the plan is generally made available to the extent that any outstanding balance is repaid. 	<p>Continuing</p>	<p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>
<p>Early Disclosures Required in Connection with Credit or Charge Card Applications</p> <p>The following items must be disclosed on or with an application or solicitation to open a credit or charge card account (in the form and manner described in Section 226.5a):</p> <ol style="list-style-type: none"> 1. Annual Percentage Rate (APR); 2. Fees for issuance or availability; 3. Minimum finance charge; 4. Transaction charges; 5. Grace period; 6. Balance-computation method; 7. Statement on charge card payments; 8. Cash-advance fee; 	<p>If by direct-mail: disclose all 10 items on or with application or solicitation mailed to customers</p> <p>If by telephone: orally disclose items 1-7 (Alternatively, later written disclosures of all 10 items may be given in some circumstances)</p> <p>If made available to the general public (e.g. in a catalog or magazine): provide disclosures in a manner permitted by Section 226.5a(e)</p>	<p>Early Disclosure Statement</p> <p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>



REQUIREMENTS THAT APPLY TO OPEN-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
9. Late-payment fee; and 10. Over-the-limit fee.		
<p>Early Disclosures Required in Connection with Home-Equity Plan Applications</p> <p>The following disclosures, as applicable, must be provided in connection with open-end credit plans secured by the consumer's dwelling (in the form and manner described in Section 226.5b):</p> <ol style="list-style-type: none"> 1. Statement about retention of disclosures; 2. Conditions for disclosed terms; 3. Security interest and risk to home; 4. Possible actions by creditor; 5. Payment terms; 6. APR; 7. Fees imposed by creditor; 8. Fees imposed by third parties to open plan; 9. Negative amortization; 10. Transaction requirements; 11. Tax implications; and 12. Disclosures for variable-rate plans. <p>In addition, the "home equity brochure" published by the Federal Reserve Board (or suitable substitute) must be provided.</p>	<p>Provide disclosures and brochure at same time that an application is given to the consumer.</p> <p>Disclosures and brochure may be mailed or delivered not later than 3 business days following receipt of a consumer's application.</p>	<p>Early Disclosure Statement</p> <p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>



REQUIREMENTS THAT APPLY TO OPEN-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Note the various limitations and other requirements imposed on home equity plans as reflected in Section 226.5b(f),(g), and (h).</p>		
<p>Initial Disclosures</p> <p>The following disclosures must be delivered before the consumer becomes obligated under an open-end credit plan:</p> <ol style="list-style-type: none"> 1. Finance charge: <ul style="list-style-type: none"> • When finance charges begin to accrue; • Periodic rates and corresponding APR; • Method used to determine the balance; and • How finance charge determined. 2. Other charges; 3. Security interests acquired by creditor; 4. Statement of billing rights; and 5. Home-equity plan information. (see Section 226.6(e) for details). 	<p>Furnish before the first transaction is made under the plan.</p>	<p>Initial Disclosure Statement</p> <p>Loan Origination Manuals</p>
<p>Periodic Statements</p> <p>Periodic statements must contain the following information, as applicable:</p> <ol style="list-style-type: none"> 1. Previous balance; 2. Identification of transactions (in accordance with Section 226.8); 3. Credits (including amount and date); 	<p>Mail or deliver for each billing cycle involving an account that has a debit or credit balance of more than \$1 or on which a finance charge has been imposed.</p> <p>Must be mailed or delivered at least 14 days prior to any date or the</p>	<p>Periodic Statement</p> <p>Loan Operations Manuals</p>



REQUIREMENTS THAT APPLY TO OPEN-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
4. Periodic rates to compute finance charges; 5. Balance used to compute finance charge; 6. Amount of finance charge; 7. APR; 8. Other charges; 9. Closing date of billing cycle; new balance; 10. Free ride period; and 11. Address for notice of billing errors.	end of any time period required to be disclosed on the periodic statement in order for the consumer to avoid an additional finance charge.	



REQUIREMENTS THAT APPLY TO OPEN-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Subsequent Disclosures</p> <p>Subsequent disclosures are required in connection with the following:</p> <ol style="list-style-type: none"> 1. Statement of billing rights; 2. Adding certain supplemental credit devices and other features to the account; 3. Certain changes in terms; 4. Renewal of credit or charge card when fees imposed for renewal; or; 5. Change in credit card account insurance provider. <p>See Section 226.9 for details concerning the content and timing of the disclosures</p>	<ol style="list-style-type: none"> 1. Billing rights statement: annually or on each periodic statement 2. Supplemental features: provide notice prior to consumer's use of the feature 3. Change in terms: generally, 15 days before date of change 4. Renewal of credit card: 30 days or one billing cycle, whichever is less 5. Change in credit card insurance provider: prescribed notices must be provided (i) not less than 30 days before the change and (ii) no later than 30 days after the change (See Section 226.9(f)) 	<p>Disclosure Statements or Notices (as appropriate)</p> <p>Loan Operations Manuals</p>
<p>Prompt Crediting of Payment</p> <p>Ensure that payments to the consumer's account are credited as of the day of receipt.</p>	<p>Credit payment as of day of receipt, except when delay in crediting does not result in finance or other change.</p>	<p>Loan Operations Manuals</p> <p>Accounting Guidelines</p>



REQUIREMENTS THAT APPLY TO OPEN-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Liability of Cardholder for Unauthorized Use and Other Special Credit Card Provisions</p> <p>A cardholder's liability for unauthorized use of a credit card may not exceed the lesser of \$50 or the amount of money, property, labor, or services obtained by the unauthorized use before notification to the card issuer under Section 226.12 (b)(3).</p> <p>Note also special credit card rules contained in Section 226.12 relating to:</p> <ol style="list-style-type: none"> 1. Right of cardholder to assert claims or defenses against card issuer; 2. Prompt crediting of refunds; and 3. Discount, tie-in arrangements. 	<p>Liability up to \$50 imposed before notification to card issuer</p> <p>Written notice to cardholder considered given at time of receipt or at expiration of time ordinarily required for transmission, whichever is earlier.</p>	<p>Loan Operations Manuals</p>
<p>Billing Error Resolution</p> <p>Ensure that billing error resolution procedures are correctly applied, as described in Section 226.13. Note in particular:</p> <ol style="list-style-type: none"> 1. Definition of "billing error"; 2. Explanation of "billing-error notice"; 3. Time period for resolution; 4. Rules pending resolution; 5. Procedures if billing error occurred as asserted; 6. Procedures if different or no billing error occurred; 7. Creditor's rights and duties after resolution; and 8. Relation to Electronic Fund Transfer Act and Regulation E. 	<p>Note various time frames in Section 226.13 for handling claims of billing errors</p>	<p>Periodic Statement</p> <p>Billing-Error Notice</p> <p>Written Acknowledgment to Consumer</p> <p>Notification and/or Explanation to Consumer</p> <p>Loan Operations Manuals</p> <p>Credit Reporting Information Guidelines</p>

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Identification of "Closed-End Credit"</p> <p>Consumer credit other than "open-end credit" as defined above and in Section 226.2(a)(20).</p>	<p>Continuing</p>	<p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>
<p>General Disclosure Requirements</p> <p>Ensure that the following terms are disclosed in connection with closed-end transactions as described in Section 226.18:</p> <ol style="list-style-type: none"> 1. Identity of creditor; 2. Amount financed; 3. Itemization of amount financed; 4. Finance charge; 5. APR; 6. Variable rate information, when necessary; 7. Payment schedule; 8. Total of Payments; 9. Demand feature, when applicable; 10. Total sale price, when applicable; 11. Prepayment information; 12. Late payment information; 13. Security interest information; 14. Insurance, debt cancellation information; 15. Certain security interest charges; 16. Contract reference; 	<p>Disclosures must be made prior to consummation</p> <p>In residential mortgage transactions subject to RESPA, good faith estimates of disclosures must be made within 3 business days after receipt of a written application. (Note that redisclosure may be required at consummation if APR varies by more than a certain percentage.)</p>	<p>Disclosure Statement</p> <p>Loan Origination Manuals</p>

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>17. Assumption policy; and</p> <p>18. Required deposit information.</p> <p>See also Section 226.17 (c) and (d) concerning:</p> <ul style="list-style-type: none"> * The basis of disclosures and use of estimates. * Transactions involving multiple creditors or consumers. 		
<p>Early Disclosures for Certain Variable-Rate Transactions</p> <p>In cases where the APR may increase after consummation in a transaction secured by the consumer’s principal dwelling with a term greater than one year, Section 226.19 requires that the following disclosures be provided:</p> <ol style="list-style-type: none"> 1. Consumer Handbook on Adjustable Rate Mortgages published by the FRB and the Federal Home Loan Bank Board, or a suitable substitute. 2. Loan program disclosure for each variable rate program of interest to the consumer, containing the information described in Section 226.19(b)(2). 	<p>Give disclosures when an application form is provided or prior to the payment of a nonrefundable fee by the consumer, whichever is earlier.</p> <p>When an application is submitted by telephone or through an agent/broker, the disclosures may be put in the mail not later than 3 business days after receipt of the application.</p>	<p>Early Disclosure Statement</p> <p>Loan Origination Manuals</p>
<p>Subsequent Disclosure Requirements</p> <p>Ensure that appropriate disclosures, as described in Section 226.20 are made for:</p> <ol style="list-style-type: none"> 1. “Refinancings” – when an existing obligation subject to Subpart C of Regulation Z is satisfied and replaced by a new obligation undertaken by the same consumer. (See Section 226.20 (a) requiring new disclosures upon a refinancing) and 	<p>Refinancings provide disclosures in a time frame equivalent to that of a new transaction.</p> <p>Assumptions provide new disclosures prior to the assumption.</p> <p>Variable rate disclosures</p>	<p>Disclosure Statements</p> <p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>2. "Assumptions" – when a creditor expressly agrees to accept a subsequent consumer as a primary obligor on an existing residential mortgage transaction. (See Section 226.20 (b) requiring new disclosures based on the remaining obligation)</p> <p>Ensure that required disclosures are provided when adjusting the interest rate in a variable rate transaction subject to Section 226.19(b), in the manner prescribed by Section 226.20 (c).</p>	<p>1. At least annually when payment unchanged</p> <p>2. At least 25 but not more than 120 days before a payment at a new level is due</p>	

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Special Disclosures for Certain Closed-End Home Mortgage Transactions (High-Cost Mortgages)</p> <p>In cases involving consumer credit transactions secured by the consumer's principal dwelling, in which either</p> <p>APR Trigger</p> <ul style="list-style-type: none"> The APR at consummation will exceed by more than 8 percentage points for first-lien loans, or by more than 10 percentage points for subordinate-lien loans, the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or <p>Points and Fees Trigger</p> <ul style="list-style-type: none"> The total points and fees* payable by the consumer at or before loan closing will exceed the greater of 8 percent of the total loan amount, or \$400 (this dollar amount is to be adjusted annually on January 1 based on changes to the Consumer Price Index as of the preceding June 1), <p>[*Note: Points and fees include all items, except interest or time-price differential:</p> <ul style="list-style-type: none"> <i>required to be disclosed under Section 226.4(a) & (b) Finance Charges;</i> <i>all compensation paid to mortgage brokers;</i> 	<p>Give disclosures when an application form is provided or prior to the payment of a nonrefundable fee by the consumer, whichever is earlier.</p> <p>When an application is submitted by telephone or through an agent/broker, the disclosures may be put in the mail not later than 3 business days after receipt of the application.</p> <p>Refinancings provide disclosures in a time frame equivalent to that of a new transaction.</p> <p>Assumptions provide new disclosures prior to the assumption.</p> <p>Variable rate disclosures</p> <ol style="list-style-type: none"> At least annually when payment unchanged <p>At least 25 but not more than 120 days before a payment at a new level is due.</p>	<p>Early Disclosure Statement</p> <p>Loan Origination Manuals</p>

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> all items listed in Section 226.4(c)(7) Real Estate Related Fees otherwise excluded from the finance charge (except for amounts held for future payment of taxes) <u>unless:</u> <u>the charge is reasonable,</u> <u>the creditor receives no direct or indirect compensation in connection with the charge, and</u> <u>the charge is not paid to an affiliate of the creditor;</u> <p>and,</p> <ul style="list-style-type: none"> Premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage written in connection with the credit transaction.] <p>Disclosures</p> <p>Section 226.32 requires that the following <u>additional</u> disclosures be provided in conspicuous type size:</p> <ul style="list-style-type: none"> The following statement: “You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application. If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and any money you have put into it, if you do not meet your obligations under the loan.” 	<p>Give disclosures at least three business days prior to consummation of a mortgage transaction covered by Section 226.32.</p> <p>If the creditor makes any changes to the loan’s terms prior to consummation, the creditor shall re-disclose at least three days prior to consummation.</p> <p>A creditor may provide new disclosures by telephone if the consumer initiates the change in terms and if, at consummation:</p> <ul style="list-style-type: none"> The creditor provides new written disclosures; and The consumer and creditor sign a statement that the new disclosures were provided by telephone at least three days prior to consummation. <p>The consumer may, after receiving the disclosures, modify or waive the three-day waiting period between delivery of the disclosures and con-</p>	<p>Loan Origination Manuals</p> <p>Pre-consummation Disclosure Statement</p> <p>In the case of telephonic disclosure of loan term changes prior to consummation, at consummation:</p> <ul style="list-style-type: none"> New written disclosures; and A statement (signed by both consumer and creditor) that new disclosures were provided by telephone at least three days prior to consummation. <p>Where a consumer needs to meet a bona fide financial emergency and, therefore, wishes to waive the right to receive disclosures three days prior to consummation, the consumer must provide a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all the consumers entitled to the waiting period.</p>

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> • The annual percentage rate. • The amount of the regular payment and the amount of any balloon payment. • For variable-rate transactions, a statement that the interest rate and monthly payment may increase, and the amount of the single maximum monthly payment, based on the maximum interest rate. • For a mortgage refinancing, the total amount the consumer will borrow, as reflected by the face amount of the note; and where the amount borrowed includes premiums or other charges for optional credit insurance or debt-cancellation coverage, that fact shall be stated, grouped together with disclosure of the amount borrowed. (Note: Disclosure of the total amount borrowed is deemed accurate if it is within \$100 of actual amount.) <p>Limitations</p> <p>Mortgage loans subject to this section must <u>not</u> include the following terms:</p> <ul style="list-style-type: none"> • <i>Balloon payment.</i> For a loan with a term less than five years (<i>other than a short-term less than one year - bridge loan used to acquire or construct a principal dwelling</i>), a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance. 	<p>summation if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency.</p> <p>To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the waiting period, and bears the signature of all the consumers entitled to the waiting period. Printed forms for this purpose are prohibited (see Section 226.23(e)(2) for exception to the prohibition against printed forms).</p>	

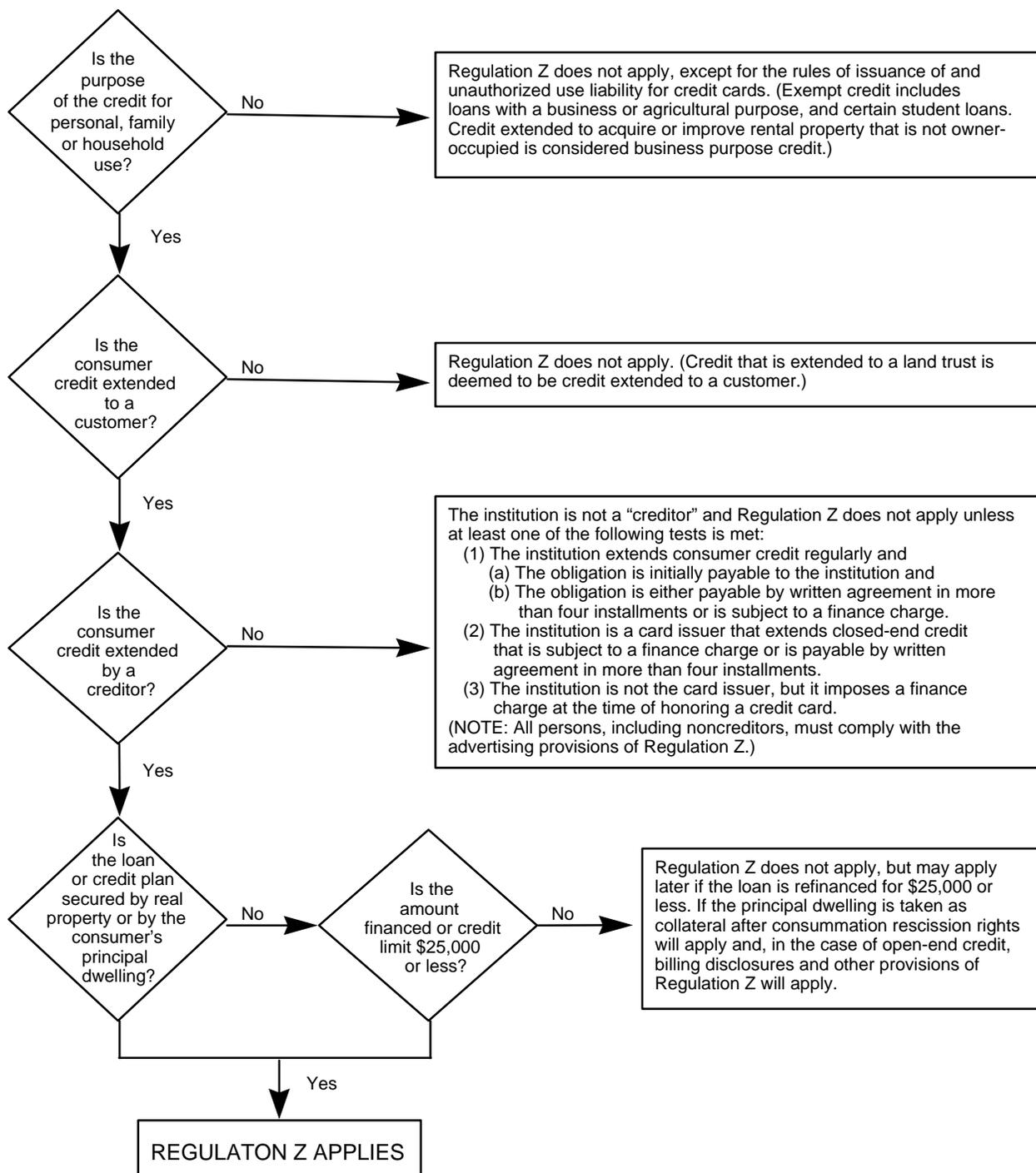
REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> • <u>Negative amortization.</u> A payment schedule with regular periodic payments that cause the principal balance to increase. • <u>Advance payments.</u> A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds. • <u>Increased interest rate.</u> An increase in the interest rate after default. • <u>Rebates.</u> A refund calculated by a method less favorable than the actuarial method (see section 933(d) of the Housing and Community Development Act of 1992, 15 U.S.C. 1615(s)), for rebates of interest arising from a loan acceleration due to default. • <u>Prepayment penalties.</u> A penalty for paying all or part of the principal before the date on which the principal is due. • See exception below. • A prepayment penalty includes computing a refund of unearned interest by a method that is less favorable to the consumer than the actuarial computation method (as that method is defined in section 933(d) of the Housing and Community Development Act of 1992). • <u>Prepayment penalty exception.</u> A mortgage transaction subject to this section may provide for a prepayment penalty otherwise permitted by law if: 		

REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

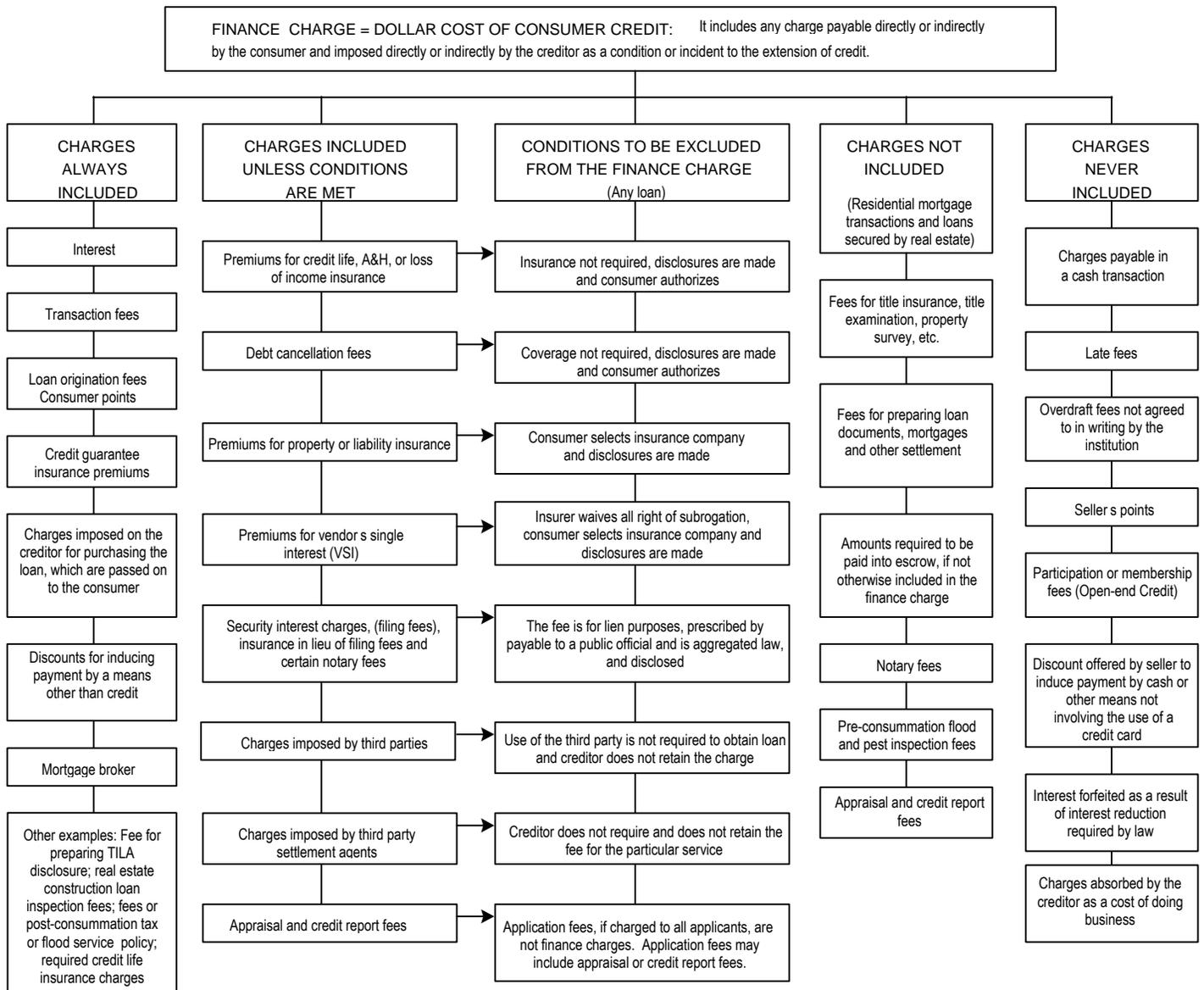
REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> • The penalty can be exercised only for the first five years following consummation; • The source of the prepayment funds is not a refinancing by the creditor or an affiliate of the creditor; and • At consummation, the consumer's total monthly debts (including amounts owed under the mortgage) do not exceed 50 percent of the consumer's monthly gross income, as verified by the consumer's signed financial statement, a credit report, and payment records for employment income. • <u>Due-on-demand clause.</u> A demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in the following circumstances: <ul style="list-style-type: none"> • There is fraud or material misrepresentation by the consumer in connection with the loan; • The consumer fails to meet the repayment terms of the agreement for any outstanding balance; or • There is any action or inaction by the consumer that adversely affects the creditor's security for the loan, or any right of the creditor in such security. 		

COVERAGE CONSIDERATIONS UNDER REGULATION Z

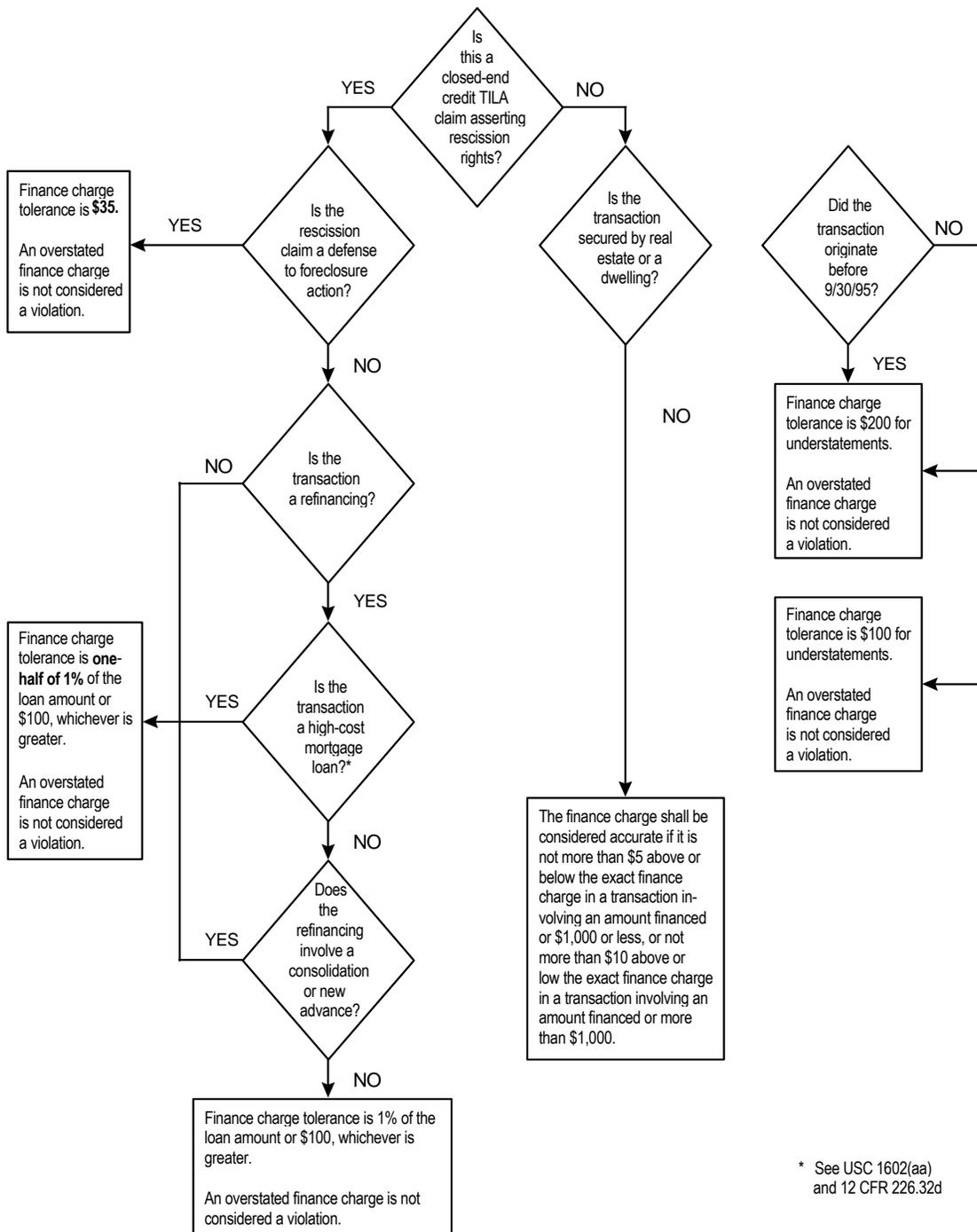


Truth in Lending Act

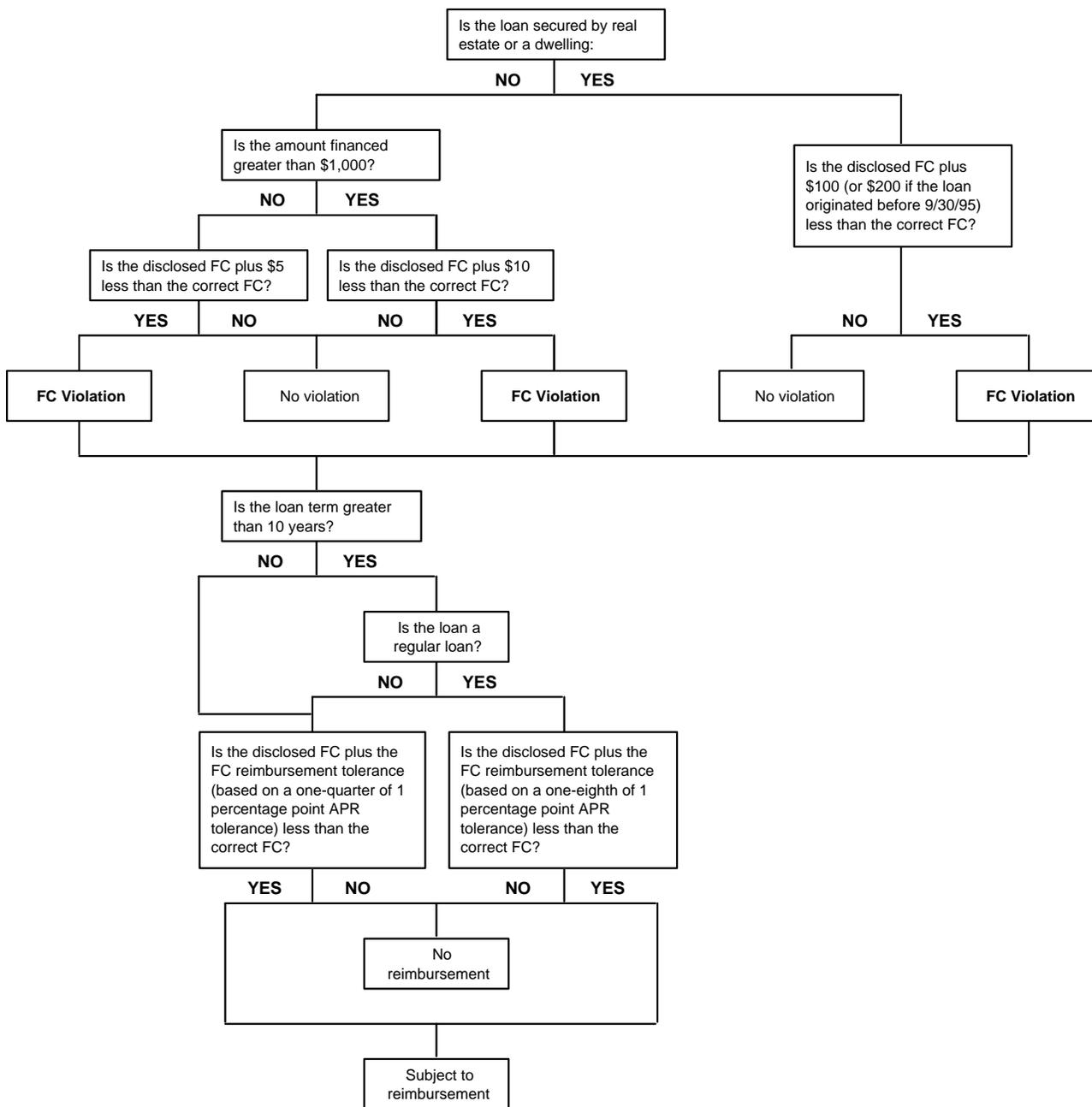
Exhibit Z-2



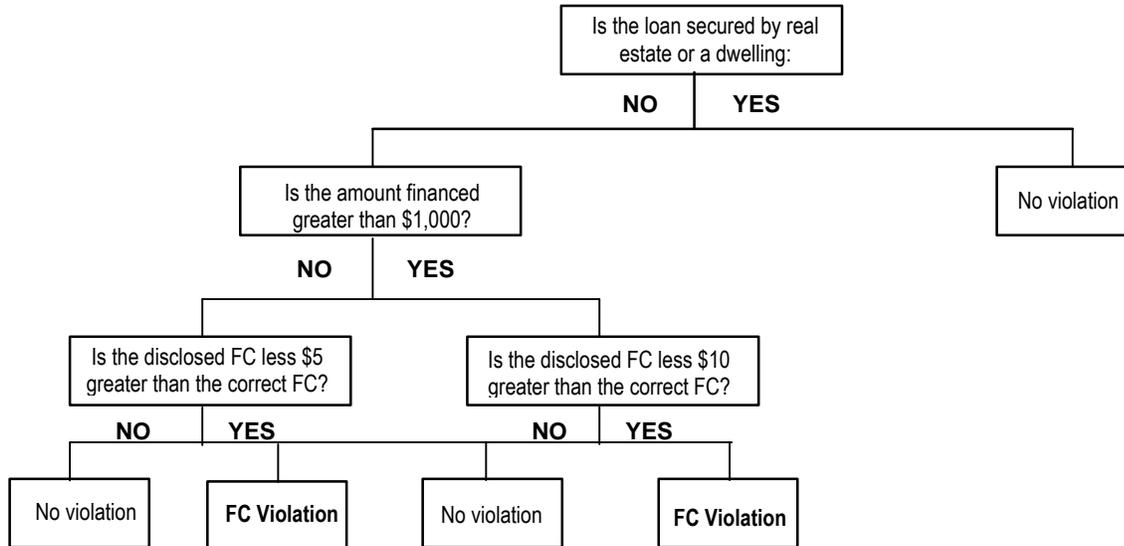
Closed-End Credit: Finance Charge Accuracy Tolerances



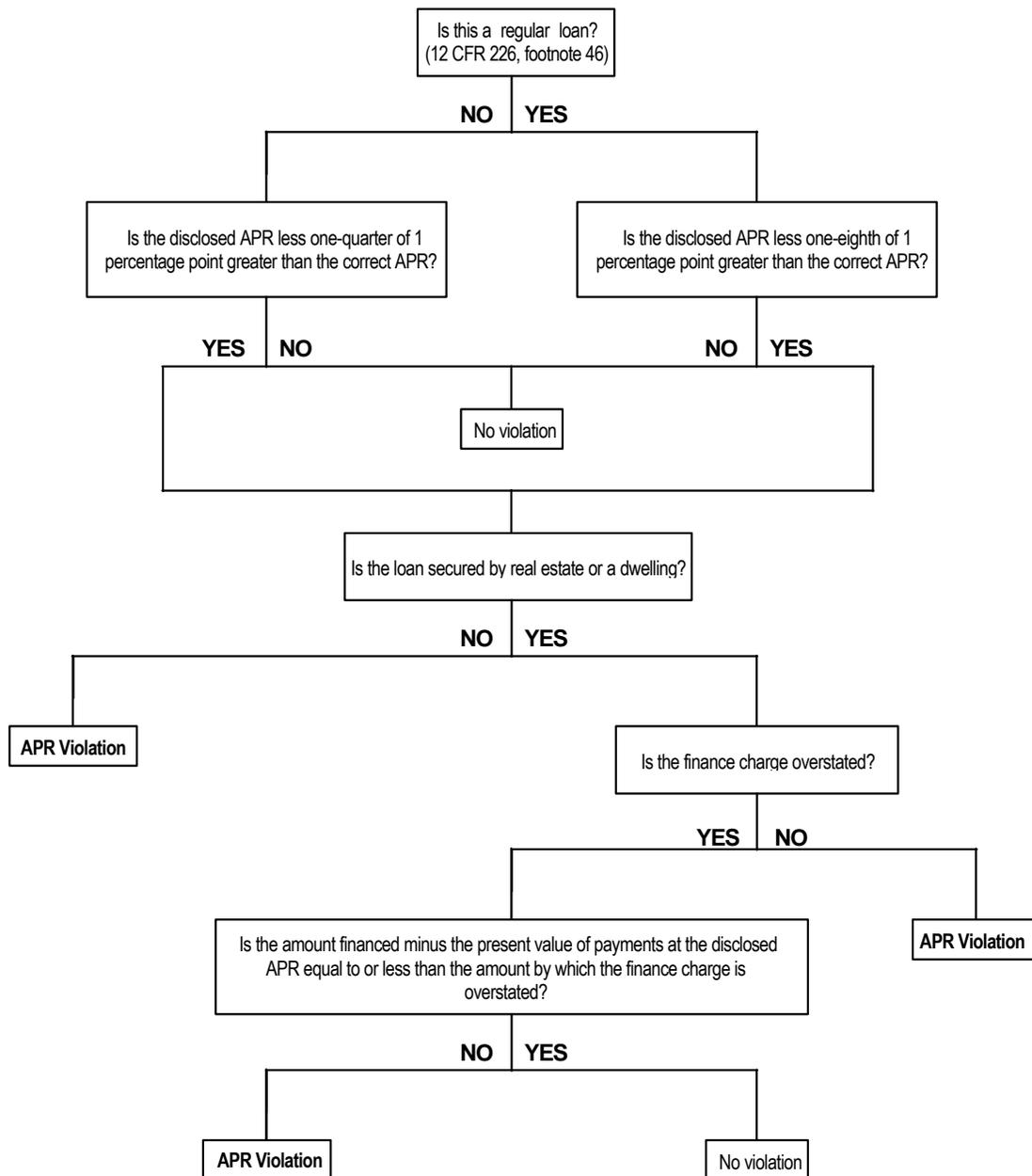
Closed-End Credit: Accuracy and Reimbursement Tolerances for **Understated** Finance Charges



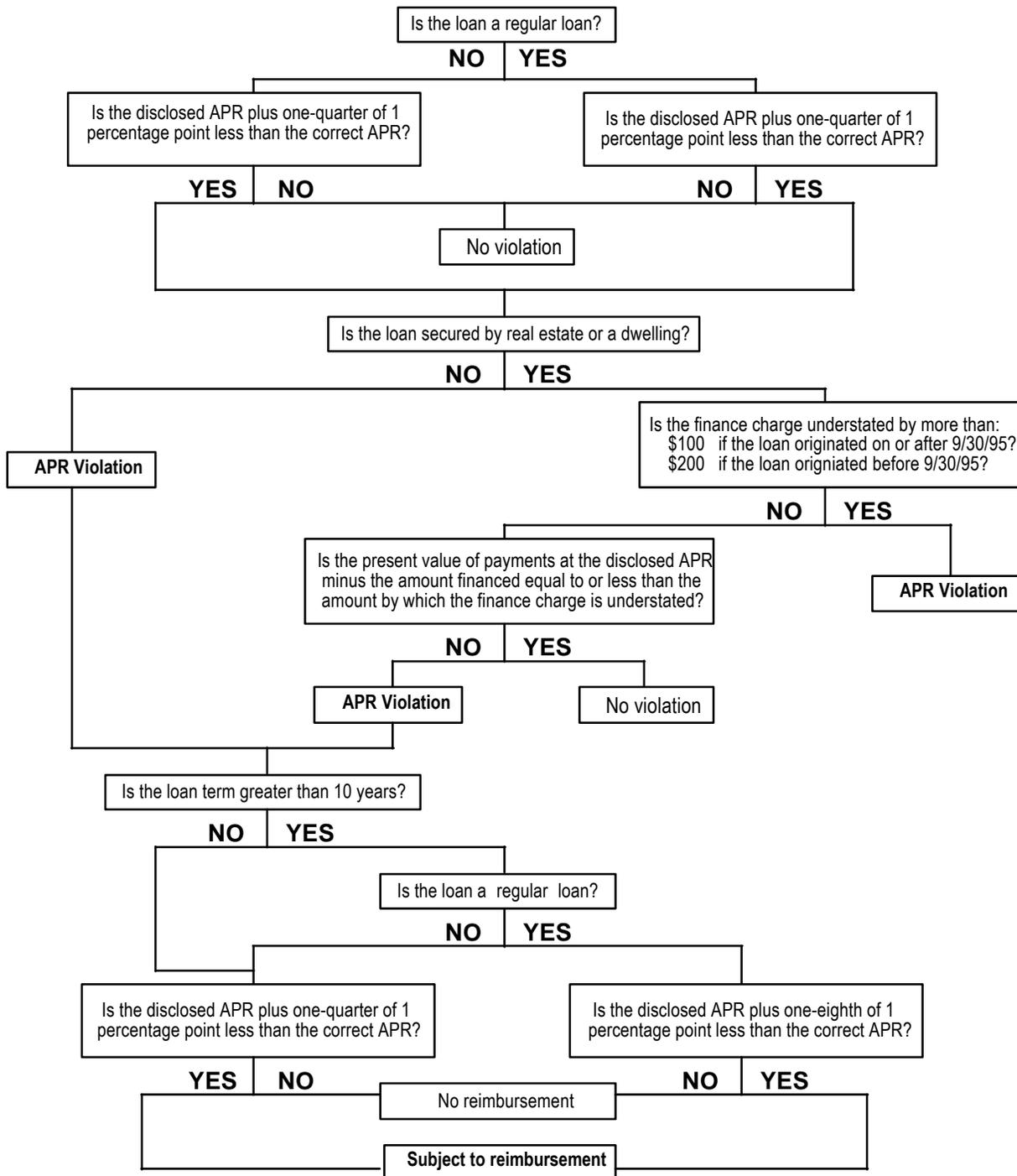
Closed-End Credit: Accuracy Tolerances
for **Overstated** Finance Charges



Closed-End Credit: Accuracy and Reimbursement Tolerances
For **Overstated** APRs



Closed-End Credit: Accuracy and Reimbursement Tolerances for **Understated** APRs



Timing of Certain Disclosures On Residential Real Estate Secured Loans*

Covers:

1. Truth in Lending Act (TILA) - Regulation Z

2. Real Estate Settlement Procedure Act (RESPA) - Regulation X

Timing	TILA 12 CFR 226	RESPA 24 CFR 3500
At or before referral		Affiliated business arrangement disclosure (3500.15).
At or before application	Home equity line of credit booklet and disclosure (226.5b). Adjustable rate booklet and disclosure (226.19b).	
Within three days of application	TILA disclosure (including APR and finance charge) (226.19a).	Special information booklet (3500.6) Good faith estimate (3500.7). Required providers (3500.7). Initial transfer of servicing disclosure (3500.21).
Three days before closing/consummation	Section 32 disclosures (226.32) Reverse mortgage disclosures (226.33)	
One day before closing/consummation		Right to inspect HUD-1 or HUD-1A (3500.10).
At closing/consummation	TILA disclosure (226.18) Rescission notice (226.23)	HUD-1 or HUD-1A (3500.8) Initial escrow account statement (within 45 days of closing) (3500.17).

*Taken from Advance Notice of Proposed Rulemaking on Improvement of Disclosure under RESPA and TILA (61 FR 69055).



OVERVIEW OF LAWS AND REGULATIONS

Real Estate Settlement Procedures Act

Real Estate Settlement Procedures Act (Regulation X)

Executive Summary:

The Real Estate Settlement Procedures Act (RESPA), as implemented by Regulation X (24 CFR 3500), is designed to ensure that consumers are provided with timely and accurate information regarding the nature and costs associated with residential real estate transactions. The other primary purpose of RESPA is to prohibit abusive practices such as kickbacks, referral fees, and excessive escrow requirements which might add to the cost of settlement. RESPA applies to all “federally related mortgage loans,” which includes any loan made by a federally insured financial institution secured by a first or subordinate lien on residential real property (including a refinance of such a loan) upon which there is located or placed a structure designed for one to four family occupancy (including individual units of condominiums or cooperatives). Limited exemptions to RESPA coverage are set forth in Regulation X.

In addition to the standard information and documentation that must be provided during the application and settlement stages of a mortgage loan transaction, RESPA requires that lenders furnish detailed disclosures concerning the transfer, sale, or assignment of mortgage servicing rights. The lender must also provide certain disclosures for mortgage escrow accounts at closing and annually thereafter, itemizing the charges to be paid by the borrower and the funds disbursed or to be disbursed from the account by the servicer. Detailed rules imposed by RESPA and Regulation X regulate the management of escrow accounts and reveal when affiliated business arrangements will not constitute a violation of the Section 8 prohibitions against kickbacks and unearned fees.

The specific disclosures and other documentation that the lender is required by RESPA to provide to consumers include the following: (i) the Servicing Disclosure Statement (concerning the lender’s right to assign, sell or transfer the loan); (ii) a copy of the Special Information Booklet on settlement costs; (iii) a copy of the Good Faith Estimate of Settlement Costs; (iv) an Affiliated Business Arrangement Disclosure Statement, where applicable; (v) the HUD-1 or HUD-1A Settlement Statement; (vi) an Initial Escrow Account Notice, where applicable; (vii) Annual Escrow Statements, where applicable; and (viii) Notice of Transfer of Servicing, where applicable. The specific content of these documents and the prescribed time periods for their delivery to consumers and the retention by the lender is set forth in Regulation X.

Business Areas Impacted:

- Residential Lending Units
- Credit Application Processing/Underwriting
- Credit Operations
- Customer Service



Real Estate Settlement Procedures Act

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt policy and comprehensive procedures for implementing RESPA and Regulation X, including explanation of the coverage of the regulation, exemptions, disclosure requirements, Section 8 prohibitions, and other relevant requirements.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Coverage</p> <p>RESPA applies to federally-related mortgage loans, which includes any loan:</p> <ul style="list-style-type: none"> • made by a lender whose deposits are insured by the Federal government; • secured by a first or subordinate lien on residential real property (including a refinance of such a loan); • secured by property designed principally for occupancy of from one to four families; and • located in a state. <p>Note: An installment sales contract, land contract or contract for deed may also constitute a federally related mortgage loan.</p> <p>Exemptions:</p> <ul style="list-style-type: none"> • Loan secured by 25 acres or more (even if it has a residential structure); • Business purpose loans (excluding loans to persons involving residential rental property); • Temporary financing such as construction loans without permanent end financing or not involving the transfer of title to land (note exceptions); • Bridge loans or swing loans; • Loan secured by vacant land unless a structure is constructed or placed on the property using loan proceeds; 	Continuing	Loan Origination Manuals



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> • Assumptions without lender approval; • Conversion of a federally related mortgage loan to different terms where no new note required; and • Secondary market transactions (not including table funded transactions). 		
<p>Special Information Booklet</p> <p>Provide loan applicants with the HUD Special Information Booklet describing the nature and costs of settlement services.</p> <p>Note: If a borrower uses a mortgage broker, the mortgage broker must provide the booklet and the lender need not do so.</p> <p>In the case of open end credit plan (home equity lines of credit) subject to Regulation Z, a lender can provide brochure entitled <i>When Your Home is on the Line: What You Should Know About Home Equity Lines of Credit</i> instead of the booklet.</p> <p>No booklet required for:</p> <ol style="list-style-type: none"> 1. refinancing transactions; 2. closed-end subordinate lien loans; 3. reverse mortgages; and 4. any other mortgage loan not involving a 1-4 family residential purchase. 	<p>Provide within 3 business days after receipt of the application.</p> <p>If the application is denied within the 3 day period, the booklet need not be given.</p>	<p>HUD Special Information Booklet</p> <p>Loan Origination Manuals</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Good Faith Estimate</p> <p>Provide loan applicants with Good Faith Estimate (GFE) of the amount or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement. This document should be prepared in accordance with the regulatory requirements.</p> <p>If lender requires use of a particular provider of a settlement service and requires borrower to pay any portion of the costs, the GFE must provide additional information as provided in the regulation.</p> <p>Mortgage brokers and dealer loans:</p> <ul style="list-style-type: none"> • If mortgage broker is not an exclusive agent of lender, broker provides GFE and lender verifies compliance. • If broker is an exclusive agent, either lender or broker may provide GFE. • In the case of dealer loans, lender must provide GFE, either directly or by the dealer. <p>For open-end lines of credit (home equity plans) covered under Regulation Z, no GFE need be given if disclosures required by 12 CFR 226.5b are provided to borrower.</p>	<p>Provide within 3 business days after receipt of the application.</p> <p>If the application is denied within the 3 day period, the GFE need not be given.</p>	<p>Good Faith Estimate (a suggested format is set forth in Appendix C of Regulation X)</p> <p>Loan Origination Manuals</p> <p>Mortgage Broker Agreement</p>
<p>Affiliated Business Arrangement</p> <p>In the case of affiliated business arrangements, the person making the referral must provide a written disclosure to each person whose business is referred at the time of referral or the time of application (if the lender requires use of a particular provider). This disclosure must be provided on a separate sheet of paper. The disclosure is designed to (i) specify the relationship between the parties giving and receiving the referral and (ii) describe the estimated charges generally made</p>	<p>Disclosure is given no later than the time of referral or the time of application (if the provider is required by the lender).</p>	<p>Affiliated Business Arrangement Disclosure Statement (in the format set forth in Appendix D of Regulation X)</p> <p>Loan Origination Manuals</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>by the provider of settlement services.</p> <p>[An affiliated business arrangement is an arrangement in which: (1) a person who is in a position to refer settlement business has either an affiliate relationship with or an ownership interest of more than one percent in a provider of settlement services and (2) such person refers business to that provider or affirmatively influences the selection of that provider.]</p>		
<p>Directing Use of Title Company</p> <p>If a lender holds legal title to property being sold, the lender as seller may not directly or indirectly require the borrower to purchase title insurance from any particular title company as condition for selling the property.</p>	Continuing	Loan Operations Manuals
<p>HUD-1 / HUD-1A Settlement Statement</p> <p>A HUD-1 or HUD-1A (if no seller involved) Settlement Statement must be used in every settlement involving a federally-related mortgage loan, itemizing all charges imposed on borrower and seller by the lender. The HUD-1 or HUD-1A must be completed in accordance with the instructions set forth in Appendix A of Regulation X.</p> <p>The use of the HUD-1 or HUD-1A is exempted for open-end lines of credit (home equity plans) covered by the Truth in Lending Act and Regulation Z.</p>	<p>Borrower must be permitted to inspect the completed HUD-1 or HUD-1A one day prior to closing.</p> <p>HUD-1 or HUD-1A must be delivered to borrower at or before settlement in limited circumstances, it may be mailed/ delivered as soon as practicable after settlement.</p>	<p>HUD-1 or HUD-1A Settlement Statement (Appendix A to Regulation X contains instructions for completing HUD-1 and HUD-1A Settlement Statements along with samples of each.)</p> <p>Loan Origination Manuals</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Escrow Accounts</p> <p>When a borrower is required to make payments into an escrow account to pay taxes, insurance premiums, or other charges with respect to a federally related mortgage loan, the lender must:</p> <ul style="list-style-type: none"> • Provide an Initial Escrow Statement (may be included in HUD-1 or HUD-1A). (See Section 3500.17(g) and (h) for required information and format.) • Provide an Annual Escrow Statement. (See Section 3500.17(i) and (j) for required information and format.) • Follow limits on amounts which may be required to be paid into escrow. • Conduct escrow account analysis at closing and end of computation year to determine payments into escrow. • Shortages/Deficiencies/Surpluses <ul style="list-style-type: none"> a. If escrow analysis reveals a shortage or a deficiency, choose one of options provided in Section 3500.17(f). b. Notify borrower at least annually of shortage or deficiency in the escrow account. The notice may be part of the annual escrow account statement or it may be a separate document. c. If escrow analysis reveals surplus, provide refund to borrower. • Ensure that all payments from escrow accounts are made in a timely manner • Adhere to aggregate accounting method (except pre-rule accounts). <p>Note that Section 3500.17 sets out detailed requirements for establishing and maintaining escrow accounts, including acceptable accounting methods that may be utilized.</p>	<p><u>Initial Escrow Statement:</u> within 45 days of closing.</p> <p><u>Annual Escrow Statement:</u> within 30 days after end of account computation year.</p> <p><u>Escrow Account Analysis:</u></p> <ul style="list-style-type: none"> • at closing to determine amount to be deposited into escrow account; • at completion of account computation year to set monthly escrow payment for the next year. <p><u>Notification of shortage in account:</u> at least annually</p> <p><u>Surplus revealed by escrow analysis:</u> refund within 30 days from date revealed by escrow analysis.</p> <p><u>Disbursement date of escrow proceeds:</u> Disburse in installments if that option is offered, instead of lump sum annual disbursements. (But if a discount is offered for annual disbursements, it is the servicer's choice.) In any event, disburse in time to avoid a penalty.</p>	<p>Initial Escrow Statement (or HUD-1 or HUD-1A)</p> <p>Annual Escrow Statement</p> <p>Notification of escrow account shortage</p> <p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p> <p>Escrow Account Management Software</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Servicing Disclosure Statement</p> <p>Provide loan applicants with a Servicing Disclosure Statement which explains the process of transferring servicing rights in the form described in Section 3500.21. Obtain signed acknowledgment of the applicant.</p>	<p>Provide at the time the application is submitted or within 3 business days.</p> <p>If application is denied within 3 business days, no notice need be given.</p>	<p>Loan Servicing Disclosure Statement (See the format set forth in Appendix MS-1 to Regulation X.)</p> <p>Loan Origination Manuals</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Servicing Transfer Notice</p> <p>If servicing is assigned, sold or transferred, both the transferor and transferee servicers must provide either separate notices or a combined notice of the transfer to the borrower in the manner set forth in the regulation.</p> <p>An extended notice period is allowed where the transfer of servicing is preceded by:</p> <ol style="list-style-type: none"> a. termination of the loan servicing contract for cause; b. commencement of proceedings for bankruptcy of the servicer; or c. FDIC proceedings for conservatorship or receivership of the servicer. <p>Special provisions apply in connection with the transfer of servicing, relating to:</p> <ol style="list-style-type: none"> 1. Treatment of loan payments during transfer period; 2. Handling of borrower inquiries (if inquiry is a qualified written request); and 3. Protection of credit rating. 	<p><u>Transferor notice</u> deliver at least 15 days before the transfer date.</p> <p><u>Transferee notice</u> deliver no later than 15 days after transfer date.</p> <p><u>Combined notice</u> deliver at least 15 days before the transfer date.</p> <p><u>Extended notice period</u> delivery of notice not more than 30 days after transfer.</p> <p><u>Loan payments during transfer period:</u> No late fees if transferor receives payment during 60 day period following transfer of loan servicing.</p> <p><u>Response to inquiries:</u></p> <ul style="list-style-type: none"> • Acknowledge request within 20 business days. <p>Resolve errors and notify within 60 business days.</p> <p><u>Protection of Credit Rating</u> do not provide adverse information on disputed payments to credit bureaus during the 60 day period.</p>	<p>Servicing Transfer Notice(s)</p> <p>Written response acknowledging receipt of qualified written request from borrower</p> <p>Loan Operation Manuals</p> <p>Servicing Transfer Agreements</p> <p>Credit Reporting Information Guidelines</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Kickbacks and Unearned Fees</p> <p>Ensure that the prohibition against kickbacks and unearned fees with regard to settlement services is accurately reflected in the policy statement and is adhered to by all personnel involved in the origination and/or processing federally-related mortgage loans.</p> <ul style="list-style-type: none"> • No referral fees. • No splitting charges except for actual services performed. <p>(See Section 3500.14)</p> <p>Note regulatory exemptions for:</p> <ol style="list-style-type: none"> 1. Fees, salaries, or other consideration as described in the regulation. 2. Affiliated Business Arrangements (defined in Section 3 of RESPA) if three specific conditions are met: <ol style="list-style-type: none"> (i) Separate written disclosure using the format in Appendix D specifying the nature of the relationship and estimating charges for the referral; (ii) No requirement to use any particular provider (except that a lender may chose the attorney, credit reporting agency, and/or real estate appraiser); (iii) The only thing of value received other than payments for services actually rendered is a return on an ownership or franchise relationship. <p>(See Section 3500.15)</p>	<p>Continuing</p>	<p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p> <p>Affiliated Business Arrangement Disclosure Statement</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>No Fee</p> <p>No fee can be charged by a lender for preparing the HUD-1 or HUD-1A Settlement Statement, escrow account statements, or required Truth-in-Lending disclosures.</p>	Continuing	Loan Origination Manuals
<p>Record Retention</p> <p>Retain copy of completed HUD-1 or HUD-1A and related documents.</p> <p>Retain documents provided pursuant to Section 3500.14 (Prohibition Against Kickbacks and Unearned Fees).</p> <p>Retain documents provided pursuant to Section 3500.15 (Affiliated Business Arrangements).</p> <p>Retain records reflecting the handling of each borrower's escrow account.</p> <p>Retain the applicant's acknowledgment of the Servicing Disclosure Statement as part of the loan file for every settled loan.</p> <p>Although not specified in the regulation, maintenance of other notices and disclosures such as the Servicing Transfer Notice and the Good Faith Estimate is recommended.</p>	<p>Five years after settlement.</p> <p>Five years from the date of execution.</p> <p>Five years after the date of execution.</p> <p>Five years after servicer last serviced the escrow accounts.</p> <p>Five years after the date of the settlement.</p> <p>Five year period.</p>	<p>HUD-1, related documents</p> <p>Section 3500.14 documentation</p> <p>Affiliated Business Arrangements documentation</p> <p>Escrow account documentation</p> <p>Signed Acknowledgment</p> <p>Record Retention Guidelines</p>
<p>Training</p> <p>Provide training to employees involved in the origination or processing of federally related mortgage loans or whose duties are otherwise impacted by the requirements of RESPA and Regulation X.</p>	Continuing	<p>Loan Origination Manuals</p> <p>Loan Operations Manuals</p>



Real Estate Settlement Procedures Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Updating</p> <p>Update policies, procedures, disclosures, and notices as necessary to reflect changes in the regulation or changes in equipment or internal operations/ processes as appropriate. Ensure effective communication and distribution of updated notices and disclosures.</p>	<p>Continuing</p>	<p>All affected documentation</p>
<p>Internal Review</p> <p>Conduct an internal review at least annually to assess compliance with the regulation and conformity of an institution s practices with its policies and procedures.</p>	<p>Annual (or sooner)</p>	<p>Internal Review Procedures/Reports</p>



Real Estate Settlement Procedures Act

RESPA Summary Requirements by Transaction

<i>Disclosure</i>						
✓ Required NA Not required	EARLY T-I-L*	GOOD FAITH ESTIMATE w/ SERVICE PROVIDER INFO. *	SPECIAL INFO. BOOKLET*	SERVICING DISCLOSURE *(1)	HUD-1 OR 1A	AFFILIATED BUSINESS ARR.
<i>Transaction</i>						
Home Equity						
• Open End	NA	NA(2)	NA(2)	NA	NA	✓
• Closed End	✓(3)	✓	✓(3)	✓	✓	✓
Purchase						
• Mobile home attached to real estate for primary home	✓	✓	✓	✓	✓	✓
• Mobile home not attached to real estate for primary home	NA	NA	NA	NA	NA	NA
Construction						
• Of primary home with permanent end financing	✓	✓	✓	✓	✓	✓
• Of primary home with no permanent financing	NA	NA	NA	NA	NA	NA
• With purchase of land involving transfer of title	✓	✓	✓	✓	✓	✓
Home Improvement (Closed End)	NA	✓	NA	✓	✓	✓
Purchase Money						
• Primary Home	✓	✓	✓	✓	✓	✓
• Rental Property-individual purpose	NA	✓	✓	✓	✓	✓
• Vacation/second home	NA	✓	✓	✓	✓	✓
Refinance						
• Of primary home at original lender no additional funds advanced	NA	✓	NA	✓	✓	✓
• Of primary home at different lender or additional funds advanced	NA	✓	NA	✓	✓	✓
• Of rental property individual purpose	NA	✓	NA	✓	✓	✓
• Of vacation/second home	NA	✓	NA	✓	✓	✓
<i>When Disclosure Must be Presented</i>	at or within 3 business days of application				available one day prior to, and given at closing	at application or time of referral

* Not required if loan application is denied within 3-day period.

1 Applies only if the mortgage loan is secured by a first lien.

2 Use of the Reg Z equity line of credit disclosures, if provided, can be substituted for these disclosures.

3 Applies only if the loan proceeds will be used for the acquisition or initial construction of borrower's primary dwelling (purchase money).



Real Estate Settlement Procedures Act

Timing of Certain Disclosures On Residential Real Estate Secured Loans*

Covers:

1. Truth in Lending Act (TILA) - Regulation Z
2. Real Estate Settlement Procedure Act (RESPA) - Regulation X

Timing	TILA 12 CFR 226	RESPA 24 CFR 3500
At or before referral		Affiliated business arrangement disclosure (3500.15).
At or before application	Home equity line of credit booklet and disclosure (226.5b). Adjustable rate booklet and disclosure (226.19b).	
Within three days of application	TILA disclosure (including APR and finance charge) (226.19a).	Special information booklet (3500.6) Good faith estimate (3500.7). Required providers (3500.7). Initial transfer of servicing disclosure (3500.21).
Three days before closing/consummation	Section 32 disclosures (226.32) Reverse mortgage disclosures (226.33)	
One day before closing/consummation		Right to inspect HUD-1 or HUD-1A (3500.10).
At closing/consummation	TILA disclosure (226.18) Rescission notice (226.23)	HUD-1 or HUD-1A (3500.8) Initial escrow account statement (within 45 days of closing) (3500.17).

*Taken from Advance Notice of Proposed Rulemaking on Improvement of Disclosure under RESPA and TILA (61 FR 69055).

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OVERVIEW OF LAWS AND REGULATIONS

Home Mortgage Disclosure Act

Home Mortgage Disclosure Act (Regulation C)

Executive Summary:

The Home Mortgage Disclosure Act (HMDA), as implemented by Regulation C, requires financial institutions to compile and disclose data about home purchase and home improvement loans that they originate or purchase during each calendar year, as well as applications for such loans. Data concerning the refinancing of such home purchase and home improvement loans must also be reported. HMDA currently applies to financial institutions that have a home or branch office in a metropolitan statistical area (MSA) and that have assets of more than a specified dollar amount set by regulation.

Financial institutions must collect and report the following information in an automated, machine-readable format: (1) certain details about each application or loan; (2) geographic data about the dwelling to which the application or loan relates; and (3) the race or national origin, sex, and gross annual income of the applicant or borrower. Each institution subject to HMDA must submit the required data in an OTS approved, automated format that conforms with the HMDA Loan/Application Register (LAR) to OTS by March 1 following the calendar year to which the loan data relate and must make its HMDA - LAR data (in modified form) available to the public upon request.

The data generated by HMDA - LARs is used: (a) to help determine whether financial institutions are serving the housing credit needs of their communities; (b) to aid government officials in distributing federal funds so as to attract private investment to areas where it is needed; and (c) to assist in identifying possible discriminatory lending patterns. The Federal Financial Institutions Examination Council (FFIEC) prepares disclosure statements based on the HMDA - LAR data revealing lending patterns for each institution categorized by location, age of housing stock, income level, sex, and racial characteristics. Institutions must make disclosure statements available to the public in the manner prescribed by the regulation. The FFIEC also combines HMDA data submitted by all reporting institutions and produces aggregate tables for each MSA. Aggregate tables and individual disclosure statements are publicly available at central data depositories located within each MSA.

The FFIEC publishes *A Guide to HMDA Reporting: Getting It Right!* (Guide) to assist institutions in complying with HMDA and Regulation C. It is written to address the needs of management and persons responsible for preparing the HMDA Report. Since the FFIEC updates the Guide periodically, the institution should verify that it has the most current edition.

Business Areas Impacted:

- Residential Lending Units
- Residential Credit Application Processing
- Data Processing



Home Mortgage Disclosure Act

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>General Coverage</p> <p>Determine whether the savings association (and/or any of its mortgage subsidiaries, if applicable) is subject to the requirements of HMDA/Regulation C.</p> <p>Institutions are exempt from reporting requirements for a given year if on the preceding December 31:</p> <ol style="list-style-type: none"> 1. The institution did not have a home or branch office in an MSA; or 2. The institution's total assets were at or below the asset threshold. (1998 threshold = \$29 million) <p>HMDA data need not be reported in a given year if the institution made no first-lien home purchase loans (or refinancings thereof) on one-to-four-family dwellings in the preceding calendar year.</p>	<p>Continuing</p>	<p>Policy Statement</p>
<p>Policy/Procedures</p> <p>Adopt a policy for implementing HMDA and Regulation C. Ensure that comprehensive procedures are in place for collecting and maintaining accurate data of covered loans and applications. Update policies, procedures, and relevant loan manuals as necessary.</p>	<p>Continuing</p>	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Merger, Acquisition, Recharter</p> <p>Ensure that HMDA reporting procedures are reviewed and revised, as appropriate, in the event that a merger or acquisition takes place or an institution is rechartered.</p>	<p>Act promptly upon merger, acquisition, or recharter</p>	<p>HMDA Reporting Procedures</p>



Home Mortgage Disclosure Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Collection of Data</p> <p>Compile data on applications for, and originations and purchases of, home-purchase and home-improvement loans (including refinancings of both) for each calendar year. Include the following items:</p> <ol style="list-style-type: none"> 1. Loan or application number and date of application received. 2. Type and purpose of loan. 3. Owner-occupancy status of the property. 4. Amount of loan or application. 5. Type of action taken and the date. 6. Location of property by MSA, state, county, and census tract, if the institution has a home or branch office in that MSA. 7. Race or national origin and sex of the applicant or borrower, and the gross annual income relied upon in processing the application. 8. Type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year. 9. Reason(s) for denial of a loan application. <p>The required information must be retained on a loan/application register (LAR) in the format prescribed by Appendix A to Regulation C.</p>	<p>Continuing</p> <p>All transactions must be recorded on the HMDA - LAR not more than 30 calendar days following the calendar quarter in which final action is taken.</p>	<p>HMDA Reporting Procedures</p> <p>Loan Origination Manuals</p> <p>Loan Application Register (LAR) used to record data. (See Appendix A to Regulation C)</p>



Home Mortgage Disclosure Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Data on Race or National Origin, Sex and Income</p> <p>Information on the race or national origin and sex of the applicant or borrower must be collected in the manner prescribed by Appendix B to Regulation C. If the applicant chooses not to provide this data, the lender must note the information based on visual observation or surname, to the extent possible.</p> <p>Race or national origin, sex, and income data may, but need not be collected for purchased loans.</p>	Continuing	<p>HMDA Reporting Procedures</p> <p>Loan Origination Manual</p> <p>Standard form used to obtain this data (See Appendix B to Regulation C)</p>
<p>Excluded Data</p> <p>The following information should not be reported:</p> <ol style="list-style-type: none"> 1. loans made or purchased in a fiduciary capacity; 2. loans on unimproved land; 3. temporary financing (e.g. bridge or construction loans); 4. the purchase of an interest in a pool of loans (e.g. mortgage participation certificates); or 5. The purchase solely of loan servicing rights. 	Continuing	<p>HMDA Reporting Procedures</p> <p>Loan Origination Manuals</p>



Home Mortgage Disclosure Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Data Reporting for Certain Institutions</p> <p>Institutions that have assets of \$250 million or more or that are part of a holding company structure that has \$1 billion or more in banking and thrift assets as of December 31 for each of the preceding two years, must also report the location of property located outside the MSAs in which the institution has a home or branch office, or outside any MSAs.</p>	Continuing	<p>HMDA Reporting Procedures</p> <p>Loan Origination Manual</p>
<p>Reporting Requirements</p> <p>Submit the completed HMDA - LAR to OTS by March 1 following the calendar year for which the loan data is compiled.</p> <p>Retain a copy for the institution's records.</p>	<p>March 1 submission date (covering the prior year's data)</p> <p>Retain copy for at least 3 years.</p>	<p>HMDA Reporting Procedures</p> <p>Written Procedures</p> <p>HMDA - LAR (submitted to OTS in prescribed electronic format)</p>
<p>Modified Loan/Application Register</p> <p>HMDA-LAR must be made available to the public upon request after modifying it to protect the privacy interests of applicants and borrowers by deleting: (1) application or loan number; (2) date application received; and (3) date of action taken.</p> <p>Institutions are strongly encouraged to make the modified LAR available in census tract order, if possible.</p> <p>A modified register need only reflect data relating to the MSA for which the request is made.</p>	<p>Make modified LAR available no later than March 31 for requests on or before March 1 (following the year to which the data relates), and within 30 days for requests made after March 1.</p> <p>The modified LAR must be available to the public for a 3 year period.</p>	<p>HMDA Reporting Procedures</p> <p>Modified HMDA - LAR</p>



Home Mortgage Disclosure Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Disclosure Statements</p> <p>The disclosure statement is comprised of a series of tables prepared by the FFIEC based on the institution's HMDA - LAR.</p> <p>The institution must make the statement available to the public for inspection and copying at its home office within 3 business days of receipt from the FFIEC.</p> <p>The institution must also either:</p> <p>a) make the statement available in at least one office in each additional MSA where it has offices within 10 business days of receipt from the FFIEC or</p> <p>b) post the address for sending written requests for the statement in the lobby of each branch office in an MSA where it has offices, and mail or deliver a copy of the statement within 15 calendar days of receipt of a written request.</p>	<p><u>Home Office</u> within 3 business days of receipt.</p> <p><u>Offices in other MSAs</u> within 10 business days after receipt</p> <p><u>Written Requests</u> within 15 calendar days from receipt of request.</p> <p>The disclosure statement must be available to the public for a 5-year period.</p>	<p>Disclosure Statement (prepared by FFIEC)</p>
<p>Lobby Notice</p> <p>The institution must post a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA. Suggested text for the notice can be found at Appendix A to Regulation C.</p>	<p>Continuing</p>	<p>Lobby Poster (See Appendix A to Regulation C for suggested text)</p>
<p>Training</p> <p>Provide training to employees whose duties are impacted by the requirements of the regulation.</p>	<p>Continuing</p>	<p>Training documentation</p>



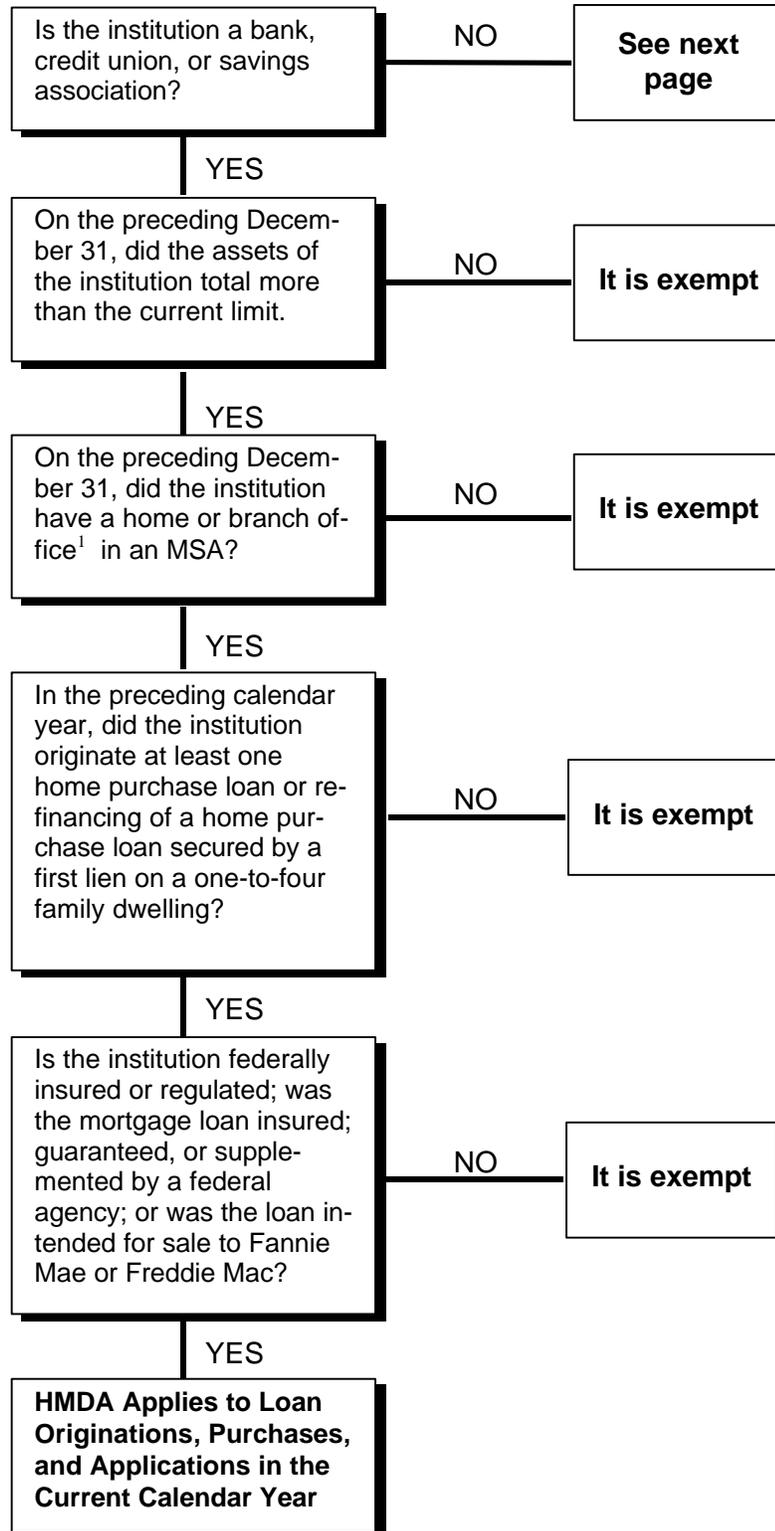
Home Mortgage Disclosure Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Monitoring and Internal Review</p> <p>Periodically monitor the collection of data for the HMDA - LAR to ensure that affected mortgage applications and loans are being properly recorded within the prescribed time frames.</p> <p>Conduct an internal review at least annually to assess overall compliance with the regulation and conformity of the institution s practices with its policies and procedures.</p>	Continuing	Internal Review Procedures/Reports



Home Mortgage Disclosure Act

Coverage Criteria for Depository Institutions

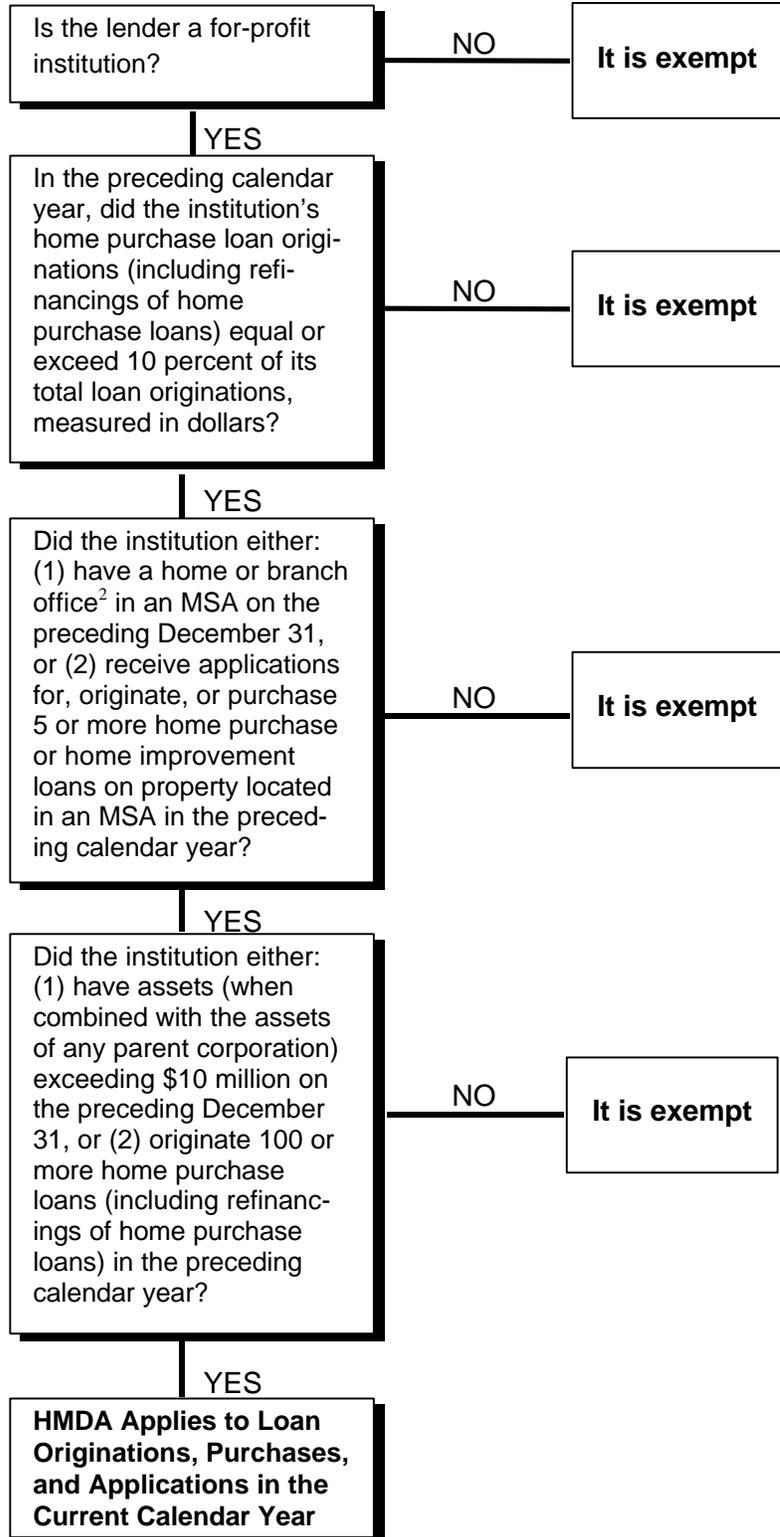


¹ For depository institutions, a branch office is an office approved as a branch by a supervisory agency (except that a branch office of a credit union is any office where member accounts are established or loans are made, whether or not the office has been approved as a branch by a federal or state agency). A branch office does not include offices of affiliates or other third parties such as loan brokers, or other offices where loan applications are merely taken; nor does it include ATMs or other electronic terminals.



Home Mortgage Disclosure Act

Coverage Criteria for Other Mortgage Lending Institutions



² For other mortgage lending institutions, a branch office is any office of the institution that takes applications from the public for home purchase or home improvement loans. It does not include offices of affiliates or other third parties such as loan brokers.

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OVERVIEW OF LAWS AND REGULATIONS

National Flood Insurance Act

National Flood Insurance Act

Executive Summary:

The National Flood Insurance Act of 1968, as amended, (Act) requires the federal banking agencies to adopt regulations relating to flood insurance. The National Flood Insurance Reform Act of 1994 revised many provisions of the Act in order to increase compliance with the flood insurance requirements and to increase participation in the National Flood Insurance Program (NFIP).

The Act and OTS implementing regulations (12 CFR Part 572) require flood insurance for the term of the loan on buildings or mobile homes when: (1) the institution makes, increases, extends, or renews any loan secured by a building or a mobile home and any personal property; (2) the property securing the loan is or will be located in a Standard Flood Hazard Area (SFHA); and, (3) the community participates in the NFIP.

The mandatory purchase requirements apply to refinancing of an existing loan and to home equity loans. The mandatory purchase requirements do not apply to loans on state-owned property covered under an adequate policy of self-insurance satisfactory to the Director or FEMA, or to loans with an original principal balance of \$5,000 or less and having an original repayment term of one year or less.

The amount of flood insurance required must be at least equal to the outstanding principal balance of the loan, or the maximum amount available under the NFIP, whichever is less. Flood insurance coverage is limited to the overall value of the property securing the loan minus the value of the land on which the property is located. Flood insurance is required for any personal property securing a loan that is also secured by real property located in a SFHA, but is not required for personal property if it does not secure the loan.

The Act and regulations require an institution to: (1) provide a written notice to the borrower and servicer; (2) identify the servicer of the loan; (3) use a standard flood hazard determination form; (4) escrow flood insurance premiums in certain circumstances; and (5) "force-place" insurance for the borrower when necessary.

Business Areas Impacted:

- Residential and Commercial Lending Units
- Credit Application Processing
- Credit Operations
- Asset Quality Management
- Risk Management
- Internal Controls Management



National Flood Insurance Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>equal to the outstanding principal balance of the loan or the maximum limit of coverage available through the NFIP, whichever is less.</p>		
<p>Notice to Borrower and Servicer</p> <p>If the property securing the loan is or will be located in a SFHA, provide a written notice to the borrower and the servicer that contains the following information:</p> <ol style="list-style-type: none"> 1. A warning that the building or mobile home is or will be located in a SFHA; 2. A description of the flood insurance purchase requirements; 3. A statement indicating whether flood insurance coverage is available under the NFIP and may also be available from private insurers; and 4. A statement indicating whether Federal disaster relief assistance may be available in the event of damage to the building or mobile home, caused by flooding in a Federally declared disaster. <p>The notice must be provided regardless of whether the property is located in a participating or non-participating community. In a transaction involving multiple borrowers, the notice can be provided to any one of the borrowers, but an institution may provide multiple notices if it chooses. Appendix A to the OTS implementing regulations contains a sample notice.</p> <p>An institution may rely on assurances from a seller or lessor that the seller or lessor has provided the requisite notice to the purchaser or lessee.</p>	<p>Within a reasonable time before completion of the transaction (borrower); as promptly as practicable after notice to the borrower (servicer)</p> <p>Reasonable time is not defined, but a borrower should receive a timely notice to ensure that the borrower has the opportunity to become aware of his or her responsibilities under the NFIP and can purchase flood insurance before completion of the loan transaction.</p>	<p>Copy of Notice</p>
<p>Escrowing Flood Insurance Premiums</p> <p>If the institution escrows for charges in connection</p>	<p>Loans made, in-</p>	<p>Underwriting Guidelines</p>



National Flood Insurance Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>with a loan secured by <i>residential</i> improved real estate or a mobile home, ensure that it also escrows for all premiums and fees for any required flood insurance.</p> <p>The escrow requirement applies to all loans secured by residential improved real estate. In addition, however, the escrow account itself must comply with the requirements of Section 10 of RESPA if it is established for a federally related mortgage loan, which is, generally, a loan on one- to-four-family dwellings.</p> <p>If an institution makes a loan on the purchase of a condominium over which a Residential Condominium Building Association Policy is in place and the premiums are paid by dues to the condominium association, the escrow requirement is satisfied.</p> <p>If escrow accounts for other purposes are established at the voluntary request of the borrower, the institution is not required to establish escrow accounts for flood insurance premiums.</p>	<p>created, extended or renewed after 10/1/96; continuing</p>	
<p>Forced Placement of Flood Insurance</p> <p>An institution <i>must</i> purchase, or force place flood insurance if at any time during the life of the loan it determines that:</p> <ol style="list-style-type: none"> 1. The property securing the loan is located in a SFHA; 2. The community in which the property is located participates in the NFIP; 3. Flood insurance coverage is inadequate or does not exist; and 4. The borrower fails to purchase flood insurance in the appropriate amount within 45 days after notification. 	<p>Life of loan; continuing</p>	<p>Underwriting Guidelines</p> <p>FEMA's Flood Maps</p>



National Flood Insurance Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Purchase flood insurance in an amount equal to the difference between the present amount of coverage and the lesser of the outstanding principal balance or the maximum coverage limit available under NFIP.</p> <p>An institution is responsible for ensuring that when flood insurance is required at loan origination, the borrower renews the flood insurance policy for as long as flood insurance is required. If a borrower allows a policy to lapse, the institution or its servicer is required to commence force placement procedures.</p> <p>OTS regulations do not require an institution to monitor flood maps or make flood hazard determinations at any time other than when making, increasing, extending or renewing a loan. Nonetheless, institutions that are significantly exposed to flood insurance risks should include provisions in their policies and procedures relating to periodic reviews of flood insurance coverage or reviews of flood remappings.</p>	<p>Life of loan; continuing</p>	<p>Underwriting Guidelines FEMA Flood Maps</p>
<p>Fees and Charges</p> <p>An institution may charge the borrower a reasonable fee for the costs associated with determining whether a building or mobile home is or will be located in a SFHA. If a loan is sold or transferred, the fee may be charged to the purchaser or transferee.</p> <p>Ensure that the fee is only charged when:</p> <ol style="list-style-type: none"> 1. The borrower initiates the making, increasing, extending, or renewing of a loan; 2. FEMA revises or updates floodplain areas or risk zones; 3. FEMA publishes a notice that affects the area in which the loan is located or may reasonably require a flood hazard determination; or 4. The determination results in the purchase of 	<p>Continuing</p>	<p>Loan Documents Underwriting Guidelines</p>



National Flood Insurance Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>flood insurance under the forced placement provision.</p> <p>Examples of determination fees may include a reasonable fee for the costs of an initial flood hazard determination, for monitoring the flood hazard status of property during the life of the loan to make determinations on an ongoing basis, and for remappings (even if the property is found not to be in a SFHA).</p>		
<p>Special Situations</p> <p>Table funded loans, condominiums, mixed-use properties, and mobile homes create special situations with respect to complying with flood insurance requirements. OTS regulations and Interagency Questions and Answers deal with these special situations in detail.</p>	Continuing	<p>Underwriting Guidelines</p> <p>Loan Documents</p>
<p>Training</p> <p>Offer training sessions for employees on current flood insurance requirements.</p>	As Needed Basis	Training Documents
<p>Update</p> <p>Update and revise Flood Insurance Policies and Procedures to ensure consistency with the Act and OTS regulations.</p>	As Needed Basis	FEMA Purchase Guidelines
<p>Internal Review</p> <p>Conduct an internal review at least annually to assess compliance with the Act and OTS regulations and conformity of the institution's practices with its policies and procedures.</p>	Continuing	<p>Internal Review</p> <p>Procedures/Reports</p>



Flood Insurance Coverage Limits

The National Flood Insurance Reform Act of 1994 increased the maximum amounts of flood insurance available under the NFIP. The current amounts are shown below. Most communities participate in the regular program. A few communities are in the emergency program. Refer to FEMA's Flood Hazard Boundary Maps to locate the participating program of a community. Special limits apply in Alaska, Hawaii, Guam and the Virgin Islands.

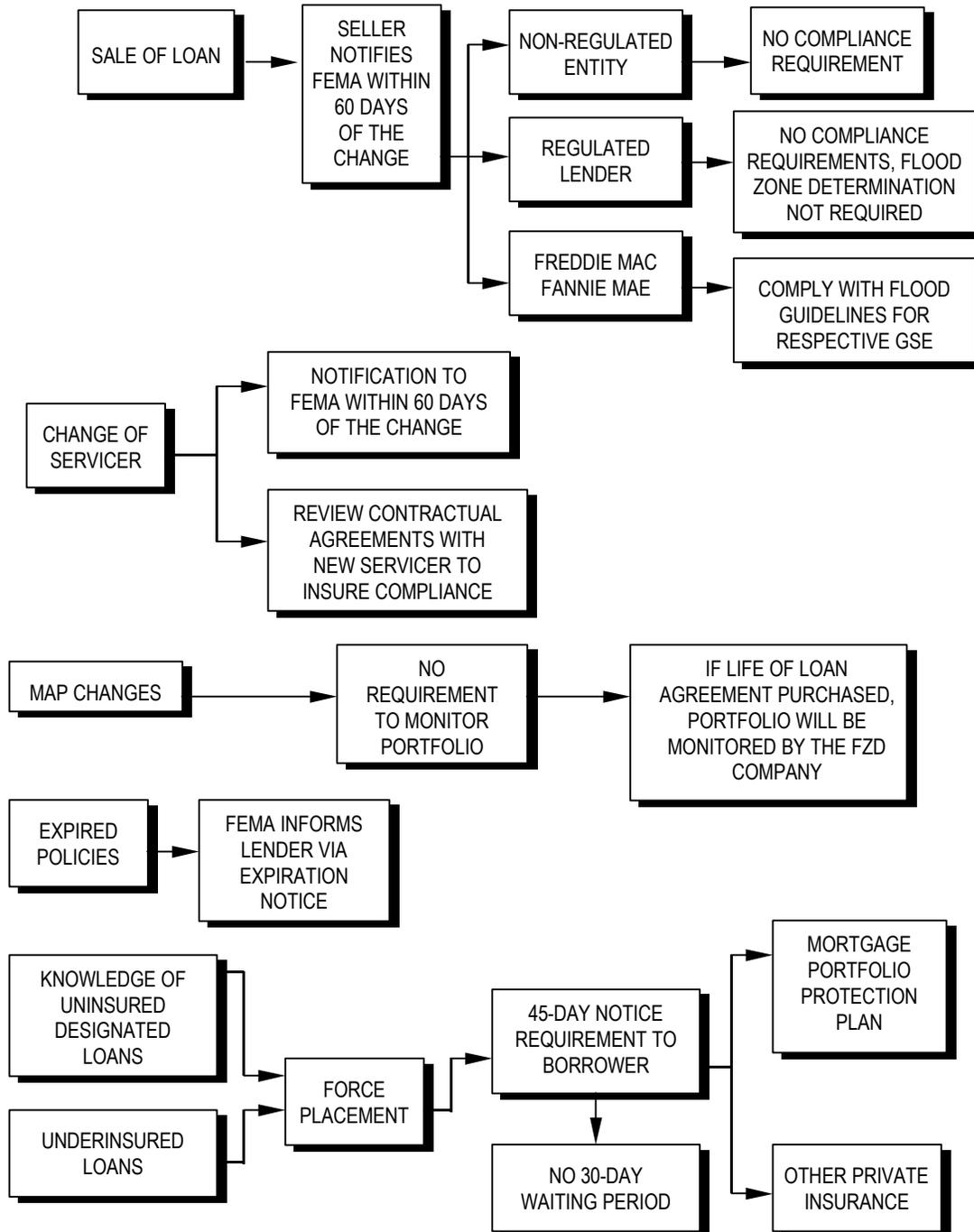
<u>Building Coverage</u>	<u>Emergency Program</u>	<u>Regular Program</u>
Single-family dwelling	\$ 35,000	\$250,000
2 - 4 family dwelling	\$ 35,000	\$250,000
Other residential	\$100,000	\$250,000
Nonresidential	\$100,000	\$500,000

<u>Contents Coverage</u>		
Residential	\$ 10,000	\$100,000
Nonresidential	\$100,000	\$500,000



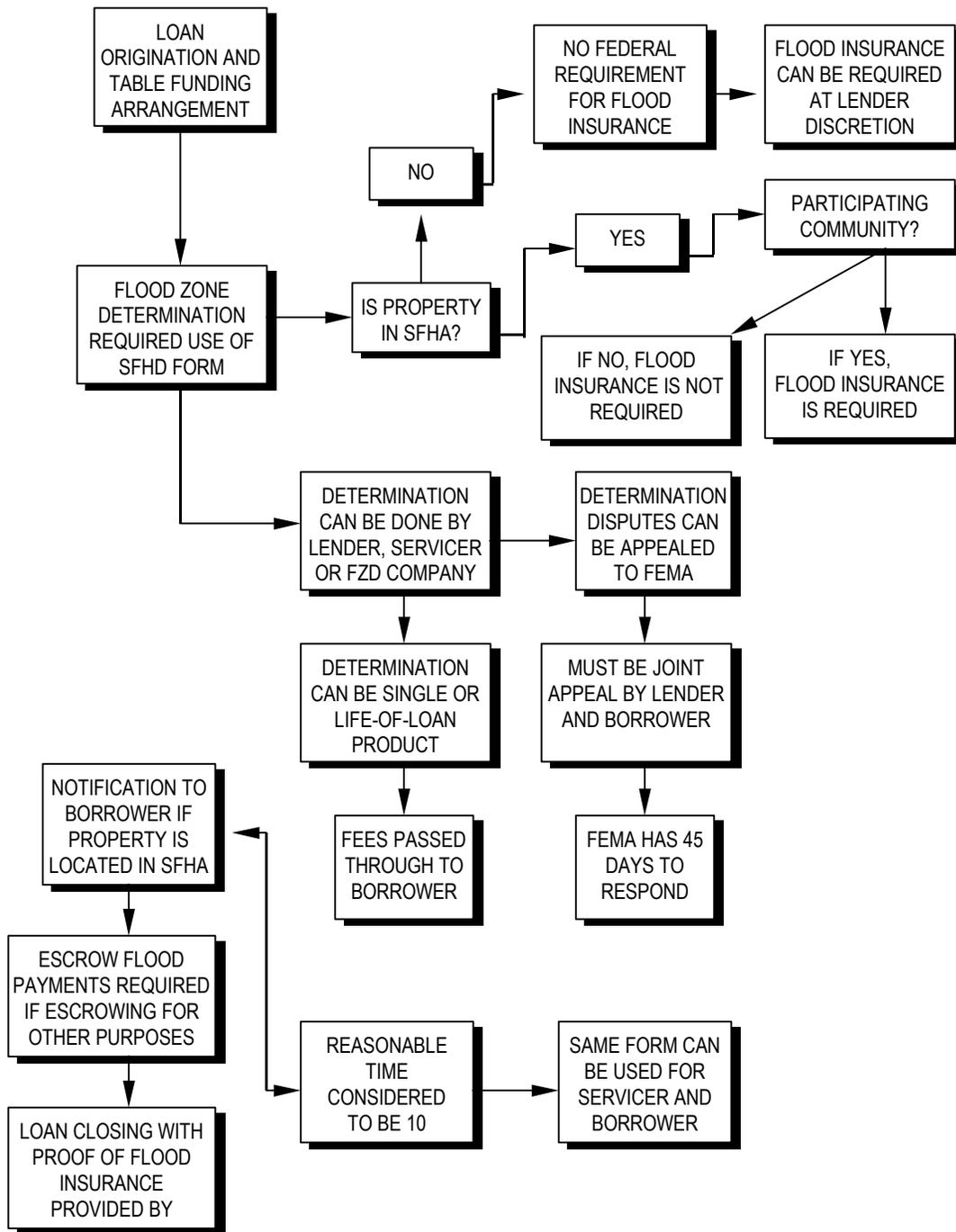
National Flood Insurance Act

TRIGGER POINTS DURING LIFE OF LOAN





MANDATORY PURCHASE AT LOAN ORIGINATION



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OVERVIEW OF LAWS AND REGULATIONS

Equal Credit Opportunity Act

Equal Credit Opportunity Act (Regulation B)

Executive Summary:

The Equal Credit Opportunity Act (ECOA), as implemented by Regulation B (12 CFR 202), promotes the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age provided the applicant has the capacity to contract). It also protects against discrimination based on an applicant's participation in and receipt of income from a public assistance program or an applicant's good faith exercise of any right under the Consumer Credit Protection Act. The regulation imposes certain requirements on creditors to notify applicants of action taken on their applications and to collect information about an applicant's race, sex, marital status and age in connection with applications for certain dwelling-related loans. In addition, creditors must adhere to other prescribed rules including those related to taking and evaluating applications, notifying an applicant of action taken on their application, providing copies of appraisal reports used in connection with credit transactions, reporting and maintaining credit histories, and retaining records. Regulation B does not, however, prevent a creditor from considering any pertinent information necessary to evaluate the creditworthiness of an applicant. Moreover, the regulation includes a section stipulating that information generated by self-tests voluntarily conducted by the institution to determine its compliance with the ECOA and Regulation B is considered privileged, as provided therein. Please note that the ECOA, the Fair Housing Act, and OTS's Nondiscrimination Regulations should be read together in order to fully understand the scope of a thrift's fair lending obligations.

Business Areas Impacted:

- Retail, Residential and Commercial Lending Units
- Credit Application Processing
- Credit Underwriting
- Appraisal of Real Estate
- Credit Product Marketing/Forms
- Credit Information Reporting
- Credit Operations
- Credit Scoring Systems
- Customer Service



Equal Credit Opportunity Act

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Policies/Procedures</p> <p>Adopt a policy for implementing the ECOA and Regulation B and creating an internal environment that does not tolerate discrimination in any aspect of the credit transaction process (i.e. soliciting, taking, evaluating, and acting on credit applications). Establish and maintain written procedures (task specific) and internal controls to ensure compliance with regulatory requirements by persons and departments involved in all phases of the credit transaction process.</p>	<p>Continuing</p>	<p>Policy Statement</p> <p>Written Procedures</p>
<p>No Discrimination on a Prohibited Basis</p> <p>Ensure that lending officers and employees of the institution do not discriminate against an applicant on a prohibited basis regarding any aspect of a credit transaction. Prohibited bases include: race, color, religion, marital status, age, the receipt of public assistance income, or the good faith exercise of rights under the Consumer Credit Protection Act.</p>	<p>During any aspect of the credit application or loan transaction process.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>No Discouraging of Applications</p> <p>Ensure that lending officers and employees of the institution do not discourage applicants or prospective applicants on a prohibited basis from making or pursuing an application.</p>	<p>In connection with advertising or otherwise, including taking applications.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Marketing Guidelines</p> <p>Advertising Copy</p> <p>Loan Officer Scripts</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Inquiries concerning a Spouse</p> <p>Ensure that lending officers and employees of the institution do not request any information concerning the spouse or former spouse of an applicant except when the spouse has rights of access to the account, is contractually liable on the account or the applicant is relying on spousal income, child support, alimony, or property as a basis for repayment.</p>	<p>During application taking, processing, underwriting or decision-making.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Training materials</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Inquiries concerning Marital Status</p> <p>Ensure that lending officers and employees of the institution do not inquire about the marital status of an applicant who is applying for individual unsecured credit. If the application is for secured credit, inquire about applicant's marital status is permitted using terms, "married", "unmarried" and "separated".</p>	<p>During all aspects of credit activity, including taking applications, processing, underwriting or decision-making in connection with an application for credit.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p> <p>Training materials</p>
<p>Inquiries concerning Other Income</p> <p>Ensure that lending officers and employees of the institution do not inquire whether income stated in an application is derived from alimony, child support, or separate maintenance payments unless applicant is given choice as to whether such information is to be considered in the creditor's determination of creditworthiness.</p>	<p>During the taking, processing, underwriting or decision-making associated with a credit application.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Inquiries concerning Applicant's Sex</p> <p>Ensure that lending officers and employees of the institution do not inquire about the sex of an applicant; however, an applicant can be requested to designate a title (such as Ms., Miss, Mr. or Mrs.), on the application form, if the form discloses that such a designation is optional.</p>	<p>During the taking, processing, underwriting or decision-making associated with a credit application.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Application Forms (See Appendix B of Regulation B)</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Inquiries on Childbearing, Childrearing</p> <p>Ensure that lending officers and employees of the institution do not inquire about birth control practices or the bearing or rearing of children. Information about dependents may be requested if sought from all applicants.</p>	<p>During the taking, processing, underwriting or decision-making associated with a credit application.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Written Applications</p> <p>Written applications must be taken for credit related to the purchase or refinancing of a principal residence secured by the residence. (Note: these are the same types of credit covered by Section 202.13(a) for which monitoring information must be collected)</p>	<p>Continuing</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>
<p>Rules on Use of Information</p> <p>Creditors are not permitted to take the following into account when evaluating the creditworthiness of applicants:</p> <ol style="list-style-type: none"> 1. Any prohibited basis, except as provided by the ECOA and Regulation B; 2. Age or receipt of public assistance (with exceptions noted in Section 202.6(b)(2)); 3. Assumptions or statistics related to childbearing or childrearing; or 4. Telephone listing in name of applicant. <p>Also note the following limits on the use of information:</p> <ol style="list-style-type: none"> 1. Income - no discounting/exclusion of income if derived from part-time employment, annuity, pension, public assistance, alimony, or child support. 	<p>Throughout credit decision-making process.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Application Forms (See Appendix B of Regulation B)</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>2. Credit history - consider accounts that the applicant and applicant's spouse use or on which they are contractually liable. Also, consider information offered by applicants concerning inaccuracies in their credit history.</p> <p>3. Immigrant status - may consider applicant's immigration status as it relates to rights/remedies regarding repayment.</p>		
<p>Credit Scoring Systems: Use of Age</p> <p>Use of a credit scoring system that scores age as a predictive variable is permissible only when it is empirically derived and is demonstrably and statistically sound. The age of an elderly applicant may not be assigned a negative factor or value.</p>	<p>Applies when credit-scoring systems that score age are utilized.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p> <p>Scorecards, development data and validation test results</p>
<p>Action on Open-End Accounts</p> <p>Creditors are restricted from terminating, changing account terms, or requiring reapplications for open-end accounts based on changes of age or retirement status. Reapplications may not be required for a change of marital status (where spouse had no liability and spousal income had no impact on credit decision).</p>	<p>Continuing (Review of existing open-end accounts)</p>	<p>Credit Operations Guidelines</p>
<p>Spousal Signatures</p> <p>Creditors are restricted from requiring the signature of an applicant's spouse or other person on any credit instrument if the applicant qualifies for the amount and terms of credit requested.</p>	<p>Upon execution of credit obligations</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Security Agreements, Mortgages, and related instruments</p>
<p>Insurance</p> <p>Creditors may not refuse to extend credit and may not terminate an account because credit life, health, accident, disability, or other credit-related insurance is not available based on the applicant's age.</p>	<p>Continuing</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Credit Operations Guidelines</p> <p>Insurance Sales Activities</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Furnishing Credit Information</p> <p>Creditors furnishing credit information must abide by requirements enabling separate tracking of spouses and their individual and/or joint credit histories.</p>	<p>Whenever furnishing credit information.</p>	<p>Credit Information Reporting Guidelines</p> <p>Credit Operations Guidelines</p> <p>Routine reports or other responses used to provide credit information</p>
<p>Providing Appraisals</p> <p>Provide a copy of the appraisal report used in connection with an application for credit to be secured by a lien on a dwelling, either as a matter of routine or upon written request of applicants who have been notified in writing of their right to obtain a copy.</p>	<p>Generally within 30 days of request. (Notice of right to obtain appraisal report to be given no later than notice of action taken.)</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines</p>
<p>Notification of Action Taken</p> <p>Provide written notification of action taken on applications for credit that includes a statement of specific reasons for the action (or disclosure of right to obtain such reasons), name and address of creditor, and name and address of creditor's federal regulatory agency. The notification must also contain a statement of the provisions of Section 701(a) of the ECOA that is substantially similar to the language provided in Section 202.9(b).</p>	<p>Within 30 days after completed application or within 30 days after taking adverse action on an incomplete application.</p> <p>Within 30 days after taking adverse action of an existing account.</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Credit Operations Guidelines</p> <p>Notification Form (See Appendix B of Regulation B)</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>See also special provisions concerning:</p> <ol style="list-style-type: none"> 1. Notification to business credit applicants (Section 202.9(a)(3)) 2. Incomplete applications (Section 202.9(c)) 3. Withdrawal of approved applications (Section 202.9(e)) 4. Applications submitted through third party (Section 202.9(g)) 5. Multiple applicants (Section 202.9f)) 	<p>Within 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.</p>	
<p>Monitoring Information</p> <p>In connection with applications for the purchase or refinancing of a principal residence secured by the residence, the credit application must request information regarding the applicant(s) race or national origin, sex, marital status and age.</p> <p>If the applicant(s) chooses not to provide some or all of the information, the creditor should note that fact on the application and, to the extent possible, should note the race or national origin and sex of the applicant(s) based on visual observation or surname.</p> <p>See also additional information that must be disclosed to applicants concerning the collection and use of the monitoring information. (Section 202.13(c))</p>	<p>During taking of applications</p>	<p>Loan Origination/Application Processing/Underwriting Guidelines Application Form (See Appendix B of Regulation B)</p> <p>May involve separate form referring to the Application</p>
<p>Record Retention</p> <p>Preserve applications (in original form or legible copy), monitoring information, information used in evaluating the application and required notifications. (Section 202.12)</p>	<p>Generally, 25 months (12 months for business credit) after date of notice of action taken or of incompleteness. (A longer period applies if</p>	<p>Record Retention Guidelines</p> <p>Loan Application files</p> <p>All appropriate documentation, records to be retained</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Note variations in the record retention requirements for certain business-credit applications and self-tests. (Section 202.12(b)(5) and (6))</p>	<p>an investigation or enforcement proceeding is underway.)</p>	
<p>Self-Testing</p> <p>Institutions have a legal privilege in information developed as a result of self-tests that they voluntarily conduct to determine their compliance with the ECOA and Regulation B. The privilege applies only if the definition of “self-test” is met and the creditor takes appropriate corrective actions as described in Section 202.15.</p> <p>Note that data or factual information that is available or can be derived from credit or application files is not privileged. Moreover, data collection required by law or any government authority is not a voluntary self-test.</p> <p>The privilege may be lost under certain circumstances described in the regulation.</p>	<p>Continuing</p>	<p>Self-Test Report and Results</p>
<p>Training</p> <p>Provide training to all employees involved in any aspect of taking, evaluating, or acting on a credit application or furnishing/maintaining credit information. In addition, persons involved in marketing and credit operations should receive appropriate instruction relative to their responsibilities.</p> <p>All employees of the institution should comprehend the basic principles and core requirements of the ECOA and related fair lending laws and regulations.</p>	<p>Continuing</p>	<p>Policies and Procedures</p> <p>Curriculum</p> <p>Training records</p>



OVERVIEW OF LAWS AND REGULATIONS Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Monitoring</p> <p>Establish internal controls to supervise the various phases of the credit application process on a periodic basis, including taking and evaluating applications, providing appraisal reports, and reporting credit histories. This process should focus on the institution's compliance with the substantive nondiscrimination requirements as well as its adherence to the technical provisions of the ECOA and Regulation B.</p> <p>An internal or external audit should be conducted at least annually to assess overall compliance with the ECOA and Regulation B and to ensure that the institution's practices conform to its policies and procedures.</p>	Continuing	Internal Review Reports
<p>Self-Evaluation</p> <p>Establish and execute an internal review program emphasizing self-assessment reviews of the loan application process for compliance with regulatory obligations and institution standards</p>	Per Risk Schedule	<p>Compliance Management Program</p> <p>Written reports (include deficiencies and corrective action)</p> <p>Audit reports</p>
<p>Updating</p> <p>Update Policies, procedures, application forms, advertisements, as necessary to reflect changes in regulations, internal systems, or operations. Ensure effective communication and distribution of updated materials to all levels of personnel.</p>	Continuing	<p>All Affected documentation</p> <p>Institution Web site</p>



Equal Credit Opportunity Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Consumer Complaints</p> <p>Ensure an effective process of handling, reporting, tracking, and resolving consumer complaints derived the credit application process.</p>	<p>Continuing</p>	<p>Complaint and response documentation</p> <p>Complaint Activity Database</p> <p>Written Reports</p>



OVERVIEW OF LAWS AND REGULATIONS

Fair Housing Act

Fair Housing Act / OTS Nondiscrimination Regulations

Executive Summary:

The Fair Housing Act (FHA) is Title VIII of the Civil Rights Act of 1968, as amended (42 USC 3601 et seq.). Primary rule-making and enforcement authority for the FHA lies with the Department of Housing and Urban Development (HUD). HUD regulations implementing the FHA can be found at 24 CFR 100 et seq. The OTS's Nondiscrimination Regulations can be found at 12 CFR 528.1 et seq. and 12 CFR 528.9.

The FHA regulates many practices relating to the financing, selling, renting, advertising, brokering, and appraising of housing. It specifically includes provisions that make it unlawful for any lender to discriminate in the making or purchasing of residential real estate-related homes based on race, color, religion, sex, handicap, familial status, or national origin. This prohibition means that thrift institutions engaged in residential real estate lending are subject to both the FHA and the Equal Credit Opportunity Act (ECOA) when conducting such transactions. The FHA also prohibits discrimination in the sale or rental of residential real estate owned by the institution. Recent amendments to HUD regulations provide that information generated by self-tests voluntarily conducted by an institution to determine its compliance with the FHA is considered privileged, as provided therein.

Many of the provisions of the FHA and HUD's implementing regulations are reflected in the OTS's Nondiscrimination Regulations. These regulations prohibit, among other things, refusals to consider loan applications on the basis of the age or location of a dwelling, and discrimination based on race, color, religion, sex, handicap, familial status or national origin, in fixing the amount, interest rate, duration, application procedures, collection or enforcement procedures, or other terms or conditions of housing related loans. OTS regulated institutions must also ensure nondiscrimination in connection with its use of or reliance on residential appraisals, underwriting standards, advertising/marketing services, and internal employment practices.

Note that the FHA, the ECOA, and OTS's Nondiscrimination Regulations should be read together in order to fully understand the scope of a thrift's fair lending obligations.

Business Areas Impacted:

- Residential Lending Units
- Residential Credit Application Processing
- Residential Credit Underwriting
- Credit Operations
- Appraisal of Residential Real Estate



Fair Housing Act

- Mortgage Insurance
- Marketing of Residential Loan Products and Services
- Operation of Rental REO
- Customer Service



Fair Housing Act

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt a policy for implementing the FHA (including applicable HUD regulations) and OTS's Non-discrimination Regulations. Also, ensure the existence of an internal environment that does not tolerate discrimination in any aspect of a residential real estate-related transaction. Maintain comprehensive written procedures to ensure compliance with the FHA and OTS Nondiscrimination Regulations.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Nondiscrimination in Residential Lending</p> <p>Ensure that officers and staff of the institution do not discriminate against any person in making or setting the terms or conditions of any residential real estate-related transaction on the basis of race, color, religion, sex, handicap, familial status, or national origin (the prohibited bases).</p> <p>(Note that use of the term "residential real estate-related transaction" here means (1) the making or purchasing of loans or providing other financial assistance for the purchase, construction, improvement, repair or maintenance of a dwelling secured by residential real estate or (2) any selling, brokering, or appraising of residential real property.)</p>	Continuing	All manuals related to residential lending
<p>Neighborhood Characteristics (Redlining)</p> <p>Ensure that the institution does not deny a loan on a dwelling due to a prohibited basis attributed to a neighborhood by virtue of the characteristics of that neighborhood.</p>	Continuing	<p>All manuals related to residential lending</p> <p>Underwriting Guidelines</p> <p>Appraisal Guidelines</p>



Fair Housing Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Age or Location of Dwelling / Appraisals</p> <p>Ensure that the institution does not deny a loan application on a dwelling because of the age or location of that dwelling when such a denial has the effect of discriminating against persons on a prohibited basis.</p> <p>Ensure the institution does not use or rely upon an appraisal of a dwelling that is discriminatory on the bases of the age or location of the dwelling or has the effect of discriminating against persons on a prohibited bases.</p>	Continuing	<p>All manuals related to residential lending</p> <p>Underwriting Guidelines</p> <p>Appraisal Guidelines</p>
<p>Nondiscriminatory Underwriting Standards</p> <p>Ensure that the institution has clearly written, nondiscriminatory loan underwriting standards available to the public upon request, at each of its offices. These underwriting standards must be reviewed annually.</p>	Continuing	<p>All manuals related to residential lending</p> <p>Underwriting Guidelines</p>
<p>Consideration of Joint Income</p> <p>Ensure that the institution considers without prejudice the combined income of joint applicants for a loan or other service.</p>	Continuing	<p>All manuals related to residential lending</p> <p>Underwriting Guidelines</p>
<p>Nondiscrimination in Sale/Rental of Housing</p> <p>For institutions that manage and market residential real estate owned (REO), ensure that its officers, staff, agents, and representatives do not:</p> <ol style="list-style-type: none"> 1. Refuse to sell or rent housing after a bona fide offer is made, or refuse to negotiate to sell or rent, or otherwise make unavailable or deny a dwelling to any person on a prohibited basis. 	Continuing	<p>All manuals related to residential lending and the marketing, appraising, renting, and sale of REO</p>



Fair Housing Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ol style="list-style-type: none"> 2. Discriminate on a prohibited basis with respect to terms, conditions, or privileges of sale or rental of a dwelling. 3. Make any oral or written statement or advertisement with respect to a sale or rental of a dwelling that indicates a preference, limitation, or discrimination based on a prohibited basis. 4. Falsely represent that a dwelling is not available for inspection, sale, or rental to any person on a prohibited basis. 5. Induce anyone to sell or rent a dwelling based on representations concerning the entry or prospects of entry into a neighborhood of persons based on a discriminatory basis. 		
<p>HUD Regulations</p> <p>Ensure the institution's compliance with all HUD regulations implementing the FHA and OTS Non-discrimination Regulations relating to residential real estate lending.</p> <p>The regulations forbid certain practices related to residential lending when conducted on a <u>prohibited basis</u> including, but not limited to, the following:</p> <ul style="list-style-type: none"> • Failing or refusing to provide to any person with information on the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others. 	Continuing	<p>Appropriate manuals and agreements related to residential lending and the purchase and sale of residential loans</p> <p>Underwriting Guidelines</p>



Fair Housing Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> • Purchasing loans or other debts or securities related to or secured by dwellings in certain communities or neighborhoods but not others. • Applying different standards in pooling or packaging loans or securities, which relate to or are secured by dwellings. • Using different policies, practices, or procedures in evaluating or determining creditworthiness of any person in connection with providing any loan for and/or secured by a dwelling. • Applying different standards in determining the type of loan to be provided or fixing the amount, interest rate, duration, application procedures, collection or enforcement procedures or other terms or conditions of a residential real estate loan. 		
<p>Equal Housing Lending Poster</p> <p>Display Equal Housing Lender poster in the lobby of each office in a manner that is readily apparent to persons seeking loans. (For details on the content and format of the poster, see Section 528.5)</p>	Continuing	Equal Housing Lending Poster



Fair Housing Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Nondiscriminatory Advertising</p> <p>Ensure the institution does not directly or indirectly engage in any form of advertising or marketing practices that implies or suggests a policy of discrimination or exclusion in violation of the FHA or OTS Nondiscrimination Regulations.</p> <p>Also, ensure that advertisements, other than for savings, include the appropriate logotype and legend as indicated in Section 528.4.</p>	Continuing	Advertising/Marketing Materials
<p>Nondiscrimination in Employment</p> <p>Ensure that the institution's policies, procedures, and practices prohibit any form of employment discrimination based on race, color, religion, sex, or national origin, as described in Section 528.7. Note other practices, laws, and regulations that may give rise to employment discrimination are referenced in Section 528.7.</p>	Continuing	Employment Policies Training Policies and Procedures Curriculum
<p>Self-Testing</p> <p>Voluntary self-testing may be conducted by an institution to determine its level of compliance with the FHA.</p> <p>Institutions have a legal privilege in information developed as a result of self-tests that they voluntarily conduct to determine their compliance with the FHA. The privilege applies only if the definition of "self test" is met and the creditor takes appropriate corrective action as described in the implementing regulations.</p> <p>Note that data or factual information that is available or can be derived from credit or application files is not privileged. Moreover, data collection required by law or any government authority is not a voluntary self-test.</p>	Continuing	Self-Test Report and Results



Fair Housing Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>The privilege may be lost under certain circumstances described in the regulation.</p>		
<p>Training</p> <p>Provide training to all employees involved in any aspect of residential real estate, including the financing, selling, renting, advertising, brokering, and appraising of housing. All employees should be provided with training on the basic principles and core requirements of the FHA, along with the other relevant fair lending laws and regulations.</p>	<p>Continuing</p>	<p>Policies and Procedures</p> <p>Training Records</p> <p>Curriculum</p>
<p>Monitoring</p> <p>Conduct workflow monitoring to measure the institution's compliance performance with the requirements of the FHA, as well as other relevant fair lending laws and regulations.</p> <p>Monitoring must include a process for handling, tracking and resolving consumer complaints.</p>	<p>Continuing</p>	<p>Written reports to track results and provide feedback to employees.</p> <p>Compliant and response documentation</p> <p>Compliant Activity database.</p>
<p>Self-Evaluation</p> <p>Establish an internal or external review program emphasizing periodic (at least annually) self-assessment reviews to evaluate overall compliance with the FHA and ensure the institution's practices conform to its policies and procedures.</p>	<p>Per Risk Schedule</p>	<p>Compliance management program</p> <p>Written reports (include deficiencies and corrective action)</p> <p>Audit Reports</p>
<p>Updating</p> <p>Update Policies, procedures, application forms, advertisements, as necessary to reflect changes in regulations, internal systems, or operations. Ensure effective communication and distribution of updated materials to all levels of personnel.</p>	<p>Continuing</p>	<p>All Affected documentation</p> <p>Institution Web site</p>



OVERVIEW OF LAWS AND REGULATIONS

Electronic Fund Transfer Act

Electronic Fund Transfer Act (Regulation E)

Executive Summary:

The Electronic Fund Transfer Act (EFTA), as implemented by Regulation E (12 CFR 205), provides a basic framework establishing the rights, liabilities and responsibilities of participants involved in electronic fund transfers to and from consumer asset accounts. The term “electronic fund transfer” (EFT) generally refers to a transaction initiated through an electronic terminal, telephone, computer, or magnetic tape that instructs a financial institution to either credit or debit a consumer’s asset account. Examples of asset accounts include a consumer checking, savings, share, or money market account held by an institution and established by the consumer primarily for family, personal, or household purposes. The types of transfers covered by the Act and Regulation include those initiated through an automated teller machine (ATM), point-of-sale terminal, automated clearing-house, telephone bill-payment plan, or home banking program.

The EFTA and Regulation E prescribe a variety of rules governing EFTs including restrictions on the unsolicited issuance of ATM cards and other access devices; disclosure of terms and conditions of an EFT service; documentation of EFTs by means of terminal receipts and periodic account statements; limitations on consumer liability for unauthorized transfers; procedures for error resolution; and certain rights related to preauthorized EFTs. A recent interim rule amending Regulation E permits the electronic delivery of those disclosures and other information required to be provided in writing by the institution, as long as the consumer agrees to such delivery by electronic means. Regulation E does not affect certain types of transfers, including: (i) any transfer of funds originated by check, draft or similar paper instrument; (ii) wire transfers through Fedwire or similar wire transfer system; or (iii) any transfer of funds initiated by telephone communication between a customer and a financial institution making the transfer.

Business Areas Impacted:

- New Accounts
- Teller Operations
- Deposit Operations/Processing
- Marketing of Accounts
- Customer Service



Electronic Fund Transfer Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Exclusions from Coverage</p> <p>The term EFT does not include:</p> <ul style="list-style-type: none"> • Checks; • Check guarantee or authorization services; • Wire transfers; • Transfers primarily to purchase or sell regulated securities or commodities; • Automatic transfers by account-holding institutions; • Non-recurring transfers initiated by a telephone direction from the consumer to an employee of the institution; or • Preauthorized transfers involving institutions with total assets of \$100 million or less. 	Continuing	Written Procedures
<p>Policy/Procedures</p> <p>Adopt a policy for implementing EFTA and Regulation E. Ensure that comprehensive procedures are in place covering the institution's responsibilities in connection with all electronic fund transfers.</p>	Continuing	Policy Statement Written Procedures
<p>Issuance of Access Devices</p> <p>Issue an access device only upon an oral or written request or application, or as a substitute for or renewal of an existing accepted access device.</p> <p>An unsolicited access devices may be distributed if it is: (1) not validated, (2) accompanied by a clear explanation that the device is not validated and how the consumer may dispose of it if validation is not desired, (3) accompanied by appropriate initial disclosures of the consumer's rights and liabilities if validated; and (4) validated only upon the consumer's oral or written request after verifying the consumer's identity.</p>	Continuing	Request or application (oral or written) Explanation concerning validation of access device Initial Disclosures



Electronic Fund Transfer Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Liability for Unauthorized Transfers</p> <p>Adhere to limitations on consumer liability for unauthorized EFTs.</p> <ul style="list-style-type: none"> • Generally, consumers providing notice within two business days after learning of the loss or theft of an access device are liable for the lesser of \$50 or the amount of unauthorized transfers occurring before the notice. If the consumer fails to provide notice within the two business days, liability cannot exceed \$500. • Unauthorized EFTs appearing on periodic statements must be reported within 60 days of transmittal of the statement to avoid liability for subsequent transfers. Liability for failing to provide such notice is unlimited after the 60 day period. The institution must establish that the unauthorized transfer would not have occurred had the consumer notified the institution within the 60 day period. 	<p>Continuing</p> <p>Consumer must provide notice within 2 business days of learning of the loss or theft of access device</p> <p>Consumers must report unauthorized EFTs appearing on a periodic statement within 60 days of its transmittal. (Extension of time may be granted if delay is due to extenuating circumstances)</p>	<p>Consumer notification (may be in person, by telephone or in writing)</p>
<p>Form of Disclosures</p> <p>Disclosures required under Regulation E must be clear and readily understandable in writing and in a form that the consumer may keep.</p> <p>The FRB published an interim rule effective March 25, 1998 amending Regulation E to permit institutions to deliver disclosures electronically as long as the consumer agrees to such delivery and subject to certain conditions. The electronic delivery must be accomplished in a manner allowing visual text to be displayed on equipment such as a modem-equipped computer. Timing, format, and other requirements of the EFTA and Regulation E continue to apply.</p>	<p>Continuing</p>	<p>All disclosure forms</p>



Electronic Fund Transfer Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Content of Initial Disclosures</p> <p>The following items must be included in the initial disclosures:</p> <ol style="list-style-type: none"> 1. Statement of consumer s liability; 2. Telephone number and address of person to notify about unauthorized EFTs; 3. Business days; 4. Types of EFTs, including limitations on frequency and dollar amount of transfers; 5. Fees; 6. Documentation - summary of consumer s right to receipts, periodic statements, and notices regarding preauthorized transfers; 7. Stop payment procedures; 8. Liability of institution for failure to make or stop certain transfers; 9. Confidentiality - when information on an account may be provided to third parties; and 10. Error resolution notice. 	<p>Initial disclosures must be made at the time a consumer contracts for an EFT service or before the first EFT is made involving the consumer s account</p>	<p>Initial Disclosure Form (See Appendix A to Regulation E)</p>
<p>Change in Terms</p> <p>Provide a written notice to consumer if a change in EFT terms or conditions would result in (1) increased fees or charges, (2) increased liability for the consumer, (3) fewer types of EFTs, or (4) stricter limitations on the frequency or dollar amount of transfers.</p> <p>Note: Prior notice need not be given if an immediate change is necessary for security reasons. If the change becomes permanent and disclosure would not jeopardize security, provide notice on or with the next periodic statement or as a separate</p>	<p>Mail or deliver at least 21 days before the effective date of the change.</p> <p>Provide notice in next periodic statement, or separately within 30 days after the change becomes permanent (unless disclosure jeopardizes security).</p>	<p>Written notification</p>



Electronic Fund Transfer Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
form.	jeopardizes security).	
<p>Error Resolution Notice</p> <p>Inform account holder of error resolution procedures.</p>	<p>Annually or with each periodic statement.</p>	<p>Notice conforming to 205.7(a)(10) or 205.8(b) (See Appendix A to Regulation E)</p>
<p>Receipts at Electronic Terminals</p> <p>Provide receipts for EFTs conducted at an electronic terminal that include: (1) amount of transfer, (2) date, (3) type of transfer and account accessed, (4) number or code identifying the account, (5) terminal location, and (6) identity of any third party. Note: The amount of the transfer may include a transaction fee if disclosed on the receipt and displayed on or at the terminal.</p>	<p>At the time an EFT is initiated at an electronic terminal.</p>	<p>Receipt</p>
<p>Periodic Statements</p> <p>Document EFTs in periodic statement that includes:</p> <ol style="list-style-type: none"> 1. Transaction information (amount, date, and type of transfer; terminal location, if applicable; and name of any third party to or from whom funds were transferred); 2. Account number; 3. Fees; 4. Account balances; 5. Address and telephone number for inquiries; and 6. Telephone number for preauthorized transfers. 	<p>Provide for each monthly cycle in which an EFT has occurred.</p> <p>Provide at least quarterly if no EFT has occurred or if access is limited to receipt of preauthorized transfers.</p>	<p>Periodic statement</p>
<p>Preauthorized Transfers to Account</p> <p>For preauthorized EFTs to a consumer's account occurring at least once every 60 days, notify con-</p>	<p>Notify within 2 business days of transfer or scheduled date.</p>	<p>Written or oral notice</p>



Electronic Fund Transfer Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
sumer or provide telephone number for consumer verification of transfer, unless positive notice by payor has been provided.	Credit amount of transfer as of date funds received.	
<p>Preauthorized Transfers from Account</p> <p>Preauthorized transfers from a consumer account can only occur with prior written authorization of consumer.</p> <p>Allow consumers to stop payment of a preauthorized transfer from their account upon oral or written notification to institution (written confirmation may be required when stop payment is orally initiated).</p>	<p>Continuing</p> <p>Notification must be at least 3 business days before transfer date. Institution may require written confirmation of stop-payment order within 14 days of oral notification.</p>	<p>Written authorization</p> <p>Written or oral notice (written confirmation within 14 days after oral notice, if consumer is advised at time)</p>
<p>Error Resolution Procedures</p> <ol style="list-style-type: none"> 1. Provide an error resolution procedure that permits oral or written notice by consumer within 60 days of periodic statement. Note the types of transfers or inquiries covered and those not covered. (Section 205.11(a)) 2. Investigate claimed error and report conclusion within 10 business days or provide provisional credit to account and investigate within 45 days. (Note: Section 205.11(c)(3) provides that these time periods may be extended to 20 business days and 90 days respectively in limited circumstances) 3. Correct errors and inform consumer of correction or follow prescribed procedures if a determination is made that no error occurred or a different error occurred following the investigation. See Section 205.11(c) and (d)) 	<p>Continuing</p> <p>Institution may require written confirmation of error within 10 days of oral notice.</p> <p>10 or 45 day investigation period (extended time periods allowed in limited circumstances)</p> <p>Provisionally credit account within 10 business days and inform consumer within 2 business days of amount and date of provisional credit.</p> <p>Correct errors within one business day after discovery.</p>	<p>Periodic Statement</p> <p>Institution may require written confirmation of oral notice of error.</p> <p>The institution will review its own records in order to determine if error exists.</p> <p>Inform consumer within 2 business days of amount and date of provisional credit.</p> <p>Notice of findings provided to customer</p> <p>Written explanation of findings where no error found</p>



Electronic Fund Transfer Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
	Report results to consumer within 3 business days of completing the investigation	Notify consumer when debiting a provisionally credited amount if a determination is made that no error occurred.
<p>Training/Updating</p> <p>Provide training to all affected employees and update policies, procedures, and operational manuals as necessary to reflect regulatory changes.</p>	Continuing	<p>Training materials</p> <p>Updated policies, procedures and operational manuals</p>
<p>Monitoring/Audit</p> <p>Monitor compliance with the EFTA and Regulation E, including adherence to consumer liability limitations, disclosure requirements, preauthorized transfer rules, and error resolution procedures.</p> <p>An internal or external audit should be conducted at least annually to assess overall compliance with the Act and Regulation E.</p>	Continuing	<p>Internal Review Procedures/Reports</p> <p>Audit Procedures/Reports</p>
<p>Record Retention</p> <p>Maintain evidence of compliance for not less than two years from the date disclosures are required to be made or action taken.</p>	Retain records for not less than 2 years (or until final disposition of any investigation, action or proceeding)	<p>All affected documentation</p> <p>Record Retention Guidelines</p>



OVERVIEW OF LAWS AND REGULATIONS

Expedited Funds Availability Act

Expedited Funds Availability Act (Regulation CC)

Executive Summary:

Regulation CC requires depository institutions to make funds deposited into transaction accounts available for withdrawal by depositors according to specified schedules based on the type and source of the deposit. It applies to transaction accounts, such as demand deposit or NOW accounts and includes both consumer and corporate accounts; it does not extend to savings deposits, including time deposits and money market deposit accounts. The regulation also requires that an institution provide certain disclosures and notices to potential and existing customers concerning its funds availability policies. The institution is permitted to delay the availability of funds in certain circumstances in order to reduce risk based on the size of the deposit, past performance of the depositor, lack of depositor performance history, or belief that the deposit may not be collectible. Delays may also be imposed on a case-by-case basis as described in the regulation. Funds deposited into interest bearing accounts must begin to accrue interest not later than the business day that the institution receives credit for the funds. Finally, the regulation establishes rules to speed the collection and return of checks.

Business Areas Impacted:

- New Accounts
- Teller Operations
- Deposit Operations/Processing
- Customer Service



Expedited Funds Availability Act

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt policy for implementing Regulation CC including a summary of the institution's funds availability schedule, a description of circumstances that may result in delays in the availability of funds from certain types of deposits or checks, the time that funds are considered deposited, and the time that the business day starts. Establish procedures that ensure the institution's compliance with all regulatory requirements.</p>	<p>Continuing</p>	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Funds Availability Policy</p> <p>Prepare the institution's Specific Availability Policy Disclosure and distribute (1) to potential customers prior to opening a new transaction account or (2) to any person upon request.</p> <p>Describe the institution's policy as to when funds deposited in an account are available for withdrawal, including situations in which longer delays may be imposed on a case-by-case basis or by invoking one of the exceptions in Section 229.13.</p> <p>Disclosures must be clear and conspicuous, in a form that customers may keep and should follow the guidelines set forth in Section 229.16 as to specific content.</p> <p>Ensure that funds are actually available to depositors in accordance with the regulation and the institution's policy and procedures.</p>	<p>Continuing</p> <p>Provide disclosures prior to opening a new account or on request.</p>	<p>Specific Availability Policy</p> <p>Disclosure Form</p>



Expedited Funds Availability Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Notice of Changes in Availability Policy</p> <p>Provide notices to existing holders of consumer accounts either prior to, or in some cases, after implementing a change to the availability policy regarding such accounts, as appropriate.</p>	<p>At least 30 days before implementing the change, or within 30 days after implementing a change resulting in faster availability.</p>	<p>Notice of Change</p>
<p>Notice of Funds Availability</p> <p>Ensure proper notices are provided on deposit slips, at teller areas, and at ATM locations, as provided in Section 229.18(a), (b) and (c).</p>	<p>Continuing</p>	<p>Notice (To be posted or included as part of deposit slips, as appropriate).</p>
<p>Case-by-Case Holds</p> <p>Provide appropriate written notice when case-by-case holds are placed on deposited funds, including information regarding:</p> <ol style="list-style-type: none"> 1. Customer account number; 2. Date and amount of deposit; 3. Amount of deposit being delayed; and 4. Date funds will be available for withdrawal. <p>Adhere to rules concerning overdraft and returned-check fees as provided in Section 229.16(c)(3).</p>	<p>Provide notices at time of deposit or mail/deliver by next business day, as appropriate.</p> <p>Delays in funds availability may extend up to the time periods allowed under the regulation.</p>	<p>Notice of Case-by-Case Hold</p>
<p>Exception Holds</p> <p>Provide appropriate written notice when exception holds are placed on deposited funds. (Exception holds, described in Section 229.13, include: large deposits, repeated overdrafts, reasonable cause to doubt collectibility, and emergency conditions as described in the regulation.)</p> <p>The notice to the depositor should include the following information:</p>	<p>Provide notice at time of deposit or mail/deliver by next business day following the day the facts become known to the institution or the deposit is made (whichever is later).</p> <p>Delays in funds availability may extend a "reasonable time" be-</p>	<p>Notice of Exception Hold</p>



Expedited Funds Availability Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ol style="list-style-type: none"> 1. Customer account number; 2. Date and amount of deposit; 3. Amount of deposit being delayed; 4. Reason exception was invoked; and 5. Time period within which the funds will be available for withdrawal (unless certain emergency conditions apply). 	<p>beyond the availability schedule as described in the regulation (See Section 229.13(h)).</p>	
<p>New Account Holds</p> <p>Holds may be placed on certain types of funds deposited into new accounts, as described in Section 229.13(a).</p>	<p>Account is considered new during first 30 calendar days after account is established.</p>	<p>Referenced in the Specific Availability Policy Disclosure Form if it reflects institution policy. No separate notice form necessary.</p>
<p>Notices Involving One-Time Exception and Repeated Overdrafts</p> <p>One-time notices may be provided for exceptions based on large deposits or redeposited checks, under certain circumstances and special notices covering specific time periods may be provided for exceptions based on repeated overdrafts. (See Section 229.13(g)(2) and (3))</p>	<p>Provide notice at or prior to the time notice must be provided for exception holds generally, as described in Section 229.13(g).</p>	<p>Notice</p>
<p>Payment of Interest</p> <p>Interest on funds deposited into an interest-bearing account must begin to accrue not later than the business day on which the depository institution receives credit for the funds. (See Section 229.14)</p>	<p>At or prior to the business day that provisional credit is received.</p>	<p>Accounting/Operations Procedural Guidelines</p>
<p>Training</p> <p>Provide training to all employees who perform duties subject to the requirements of the regulation. Communicate policy and procedures to staff.</p>	<p>Continuing</p>	<p>Policies and Procedures Curriculum Training Materials</p>



Expedited Funds Availability Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Monitoring</p> <p>Establish and implement standards and controls to supervise accurate execution of procedures and systems.</p>	Continuing	Regular supervisory reports
<p>Self Evaluation</p> <p>Establish and execute an internal review program emphasizing periodic self-assessment reviews to ensure compliance with regulatory obligations and institution standards.</p>	Per Risk Schedule	Compliance Management Program
<p>Institution as Paying, Returning or Depository Bank</p> <p>Ensure the institution's adherence to its responsibilities as a paying, returning, or depository bank under Subpart C of the regulation.</p>	Continuing	Written Procedures
<p>Record Retention</p> <p>Retain evidence of compliance with the regulation, including documentation which supports "reasonable cause" holds.</p>	Retain for at least two years.	<p>Appropriate documentation which demonstrates compliance.</p> <p>Record Retention Guidelines</p>
<p>Updating</p> <p>Update policies, procedures, disclosures, and notices as necessary to reflect changes to the regulation, internal systems or c operations/processes. Ensure effective communication and distribution of updated material to all levels of personnel.</p>	Continuing	All affected documentation



Expedited Funds Availability Act

Table 1 illustrates maximum availability time for local and nonlocal checks permitted under Regulation CC (adapted from Appendix C of the Regulation).

Table 1

FIRST FOUR DIGITS FROM ROUTING NUMBER	WHEN FUNDS ARE AVAILABLE	WHEN FUNDS ARE AVAILABLE IF A DEPOSIT IS MADE ON A MONDAY
Local numbers	\$100 on the first business day after the day of your deposit. Remaining funds on the second business day after the day of your deposit.	Tuesday Wednesday
All other numbers	\$100 on the first business day after the day of your deposit. Remaining funds on the fifth business day after the day of your deposit.	Tuesday Monday of the following week

Notes to Table 1:

Specific rules apply to treasury checks, postal money orders, checks drawn on a Federal Reserve Bank or a Federal Home Loan Bank, state or local government check, or cashier's/certified/teller's checks as provided in Sections 229.10 and 229.12.

An institution may extend by one business day the time that funds deposited in an account (whether by local or nonlocal checks) are available for withdrawal by cash or similar means, so long as at least \$400 (in addition to the \$100) of such funds are available for withdrawal by cash or similar means not later than 5:00 p.m. on the business day that funds are available as provided in the table above. [Section 229.12(d)]

An institution may allow a one business day extension in the case of (i) deposits made in an account at a branch office located in Alaska, Hawaii, Puerto Rico, or the U.S. Virgin Islands and (ii) deposits made by a check drawn on or payable at or through a paying institution not located in the same state as the depository institution. [Section 229.12(e)]

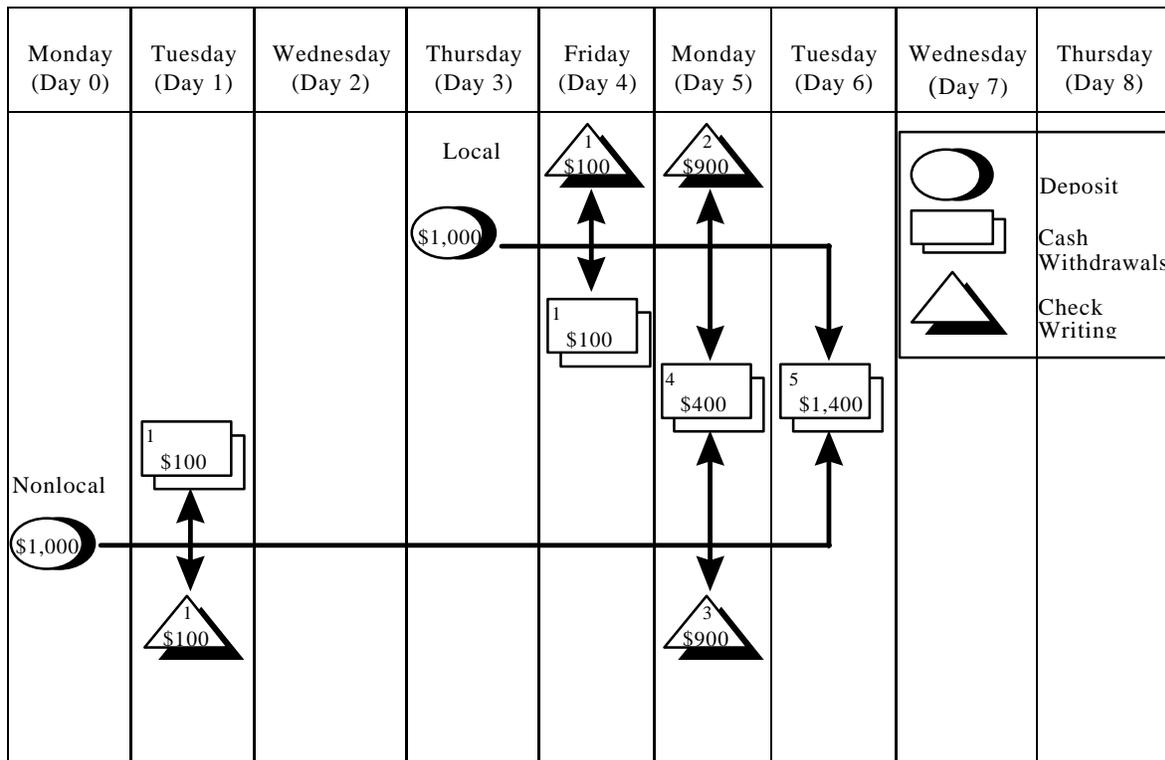
Funds deposited in an account at a nonproprietary ATM by cash or check must be available for withdrawal not later than the fifth business day following the banking day on which the funds are deposited. [Section 229.12(f)]



Expedited Funds Availability Act

Table 2 illustrating availability of different types of checks deposited on separate days, under the permanent schedules.

Table 2



- 1 The first \$100 of a day's deposit must be made available for either cash withdrawal or check writing purposes at the start of the next business day § 229.10(c)(1)(vii).
- 2 Local checks must be made available for check writing purposes by the second business day following deposit § 229.12(b).
- 3 Nonlocal checks must be made available for check writing purposes by the fifth business day following deposit § 229.12(c).
- 4 \$400 of the deposit must be made available for cash withdrawal no later than 5:00 p.m. on the day specified in the schedule. This is in addition to the \$100 that must be made available on the business day following deposit § 229.12(d).
- 5 The remainder of the deposit must be made available for cash withdrawal at the start of business the following day § 229.12(d).



Expedited Funds Availability Act

Table 3, illustrates the necessary conditions for next day availability for various types of deposits under Section 229.10.

Table 3

	CHECK MUST BE DEPOSITED IN AN ACCOUNT OF A PAYEE.	DEPOSIT MUST BE MADE IN PERSON TO A BANK EMPLOYEE. OTHERWISE, 2ND DAY AVAILABILITY.	INSTITUTION CAN REQUIRE USE OF A SPECIAL DEPOSIT SLIP.	IN-STATE ITEM OR CHECK DRAWN ON A BANK BRANCH IN THE SAME STATE OR CHECK PROCESSING REGION.
Cash		X		
Electronic payments				
Treasury checks	X			
Postal money orders	X	X		
FRB/FHLB checks	X	X		
State and local gov't checks	X	X	X	X
Cashier's/certified/teller's checks	X	X	X	
"On-us checks"				X
First \$100 of other check deposits				



OVERVIEW OF LAWS AND REGULATIONS

Truth in Savings Act

Truth in Savings Act (Regulation DD)

Executive Summary:

In general Regulation DD, covers deposit accounts held by consumers at depository institution. The regulation requires that depository institutions provide consumers with uniform disclosures about fees, interest rates, and annual percentage yields (APY) and other terms of deposit accounts. The disclosure enables a consumer to make meaningful comparisons of deposit products among depository institutions. Accounts covered by the regulation include time, demand savings and NOW accounts held by an individual for personal, family or household purposes. Full account disclosures must be provided either prior to the opening of an account or upon request. Depository institutions must also provide certain prescribed notices or disclosures including: (i) advance notices to consumers who may be adversely affected by changes in account terms or fees; (ii) maturity notices for certain types of time accounts; and (iii) periodic statement disclosures relating to consumer accounts if such statements are delivered by the institution. The regulation also imposes substantive requirements on the method of calculating interest in order to ensure that interest is paid on the full principal balance for each calculation period. Finally, the regulation contains detailed rules covering the advertising of deposit accounts by depository institutions.

Business Areas Impacted:

- New Accounts
- Deposit Operations/Processing
- Teller Operations
- Marketing
- Customer Service
- Trust operations
- Institution Web site



Truth in Savings Act

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt policy for implementing Regulation DD and establish procedures addressing relevant activities including: (i) account opening disclosures, (ii) interest calculations, (iii) subsequent disclosures, (iv) customer inquiries, (v) training, (vi) record retention, (vii) advertising and (viii) monitoring.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Content of Account Disclosures</p> <p>Ensure that account disclosures include appropriate information relating to: (1) interest rate and APY information, (2) compounding and crediting features, (3) balance information, (4) fees imposed, (5) transaction limitations, (6) time account features, and (7) bonus information. Also ensure that: (i) the disclosures reflect the terms of the account agreement with the consumer and (ii) the rate information and fees are current and accurate.</p>	Continuing	Account Disclosures
<p>Providing Account Disclosures</p> <p>Provide account disclosures to consumers prior to opening an account or upon the assessment of a fee for a provided service, whichever is earlier. Account disclosures must also be provided to consumers upon request.</p>	At account opening or upon request. (If consumer is not present, mail or deliver, no later than 10 business days after account opening or within a reasonable time after a request.)	Account Disclosures
<p>Oral Quotes on Rates</p> <p>Ensure that the APY is stated when providing oral quotes on rates.</p>	Continuing	<p>Employee Guidelines/ Instructions as appropriate</p> <p>Written procedures</p>
<p>Subsequent Disclosures</p> <p>Provide subsequent disclosures to consumers concerning changes in account terms or the annual percentage yield (APY) which adversely af-</p>	Mail or deliver at least 30 calendar days prior to the effective date of the change.	Written Notices/Disclosures



Truth in Savings Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>fect the consumer. Be sure to disclose the effective date of the change.</p>		
<p>Notices of Maturity for Time Accounts</p> <p>Provide notices of maturity for time accounts in the manner described in the regulation.</p> <ol style="list-style-type: none"> 1. Time accounts longer than one month that renew automatically. 2. Time accounts one month or less that renew automatically. 3. Time accounts longer than one year that do not renew automatically. <p>The content of the maturity notices referenced above is described in Section 230.5(b), (c), and (d).</p>	<ol style="list-style-type: none"> 1. At least 30 calendar days before maturity or at least 20 calendar days before the end of a grace period lasting at least 5 calendar days. 2. Within a reasonable time after the renewal. 3. Mailed or delivered at least 10 calendar days before maturity. 	<p>Written notices (the content of which varies according to the type of time account involved).</p>
<p>Periodic Statements</p> <p>Periodic statements, if delivered by an institution, must include certain specific disclosures including:</p> <ol style="list-style-type: none"> 1. Annual percentage-yield earned; 2. Amount of interest; 3. Fees imposed; and 4. Length of period. 	<p>Continuing</p>	<p>Periodic Statements</p>
<p>Payment of Interest</p> <p>Interest payments on accounts must be calculated on the full amount of principal in the account for each day using either the daily-balance method or the average-daily-balance method.</p> <p>Interest must begin to accrue on funds deposited in an interest-bearing account no later than the</p>	<p>Continuing</p>	<p>Accounting/Operations</p> <p>Procedural Guidelines</p>



Truth in Savings Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>business day on which the depository institution receives provisional credit for such funds. (See Section 606 of the Expedited Funds, Availability Act and Section 229.14 of Regulation CC). Interest must continue until funds are withdrawn.</p>		
<p>Advertisements</p> <p>Advertisements of deposit accounts: (i) may not be misleading or inaccurate; (ii) may not refer to accounts using certain terminology such as free or no cost (or contain similar terms); and (iii) must state any rate of return as an annual percentage yield using that term. If an annual percentage yield is stated in an advertisement, the following additional disclosures are required, as described in Section 230.8 (c):</p> <ol style="list-style-type: none"> 1. Variable rate information; 2. Time APY is offered; 3. Minimum balance; 4. Minimum opening deposit; 5. Effect of fees; and 6. Features of time accounts: <ol style="list-style-type: none"> a) Time requirements; b) Early withdrawal penalties; and c) Required interest payouts. <p>Note additional requirements where a bonus is stated in an advertisement (Section 230.8(d)), and be aware of exemptions for certain types of advertisements (Section 230.8(e)).</p>	<p>Continuing</p>	<p>Advertising Copy</p> <p>Advertising Documentation</p> <p>Institution Web Site</p>



Truth in Savings Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Record Retention</p> <p>Retain evidence of compliance with the regulation.</p>	<p>Retain for at least two years after date disclosures are required to be made or action required to be taken (May be longer if so requested by the institution's regulator).</p>	<p>All affected documentation</p> <p>Record Retention Guidelines</p>
<p>APY Calculations</p> <p>Ensure that APY for account disclosures and advertisements and APY earned for periodic statements conform to calculation formulas in Appendix A of Regulation DD.</p>	<p>Continuing</p>	<p>Account Disclosures</p> <p>Advertisements</p> <p>Periodic Statements</p> <p>Accounting/Operations Procedural Guidelines</p>
<p>Training</p> <p>Provide appropriate background for the board of directors and senior management. Communicate policy and procedures to staff. Provide training to employees whose duties are affected by the requirements of the regulation.</p>	<p>Continuing</p>	<p>Policies and Procedures</p> <p>Curriculum</p> <p>Training materials</p>
<p>Updating</p> <p>Update policies, procedures, disclosures, advertisements and notices as necessary to reflect changes in the regulation internal systems or operations/processes as necessary. Ensure effective communication and distribution of updated material to all levels of personnel.</p>	<p>Continuing</p>	<p>All affected documentation</p> <p>Institution Web site</p>



Truth in Savings Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Monitoring</p> <p>Establish and implement standards and controls to supervise accurate execution of procedures and systems.</p>	<p>Continuing</p>	<p>Regular supervisory reports</p>
<p>Self-Evaluation</p> <p>Establish and execute an internal review program emphasizing periodic self-assessment reviews of operational areas for compliance with regulatory obligations and regulatory standards.</p>	<p>Per Risk Schedule</p>	<p>Compliance Management Program</p> <p>Written reports (include deficiencies and corrective action)</p> <p>Audit reports</p>



Truth in Savings Act

Truth in Savings Act Worksheet

Name of Bank: _____ Location: _____		Legend: ✓ Reviewed and in Compliance ✗ Questionable, Investigation ○ In Violation N/A Not Applicable						
Examiner: _____ Examination Date: _____								
Types of Accounts		REGULATED ACCOUNTS						
		Regular Savings Accounts	NOW Accounts	MMDA Accounts	Regular Checking Accounts	IRA/Keough Accounts	Time Deposit Accounts	Other (Specif
SECTION 230.4 – ACCOUNT DISCLOSURES								
(a) Delivery of account disclosures during (1) account opening and (2) requests	(1) provide disclosures to a consumer before account is opened or a service is provided, whichever is earlier.							
	(2)(i) provide disclosures to a consumer upon request							
	(2)(ii) In providing disclosures upon request, it is permissible to:							
	(A) specify an interest rate and APY that were offered within the most recent seven calendar days; state that the rate and yield are accurate as of an identified date; and provide a telephone number consumers may call to obtain current rate information.							
	(B) state the maturity of a time account as a term rather than a date.							
(b) Content of Account disclosures	(1)(I) Rate information. Annual percentage yield & interest rate.							
	(1)(II) For variable rate accounts:							
	(1)(II)(A) the fact the interest rate & APY may change;							
	(1)(II)(B) how the interest rate is determined;							
	(1)(II)(C) the frequency the interest rate may change; and							
	(1)(II)(D) any limitation on the amount the interest rate may change.							
	(2)(I) The frequency interest is compounded and credited.							
	(2)(II) The effect of closing an account. A statement of forfeiture of accrued interest if account is closed.							
	(3)(I) Any minimum balance required to -							
	(3)(I)(A) open the account							
	(3)(I)(B) avoid the imposition of a fee; or							
	(3)(I)(C) obtain the annual percentage yield disclosed.							
	(3)(II) Balance-computation method. An explanation of the balance-computation method specified in section 230.7.							
	(3)(III) When interest begins to accrue. A statement of when interest begins to accrue on noncash deposits.							
	(4) the amount of any fee that may be imposed in connection with the account.							
	(5) Transaction limitations							
	(6) Features of time accounts. For time accounts:							
	(6)(I) Time Requirements. Maturity date for time accounts.							
	(6)(II) A statement of early withdrawal penalties.							
	(6)(III) Withdrawal of interest prior to maturity.							



Truth in Savings Act

Types of Accounts		REGULATED ACCOUNTS						
		Regular Savings Accounts	NOW Accounts	MMDA Accounts	Regular Checking Accounts	IRA/Keough Accounts	Time Deposit Accounts	Other (Specify)
	(6)(IV) Renewal Policies.							
	(7) Bonuses							
(c) Notice to existing account holders	(1) Notice of availability of disclosures							
	(2) Alternative to notice							
SECTION 230.5 – SUBSEQUENT DISCLOSURES								
(a) Change in terms	(1) Advance notice required							
	(2) No notice required							
(b) Notice before maturity for time accounts longer than one month that renew automatically	(1) Maturities of longer than one year							
	(2) Maturities of one year or less but longer than one month							
(c) Notice for time accounts one month or less that renew automatically								
(d) Notice before maturity for time accounts longer than one year that do not renew automatically								
SECTION 230.6 – PERIODIC STATEMENTS								
(a) General Rule - shall include the following	(1) Annual percentage yield earned							
	(2) Amount of interest							
	(3) Fees imposed							
	(4) Length of period							
(b) Special Rule for average-daily balance method								
SECTION 230.8 – ADVERTISING								
(a) Misleading or inaccurate advertisements - Advertisements must not be misleading or inaccurate and must not misrepresent an institution's deposit contract.								
(b) Permissible rates - If an advertisement states a rate of return, it shall state the rate as an annual percentage yield using that term.								
(c) When additional disclosures are required - If APY is stated, the advertisement shall state the following as applicable.	(1) Variable rate - statement that the rate may change after account is opened.							
	(2) Time period annual percentage yield is offered.							
	(3) Minimum balance required to obtain advertised APY.							
	(4) Minimum opening deposit required to obtain the APY.							
	(5) Effect of fees - statement that fees could reduce earnings.							
	(6) Features of time accounts							
(d) Bonuses - if a bonus is stated in an advertisement, it shall state the following as applicable:	(1) The annual percentage yield using that term							
	(2) The time requirement to obtain the bonus							
	(3) The minimum balance required to obtain the bonus							
	(4) The minimum balance required to open the account							
	(5) When the bonus will be provided							
(e) Exemption for certain advertisements - If an advertisement is made through the following media, they are exempt from certain disclosures of this section	(1) Certain Media:							
	(i) Broadcast or electronic media, such as radio or television							
	(ii) Outdoor media, such as billboards (iii) Telephone response machines; or							
	(2) Indoor signs (provided the sign (A) states any rate of return as an APY and (B) contains a statement advising consumers to contact an employee for further information)							



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OVERVIEW OF LAWS AND REGULATIONS

Bank Secrecy Act

Bank Secrecy Act

Executive Summary:

Congress enacted the Bank Secrecy Act (BSA) to prevent financial institutions from being used as intermediaries for the transfer or deposit of money derived from criminal activity. The primary objective of the BSA is to provide a paper trail of money laundering activities connected with drug traffickers and other elements of white collar and organized crime. Congress delegated authority for issuing regulations to the Secretary of the Treasury. The financial regulatory agencies, in turn, were given responsibility for determining compliance with the Act and applicable regulations by institutions under their jurisdiction.

The BSA and its implementing regulations require that financial institutions file certain currency and monetary instrument reports and maintain certain records for possible use in criminal, tax, and regulatory investigations or proceedings. Financial institutions are required to submit reports and/or retain records of various types of transactions including, for example: (1) large currency transactions by its customers; (2) certain cash purchases of monetary instruments by its customers; (3) known or suspected crimes and suspicious activities; and (4) certain wire (funds) transfers.

Institutions must establish and maintain a written compliance program for fulfilling the requirements of the BSA that includes at least: (1) a system of internal controls; (2) designation of an individual to coordinate/monitor BSA compliance; (3) independent testing; and (4) training of appropriate personnel. In addition, an effective BSA compliance program should include written policies and procedures designed to detect and prevent money laundering activities. Failure to comply with the requirements of BSA and its implementing regulations can result in both civil and criminal penalties.

Business Areas Impacted:

- New Accounts
- Teller Operations
- Deposit Operations
- Credit Operations
- Treasury Operations
- Data Processing
- Safe Deposit Box Area
- Trust Department
- Private Banking
- International Department
- Correspondent Banking Department
- Discount Brokerage Department



Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Written Compliance Program</p> <p>Establish and maintain a written program designed to assure and monitor compliance with the BSA and its implementing regulations, that must include at a minimum:</p> <ol style="list-style-type: none"> 1. A system of internal controls; 2. Daily coordination and monitoring of compliance by a designated person; 3. Independent testing of compliance; and 4. Training for appropriate personnel. <p>The program should also include procedural guidelines to ensure that the institution will:</p> <ol style="list-style-type: none"> 1. Meet the reporting and recordkeeping requirements of the BSA regulations. 2. Detect, prevent, and report suspicious transactions related to money laundering. <p>Ensure that the institution's compliance program as well as all applicable policies, procedures, and practices reflect the current reporting and recordkeeping requirements of the Act and its implementing regulations.</p>	<p>Continuing</p>	<p>Compliance Program (approved by the board of directors and noted in the minutes)</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Currency Transaction Report (CTR)</p> <p>File, with the IRS, a completed CTR (Form 4789) involving any transaction in currency over \$10,000, including each deposit, withdrawal, currency exchange, or other payment or transfer.</p> <p>Multiple transactions totaling more than \$10,000 during any one business day are treated as a single transaction if the institution has knowledge that they are by or on behalf of any person. Beware of persons attempting to structure currency transactions in such a manner to evade CTR filing requirements.</p> <p><i>Note:</i> Before concluding any transaction requiring a CTR, the institution must verify and record the name/address of the individual presenting the transaction, and record the identity, account number, and social security number (if any) of any person or entity on whose behalf the transaction is undertaken.</p>	<p>CTR must be filed with the Internal Revenue Service (IRS) within 15 days after the date of the transaction.</p> <p>Retain records for at least 5 years</p>	<p>Currency Transaction Report (IRS Form 4789)</p>
<p>Exempt Transactions</p> <p>Currency transactions involving transactions with exempt persons need not be reported. Exempt persons include:</p> <ol style="list-style-type: none"> 1. Banks in the United States; 2. Federal, state, or local governments; or 3. Corporations whose common stock is traded on the New York Stock Exchange, most corporations whose common stock is traded on the American Stock Exchange and the NASDAQ Stock Market, and certain subsidiaries of those corporations (listed businesses) (See Section 103.22(d)(2)) 4. Other commercial entities that have had an account at the institution for at least 12 months, are organized under U.S. or state law or are registered and eligible to do business in the U.S., and either: (1) frequently engage in 	<p>Continuing</p> <p>Note that:</p> <p>Exemption forms must be filed within 30 days after the first reportable transaction.</p> <p>Persons exempt before 10/21/98 remain exempt if the prior exemption is applied consistently according to the prior applicable rules, until the earlier of a proper exemption under Section 103.22(d) as revised 9/21/98 or 6/30/00.</p>	<p>Customer Exemptions (Currently noted on IRS Form 4789)</p> <p>Biennial Renewal Forms</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>transactions at the institution exceeding \$10,000 (non-listed businesses) or (2) operate a payroll business that regularly withdraws more than \$10,000 to pay employees in the U.S. in currency (payroll customers).</p> <p>Non-listed businesses exclude:</p> <ol style="list-style-type: none"> 1. Financial institutions and their agents. 2. Dealers in automobiles, boats, vessels, aircraft, farm equipments, or mobile homes, and those who charter or operate ships, buses, or aircraft. 3. Lawyers, accountants, doctors, investment advisers, investment bankers, real estate or pawn brokers, title insurers, real estate closing businesses, auction businesses, and trade union businesses. 4. Gaming of any type except licensed parimutuel betting at race tracks. 	<p>The institution must review and verify each exemption at least annually.</p> <p>Biennial filings are required to continue exemptions for non-listed businesses and payroll customers.</p> <p>Exemption forms must be retained for 5 years.</p>	
<p>Currency and Monetary Instrument Report (CMIR)</p> <p>File, with the appropriate U.S. Customs officer or the Commissioner of Customs, a completed CMIR for each shipment of currency or other monetary instrument(s) in excess of \$10,000 out of or into the U.S., except via the postal service or common carrier.</p>	<p>For transport into or out of the U.S.- file CMIR at time of entry into or departure from U.S.</p> <p>For receipt from outside the U.S.-file CMIR within 15 days of receipt of instruments (unless a report has already been filed).</p>	<p>Currency and Monetary Instrument Report (U.S. Customs Form 4790)</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Monetary Instruments Recordkeeping Involving \$3,000 to \$10,000 in Currency</p> <p>Maintain records of monetary instrument issuance or sale for currency in amounts between \$3,000 and \$10,000, with supporting information prescribed by Section 103.29(a).</p> <p>Contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more must be treated as one purchase. Also multiple purchases totaling \$3,000 or more must be treated as a single purchase where the officer or employee has knowledge that these multiple purchases occurred.</p> <p>Verify that purchaser is a deposit account holder or verify purchaser's identity in the manner described at Sections 103.29(a)(1) and 103.29(a)(2).</p>	<p>Records should be updated as monetary instruments are issued or sold.</p> <p>Maintain records for five years</p>	<p>Record of Monetary Instruments</p>
<p>Reports of Foreign Financial Accounts</p> <p>Each person subject to U.S. jurisdiction with a financial interest in, or signature authority over, a bank, securities, or other financial account in a foreign country must annually file a Report of Foreign Bank Financial Accounts with the IRS, as prescribed by Section 103.24.</p> <p>Note: See also recordkeeping requirements of Section 103.32</p>	<p>Annual filing</p>	<p>Report of Foreign Bank Financial Accounts (Treasury Form 90-22)</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>General Record Retention Requirements</p> <p>Ensure that the extensive record retention requirements (particularly Sections 103.33 and 34 pertaining to financial institutions) are understood and observed by appropriate personnel. An institution is required to retain either the original, microfilm, copy or other reproduction of the relevant documents.</p>	<p>Records required to be retained at least 5 years in most cases.</p>	<p>Compliance Program</p> <p>All affected documentation</p> <p>Record Retention Guidelines</p>
<p>Internal Controls</p> <p>Institute internal audit procedures or a management review process designed to:</p> <ol style="list-style-type: none"> 1. Confirm the integrity and accuracy of report of large currency transactions. 2. Include a review of tellers activities that relate to BSA and Forms 4789 and 4790. 3. Confirm the integrity and accuracy of recordkeeping activities and adherence to the in-house record retention schedule. 4. Ascertain whether a list of exempt customers is being properly maintained. 5. Test the reasonableness of the exemptions granted. 6. Confirm that records of cash purchases of monetary instruments (in amounts from \$3,000 to \$10,000) are maintained and that appropriate identification measures are in place. 7. Review effectiveness of training program. 	<p>Conduct audits as frequently as is appropriate given volume/complexity of transactions, but at least annually.</p>	<p>Compliance Program</p> <p>Audit Procedures/Reports</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Anti-Money Laundering Program</p> <p>Develop procedures designed to detect and/or prevent money laundering activities that will:</p> <ol style="list-style-type: none"> 1. Define money laundering in its different forms (placement, layering, integration). 2. Address compliance with applicable anti-money laundering laws and regulations. 3. Identify high risk business activities, businesses, and foreign countries associated with money laundering. <p>Ensure that the anti-money laundering procedures are extended to the following:</p> <ul style="list-style-type: none"> • retail operations • trust department • loan departments • private banking operations • sale of monetary instruments • wire transfer room • safe deposit box activity • international department • correspondent banking area • discount brokerage department <p>Establish internal controls to minimize the risk of money laundering, that include:</p> <ol style="list-style-type: none"> 1. Money laundering detection procedures. 2. Monitoring non-bank financial institution depositors with high volume cash activity. 3. Periodic account activity monitoring. 4. Internal investigations, monitoring, and reporting of suspicious transactions. 	<p>Continuing</p>	<p>Compliance Program</p> <p>Monitoring/Audit Procedures</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Records of Wire (Funds) Transfer</p> <p>Collect and retain the information specified in Section 103.33(e) and (g) for all wire (funds) transfers in the amount of \$3,000 or more. The information to be collected and retained depends upon: (1) the type of financial institution, (2) its role in the wire transfer (originator, intermediary, or beneficiary), (3) the amount of the wire transfer, and (4) the relationship of the parties to the transaction with the financial institution.</p> <p>Exceptions to recordkeeping requirements:</p> <ol style="list-style-type: none"> 1. A domestic bank; 2. A wholly-owned domestic subsidiary of a domestic bank; 3. A broker or dealer in securities; 4. The U.S. government; 5. A state or local government; and 6. A federal, state or local government agency or instrumentality. <p>If the originator and beneficiary are the same and the institutions involved in the funds transfer are the same, the transfer is exempt.</p> <p>Audit procedures should verify that:</p> <ol style="list-style-type: none"> 1. A separation of duties ensures proper authorization for sending and receiving transfers and for correct account posting. 2. CTRs are properly filed for noncustomers submitting cash for funds transfers. 3. Fund transfers to/from foreign institutions involve amounts, frequency and countries consistent with the customer's business. 4. Accounts with frequent cash deposits and subsequent wire transfers of funds to larger institutions are closely monitored. 	<p>Continuing</p>	<p>An original or a microfilm, other copy, or electronic record of required information must be retained and must be retrievable in the manner set forth in Section 103.33(e)(4)</p> <p>Compliance Program</p> <p>Monitoring/Audit Procedures</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Payable Through Accounts (PTA)</p> <p>Develop and maintain procedures to prevent the improper or illegal use of payable through accounts by foreign banks. These procedures should include the following:</p> <ol style="list-style-type: none"> 1. Identification of the ultimate users of the foreign bank customers PTAs; 2. Review of the foreign bank s procedures for identifying and monitoring all of the sub-account holders; and 3. Monitoring of account activities occurring in PTAs with foreign banks, reporting any suspicious or unusual activity. 	<p>Continuing</p>	<p>Compliance Program</p> <p>Records of PTAs</p> <p>Monitoring/Audit Procedures</p>
<p>Suspicious Activity Report (SAR)</p> <p>File a completed SAR for any transaction involving \$5,000 or more when the institution knows, suspects, or has reason to suspect that a transaction:</p> <ol style="list-style-type: none"> 1. Involves money laundering; 2. Is designed to evade regulations promulgated under the BSA; or 3. Has no business or apparent lawful purpose or is not of the type that the particular customer would normally be expected to undertake. <p>Note: If the suspicious transaction involves currency of more than \$10,000, both a SAR and a CTR must be filed. For suspicious transactions involving currency under \$10,000, only a SAR need be filed.</p> <p>SAR must be sent to the Financial Crimes Enforcement Network (FinCEN) at the Treasury Department.</p>	<p>File no later than 30 days after the date of initial detection of facts constituting a basis the SAR filing.</p> <p>If no suspect was initially identified on the date of detection, filing may be delayed for an additional 30 calendar days to identify a suspect.</p> <p>Maintain copy of SAR filed along with supporting documentation for a period of 5 years</p>	<p>Suspicious Activity Report (OTS SAR Form 1601)</p>



Bank Secrecy Act

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Training and Education</p> <p>Establish a program for training appropriate employees regarding BSA and money laundering that includes the following:</p> <ol style="list-style-type: none">1. Reporting of large currency transactions.2. Exemptions from reporting.3. Sale of monetary instruments.4. Reporting suspicious activity or alleged criminal conduct.5. Examples of money laundering and how to detect, resolve and report such activity.6. Overview of various forms that money laundering can take.7. Wire (fund) transfer activity.8. Payable through accounts.9. Filing of SARs.	Continuing	Compliance Program Training Manuals



Major BSA Components for OTS Regulated Institutions

I. WRITTEN BSA COMPLIANCE PROGRAM

Establish and maintain a written program (approved by the board of directors) containing the following:

1. System of internal controls
2. Designation of BSA Officer to coordinate and monitor program
3. Independent testing of compliance
4. Training of appropriate personnel

Also include procedural guidelines for:

1. Meeting reporting and recordkeeping requirements
2. Detection, prevention, and reporting of suspicious transactions related to money laundering

II. PRIMARY REPORTS

1. Currency Transaction Reports (CTR) - IRS Form 4789
2. Currency and Monetary Instrument Report (CMIR) - U.S. Customs Form 4790
3. Reports of Foreign Financial Accounts - Treasury Form 90-22
4. Reports of Suspicious Transactions - OTS SAR Form 1601

III. PRIMARY RECORDS TO BE MAINTAINED

1. Persons with financial interest in foreign financial accounts - Section 103.32
2. Wire (funds) transfer (\$3,000 or more) - Section 103.33(e) and (g)
3. Monetary Instrument Sale for Currency (\$3,000 to \$10,000) - Section 103.29

IV. ANTI-MONEY LAUNDERING PROGRAM

Develop procedures to detect and/or prevent money laundering activities:

1. Define money laundering in its different forms (placement, layering, integration).
2. Address compliance with applicable laws and regulations.
3. Identify high risk business activities, businesses, and foreign countries.

V. CONDUCT ADEQUATE MONITORING AND AUDIT ACTIVITY TO ENSURE COMPLIANCE AND PROVIDE COMPREHENSIVE TRAINING TO APPROPRIATE EMPLOYEES

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OVERVIEW OF LAWS AND REGULATIONS

Community Reinvestment Act

Community Reinvestment Act (Regulation BB)

Executive Summary:

The Community Reinvestment Act (CRA) was originally enacted in 1977 to encourage insured depository institutions to help meet the credit needs of the communities in which they operate. Regulation BB which implements CRA (OTS's version of which is found at 12 CFR Part 563e) underwent a significant review during 1993 and 1994 by the federal regulatory agencies in consultation with banking and thrift industries, Congressional leaders, and leaders of community-based organizations across the country. This process, initiated by President Clinton in July 1993, culminated in the issuance of a revised Regulation BB in May 1995, intended to "replace paperwork and uncertainty with greater performance, clarity and objectivity."

CRA requires OTS to assess the record of each savings association in helping to meet the credit needs of its entire community, including low-and moderate-income neighborhoods, consistent with safe and sound operations, and take that record into account when deciding whether to approve an application by the institution for a deposit facility. The type of CRA performance standards that will be applied to a given institution will depend upon whether the institution is considered a large retail institution (triggering the lending, investment and services tests), a small institution (activating the streamlined performance criteria), or a limited purpose or wholesale institution (giving rise to the community development test). In addition, an institution's CRA performance may be evaluated under a strategic plan drawn up by the institution if submitted to the OTS (in the manner described in Section 563e.27) and approved by the OTS.

Savings associations, other than small savings associations, are required to collect, report and disclose certain information pertaining to small business and small farms loans, community development loans, and home mortgage loans. In addition, institutions also are allowed to collect and maintain data on consumer loans. The OTS prepares a CRA disclosure statement on an annual basis for each institution that compiles the information reported in a format prescribed by the regulation. Aggregate disclosure statements covering small business and small farm lending by all institutions are prepared by the OTS in conjunction with the other federal bank regulatory agencies.

A savings association's record of performance under CRA is taken into account when considering applications to establish a domestic branch office, relocate the main office or a branch, grant a thrift charter, and approve merger, acquisition, or consolidation activities. Adverse CRA ratings may serve as the basis for denying or conditioning approval of an application by the savings association.

Business Areas Impacted:

- Residential and Commercial Lending Units
- Credit Operations
- Treasury Operations
- Retail Operations
- Data Processing
- Marketing



Community Reinvestment Act

Highlights:

The following table depicts some of the major components of Regulation BB (which implements CRA) in a manner intended to allow for quick reference to particular requirements. The components addressed in the table include:

1. Determining the appropriate method for assessing CRA performance
2. Determining the appropriate assessment area(s) for the institution
3. Applying the lending, investment and service tests for large retail institutions
4. Applying the streamlined test for small institutions
5. Applying the community development test for wholesale or limited purpose institutions
6. Developing and evaluating a strategic plan
7. Role of performance context in assessing performance
8. Fulfilling data reporting requirements
9. OTS ratings of performance and impact on applications

MAJOR COMPONENTS	EXPLANATION
<p>1. Determining the Appropriate Method for Assessing CRA Performance</p> <p><i>The four assessment methods</i></p>	<p>Determine the assessment method that applies to your institution. There are four possible assessment methods, depending on the institution's size and the nature of its business. They are:</p> <ul style="list-style-type: none">• the lending, investment and service test for large, retail institutions;• the streamlined assessment method for small institutions;• the community development test for limited purpose or wholesale institutions; and• the strategic plan option.



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
<p><i>Qualification as Small Savings Association</i></p>	<p>Note that the regulation implementing CRA does not apply to special purpose savings associations that do not perform commercial or retail banking services by granting credit to the public, other than as incident to their specialized operations.</p> <p>To determine whether the institution is considered large or small pursuant to §563e.12(s), ask:</p> <ul style="list-style-type: none"> • Did the institution, as of December 31 of either of the prior two calendar years, have total assets of less than \$250 million? • Was the institution independent? • If not, was the institution an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total bank and thrift assets of less than \$1 billion?
<p><i>Qualification as wholesale or limited purpose savings association</i></p>	<p>To determine whether the institution qualifies for the community development test, ask:</p> <ul style="list-style-type: none"> • Is the institution a limited purpose institution because it offers only a single narrow consumer product line (such as motor vehicle loans) to a regional or broader market? • Is the institution a wholesale institution because it does not extend home mortgage, small business, small farm or consumer loans to retail customers in the ordinary course of business?
<p><i>Strategic Plan Option</i></p>	<p>Determine whether the institution would be interested in pursuing a strategic plan. Ask:</p> <ul style="list-style-type: none"> • Is management's priority to achieve certainty in the CRA process and assure a particular rating for a particular measurable level of performance? • Is the institution's business strategy somewhat unusual, yet does not qualify as either wholesale or



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
	<p>limited purpose?</p> <ul style="list-style-type: none"> • Would the institution benefit from the opportunity to tailor a performance plan to its business strategy? <p>Once you have determined which assessment method applies to your institution, consult the applicable matrices, below.</p>
<p>2. Determining the Appropriate Assessment Area</p> <p><i>Institutions not wholesale or limited purpose</i></p> <p><i>Wholesale or limited purpose institutions</i></p>	<p>Delineate one or more geographic areas within which the OTS will evaluate the institution's record of helping to meet the credit needs of its community.</p> <p>Note that the OTS uses the assessment area(s) delineated by the institution in its evaluation of the institution's CRA performance unless the OTS determines that the assessment area(s) do not comply with the requirements of this section. The OTS does not evaluate the institution's assessment area delineation as a separate performance criteria.</p> <p>For institutions other than wholesale or limited purpose institutions, delineate:</p> <ul style="list-style-type: none"> • one or more metropolitan statistical areas (MSAs), using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation was made, <u>or</u> one or more contiguous political subdivisions, such as counties, cities, or towns, <u>and</u> • include the geographies in which the institution has its main office, branches, and deposit-taking automated teller machines (ATMs), as well as the surrounding geographies in which the institution has originated or purchased a substantial portion of its loans. <p>For wholesale or limited purpose institutions, the assessment area(s) must consist generally of:</p> <ul style="list-style-type: none"> • one or more MSAs (using the MSA boundaries that



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
	the consortium or third party.
<p>Performance Criteria <i>(see 563e.22 for details)</i></p>	<ul style="list-style-type: none"> • <u>Loans by an affiliate of the savings association, if:</u> <ol style="list-style-type: none"> 1. data is provided on the affiliate s loans pursuant to 563e.42; 2. no affiliate claims a loan origination or purchase that another institution claims; and 3. the savings association that elects to have a particular lending category within a particular assessment area considered, must have all loans within that lending category in that particular assessment area by all of its affiliates considered. • <u>Other loan data</u> The OTS will also consider any other loan data the savings association may choose to provide, including data on loans outstanding, commitments, and letters of credit. <p>The OTS evaluates an institution s lending performance based on the following criteria:</p> <ol style="list-style-type: none"> 1. lending activity; 2. geographic distribution; 3. borrower characteristics; 4. community development lending; and 5. innovative or flexible lending practices.



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
B. <u>Investment Test</u> Scope of Review	
<i>Mandatory consideration</i>	<p>The OTS reviews an institution's record of providing qualified investments (as defined in 563e.12(r)) that benefit the institution's assessment area(s) or a broader statewide or regional area that includes the assessment area(s).</p> <p>NOTE: Activities that are considered under the lending or service tests may not be considered under the investment test.</p>
<i>Optional consideration</i>	<p>At the institution's option, the OTS will consider qualified investments made by affiliates of the savings association, if the investment is not claimed by any other institution.</p>
Performance Criteria (see 563e.22 for details)	<p>The OTS evaluates an institution's investment performance based on the following criteria:</p> <ol style="list-style-type: none"> 1. dollar amount; 2. innovativeness or complexity; 3. responsiveness to credit and community development needs; and 4. degree to which the qualified investments are not routinely provided by private investors.



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
<p>6. Developing and Evaluating a Strategic Plan</p> <p><i>Plan term</i></p> <p><i>Plan content</i></p> <p><i>Plan development</i></p>	<p>The strategic plan option is available to any institution that develops and obtains approval of a plan containing measurable goals for helping to meet the credit needs of each assessment area covered by the plan.</p> <p>The plan term must range from no less than one year to no more than five years and any multi-year plan must include annual interim measurable goals.</p> <p>Note the following information regarding the content of a strategic plan:</p> <ul style="list-style-type: none"> • <u>Measurable goals</u> in all three performance categories (lending, investments, and services) emphasizing lending and lending related activities. A different emphasis may be appropriate if responsive to the needs of the community and considering public comment and the individual institution's business strategy, capacity, etc.; • <u>Confidential information</u> may be submitted to OTS, but the goals stated in the plan must be sufficiently specific to enable the public and the OTS to judge the merits of the plan; • <u>Satisfactory and outstanding goals</u>. Plans must contain measurable goals that, if met, would constitute Satisfactory performance and may provide additional goals that, if met, constitute Outstanding performance; and • <u>Election if satisfactory goals are not substantially met</u>. The institution may elect in its plan to be evaluated under another assessment method if it does not substantially meet its goals for a satisfactory rating. <p>Prior to submitting a strategic plan for approval, an institution must:</p> <ul style="list-style-type: none"> • Informally seek suggestions from members of the public in its assessment areas(s) covered by the



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
<p><i>Criteria for evaluating the strategic plan</i></p>	<p>The OTS evaluates the measurable goals of an institution's strategic plan based on the following criteria:</p> <ol style="list-style-type: none"> 1. Extent and breadth of lending or lending-related activities; 2. Amount and innovativeness, complexity and responsiveness of qualified investments; and 3. Availability and effectiveness of systems for delivering retail banking services and extent and innovativeness of community development services.
<p>7. Role of Performance Context in the Evaluation Process</p> <p>Performance context information (See 563e.21(b))</p>	<p>The tests used to assess CRA performance (i.e. the lending/investment/service test, streamlined method, community development test and strategic plan) are all applied in the context of information about the institution and its community, competitors, and peers.</p> <p>Specifically, an institution's CRA performance will be judged in the context of the following information:</p> <ol style="list-style-type: none"> 1. Demographic and economic data of the assessment area(s); 2. Lending, investment and service opportunities in the assessment area(s); 3. Product offerings and business strategy; 4. Institutional capacity and constraints; 5. Past performance and performance of similarly situated lenders; 6. Written comments about the institution's performance; and 7. Any other relevant information.



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
	2. Other loan data.
<p><i>Data on affiliate lending and consortium or third-party lending</i></p> <p><i>Assessment area data</i></p> <p><i>CRA Disclosure Statement</i></p>	<p>Other optional data collection, maintenance and reporting information involves:</p> <ul style="list-style-type: none"> • Data on affiliate lending (where the institution elects to have the OTS consider loans by an affiliate). • Data on lending by a consortium or a third-party (where the institution elects to have the OTS consider community development loans by a consortium or third party). <p>Institutions, other than small institutions, must collect and report a list for each assessment area showing the geographies within the area by March 1 of each year.</p> <p>The OTS prepares a <u>CRA Disclosure Statement</u> for each institution that reports data pursuant to the requirements of 563e.42(h).</p>
<p>9. OTS Ratings of Performance and Impact on Applications</p> <p>Ratings in general (see 563e.28(a))</p> <p><i>Effect on discriminatory or other illegal credit practices</i></p>	<p>The OTS assigns each institution subject to CRA one of the following four overall ratings, based on its performance under the applicable test:</p> <ol style="list-style-type: none"> 1. Outstanding 2. Satisfactory 3. Needs to improve 4. Substantial noncompliance <p>Evidence of discriminatory or other illegal credit practices will adversely impact the evaluation of the institutions CRA performance.</p>



Community Reinvestment Act

MAJOR COMPONENTS	EXPLANATION
<i>Effect of CRA performance on applications</i>	<p>The OTS will take into account an institution's CRA performance, among other factors, in considering applications for:</p> <ol style="list-style-type: none">1. The establishment of a domestic branch or other facility that would be authorized to take deposits;2. The relocation of the main office or branch;3. The merger or consolidation with or the acquisition of the assets or assumption of liabilities of an institution requiring approval under the Bank Merger Act;4. A Federal thrift charter; or5. An acquisition subject to § 10(e) of HOLA.



Community Reinvestment Act

Public File Requirements

Savings associations must make available to the public for inspection upon request and at no cost, the information required pursuant to 12 C.F.R. § 563e.43 as follows:

- At the main office and, if an interstate savings association, at one branch office in each state, all information in the public file; and
- At each branch:
 - (1) A copy of the public section of the institution's most recent CRA Performance Evaluation and a list of services provided by the branch, and
 - (2) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

CONTENTS OF THE PUBLIC FILE

ITEM	TIME FRAME
1. All written comments received from the public that relate to the institution's performance in helping to meet community credit needs <i>and</i> any response to the comments by the institution.	Ongoing, updated as needed for the current year and each of the prior two calendar years. (Ensure that this information is current as of April 1 of each year)
2. A copy of the public section of the savings association's most recent CRA Performance Evaluation prepared by OTS.	Within 30 business days after its receipt from OTS.
3. A list of the institution's branches, their street addresses, and geographies.	Ongoing, updated as needed. (Ensure that this information is current as of April 1 of each year)
4. A list of branches opened or closed by the savings association.	Ongoing, updated as needed for the current year and each of the prior two calendar years. (Ensure that this information is current as of April 1 of each year)
5. A list of services (including hours of operation, available loan and deposit products and transaction fees) generally offered at the institution's branches and descriptions of material differences in the availability or cost of services at particular branches. <i>Optional:</i> Information regarding the availability of alternative delivery systems (e.g., ATMs, banking by telephone or computer, loan production offices, etc.)	Ongoing, updated as needed. (Ensure that this information is current as of April 1 of each year)



Community Reinvestment Act

ITEM	TIME FRAME
6. Maps of each assessment area showing the boundaries of the area and identifying the geographies (i.e., census tracts) contained within the area, either on the map or in a separate list.	Ongoing, update as needed. (Ensure that this information is current as of April 1 of each year)
7. Any other information the institution chooses.	Ongoing, update as needed. (Ensure that this information is current as of April 1 of each year)

For institutions other than small institutions

1. If the institution has elected to have one or more categories of consumer loans considered under the lending test, for each of these categories, the number and amount of loans: <ul style="list-style-type: none"> • to low-, moderate-, middle-, and upper-income individuals; • located in low-, moderate-, middle-, and upper-income census tracts; and • located inside the institution's assessment area(s) and outside the savings association's assessment area(s). 	Ongoing, updated as needed for each of the two prior calendar years. (Ensure that this information is current as of April 1 of each year)
2. The institution's CRA Disclosure Statement.	Disclosure statements for each of the two prior calendar years must be placed in the public file within three business days of receipt from the OTS.

For institutions required to report Home Mortgage Disclosure Act (HMDA) data:

A copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the institution.	Within three business days after receipt; for each of the prior two calendar years
For institutions that elect to have mortgage lending of an affiliate considered by OTS, include the affiliate's HMDA Disclosure Statement	Within three business days after receipt; for either or both of the prior two calendar years, as applicable. (Ensure that this information is current as of April 1 of each year)



Community Reinvestment Act

Small institutions:

<p>1. The institution's loan-to-deposit ratio and, at its option, additional information regarding its loan-to-deposit ratio.</p>	<p>Ongoing, as needed for each quarter of the prior calendar year. (Ensure that this information is current as of April 1 of each year.)</p>
<p>2. If the institution has elected to be evaluated under the lending, investment and service tests, and it elects to have one or more categories of consumer loans considered under the lending test, then for each consumer loan category, the number and amount of loans:</p> <ul style="list-style-type: none"> • to low-, moderate-, middle-, and upper-income individuals; • located in low-, moderate-, middle-, and upper-income census tracts; and • located inside the institution's assessment area(s) and outside the savings association's assessment area(s). 	<p>Ongoing, updated as needed for each of the two prior calendar years. (Ensure that this information is current as of April 1 of each year.)</p>

Institutions with Strategic Plans:

A copy of the approved strategic plan.	Ongoing, during the term of the strategic plan.
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Institutions with less than satisfactory ratings:

A description of the institution's current efforts to improve its performance in helping to meet the credit needs of its entire community.	Must be updated quarterly.
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Community Reinvestment Act

CRA Ratings Matrix — Small Institutions

Characteristic	Outstanding	Satisfactory	Needs To Improve	Substantial Noncompliance
Loan-to-deposit ratio	The loan-to-deposit ratio is more than reasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is reasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is less than reasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is unreasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.
Assessment area(s) concentration	A substantial majority of loans and other lending related activities are in the institution's assessment area(s).	A majority of loans and other lending related activities are in the institution's assessment area(s).	A majority of loans and other lending related activities are outside the institution's assessment area(s).	A substantial majority of loans and other lending related activities are outside the institution's assessment area(s).
Geographic distribution of loans	The geographic distribution of loans reflects excellent dispersion throughout the assessment area(s).	The geographic distribution of loans reflects reasonable dispersion throughout the assessment area(s).	The geographic distribution of loans reflects poor dispersion throughout the assessment area(s).	The geographic distribution of loans reflects very poor dispersion throughout the assessment area(s).
Borrower's profile	The distribution of borrowers reflects, given the demographics of the assessment area(s), reasonable penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), excellent penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), poor penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), very poor penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.
Response to substantiated complaints	The institution has taken noteworthy, creative action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution has taken appropriate action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution has taken inadequate action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution is unresponsive to substantiated complaints about its performance in meeting assessment area credit needs.
Investments	The institution's investment record enhances credit availability in its assessment area.	N/A	N/A	N/A
Services	The institution's record of providing branches, ATMs, loan production offices, and/or other services and delivery systems enhances credit availability in its assessment area(s).	N/A	N/A	N/A



Community Reinvestment Act

CRA Ratings Matrix — Large Institutions Lending Test

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Lending Activity	Lending levels reflect excellent responsiveness to assessment area credit needs.	Lending levels reflect good responsiveness to assessment area credit needs.	Lending levels reflect adequate responsiveness to assessment area credit needs.	Lending levels reflect poor responsiveness to assessment area credit needs.	Lending levels reflect very poor responsiveness to assessment area credit needs.
Assessment area(s) concentration	A substantial majority of loans are made in the institution's assessment area(s).	A high percentage of loans are made in the institutions' assessments area(s).	An adequate percentage of loans are made in the institution's assessment area(s).	A small percentage of loans are made in the institution's assessments area(s).	A very small percentage of loans are made in the institutions assessment area(s).
Geographic distributions of loans	The geographic distribution of loans reflects excellent penetration throughout the assessment area(s).	The geographic distribution of loans reflects good penetration throughout the assessment area(s).	The geographic distribution of loans reflects adequate penetration throughout the assessment area(s).	The geographic distribution of loans reflects poor penetration throughout the assessment area(s), particularly to low- or moderate-income geographies in the assessment area(s).	The geographic distribution of loans reflects very poor penetration throughout the assessment area(s), particularly to low- or moderate-income geographies in the assessment area(s).
Borrowers' profile	The distribution of borrowers reflects, given the product lines offered by the institution, excellent penetration among retail customers of different income levels and business customers of different size.	The distribution of borrowers reflects, given the product lines offered by the institution, good penetration among retail customers of different income levels and business customers of different size.	The distribution of borrowers reflects, given the product lines offered by the institution, adequate penetration among retail customers of different income levels and business customers of different size.	The distribution of borrowers reflects, given the product lines offered by the institution, poor penetration among retail customers of different income levels and business customers of different size.	The distribution of borrowers reflects, given the product lines offered by the institution, very poor penetration among retail customers of different income levels and business customers of different size.
Responsiveness to credit needs of highly economically disadvantaged geographies and low-income persons, small business	The institution exhibits an excellent record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices.	The institution exhibits a good record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices.	The institution exhibits adequate record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices.	The institution exhibits a poor record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices.	The institution exhibits a very poor record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices.
Community development lending activities	The institution is a leader in making community development loans.	The institution has made a relatively high level of community development loans.	The institution has made an adequate level of community development loans.	The institution has made few, if any, community development loans.	The institution has made a low level of community development loans.



Community Reinvestment Act

Product Innovation	The institution makes extensive use of innovative and/or flexible lending practices in order to serve assessment area credit needs.	The institution uses innovative and/or flexible lending practices in order to serve assessment area credit needs.	The institution makes limited use of innovative and/or flexible lending practices in order to serve assessment area credit needs.	The institution makes little use of innovative and/or flexible lending practices in order to serve assessment area credit needs.	The institution makes no use of innovative and/or flexible lending practices in order to serve assessment area credit needs.
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Community Reinvestment Act

CRA Ratings Matrix — Large Institutions Investment Test

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Investment and Grant Activity	The institution has an excellent level of qualified community development investment and grants, often in a leadership position, particularly those that are not routinely provided by private investors.	The institution has a significant level of qualified community development investments and grants, occasionally in a leadership position, particularly those that are not routinely provided by private investors.	The institution has an adequate level of qualified community development investments and grants, although rarely in a leadership position, particularly those that are not routinely provided by private investors.	The institution has a poor level of qualified community development investments and grants, but not in a leadership position, particularly those that are not routinely provided by private investors.	The institution has a few, if any, qualified community development investments or grants, particularly those that are not routinely provided by private investors.
Responsiveness to Credit and Community Development Needs	The institution exhibits excellent responsiveness to credit and community economic development needs.	The institution exhibits good responsiveness to credit and community economic development needs.	The institution exhibits adequate responsiveness to credit and community economic development needs.	The institution exhibits poor responsiveness to credit and community economic development needs.	The institution exhibits very poor responsiveness to credit and community economic development needs.
Community Development Initiatives	The institution makes extensive use of innovative and/or complex investments to support community development initiatives.	The institution makes significant use of innovative and/or complex investments to support community development initiatives.	The institution rarely uses innovative and/or complex investments to support community development initiatives.	The institution rarely uses innovative and/or complex investments to support community development initiatives.	The institution does not use innovative and/or complex investments to support community development initiatives.



Community Reinvestment Act

CRA Ratings Matrix — Large Institutions Service Test

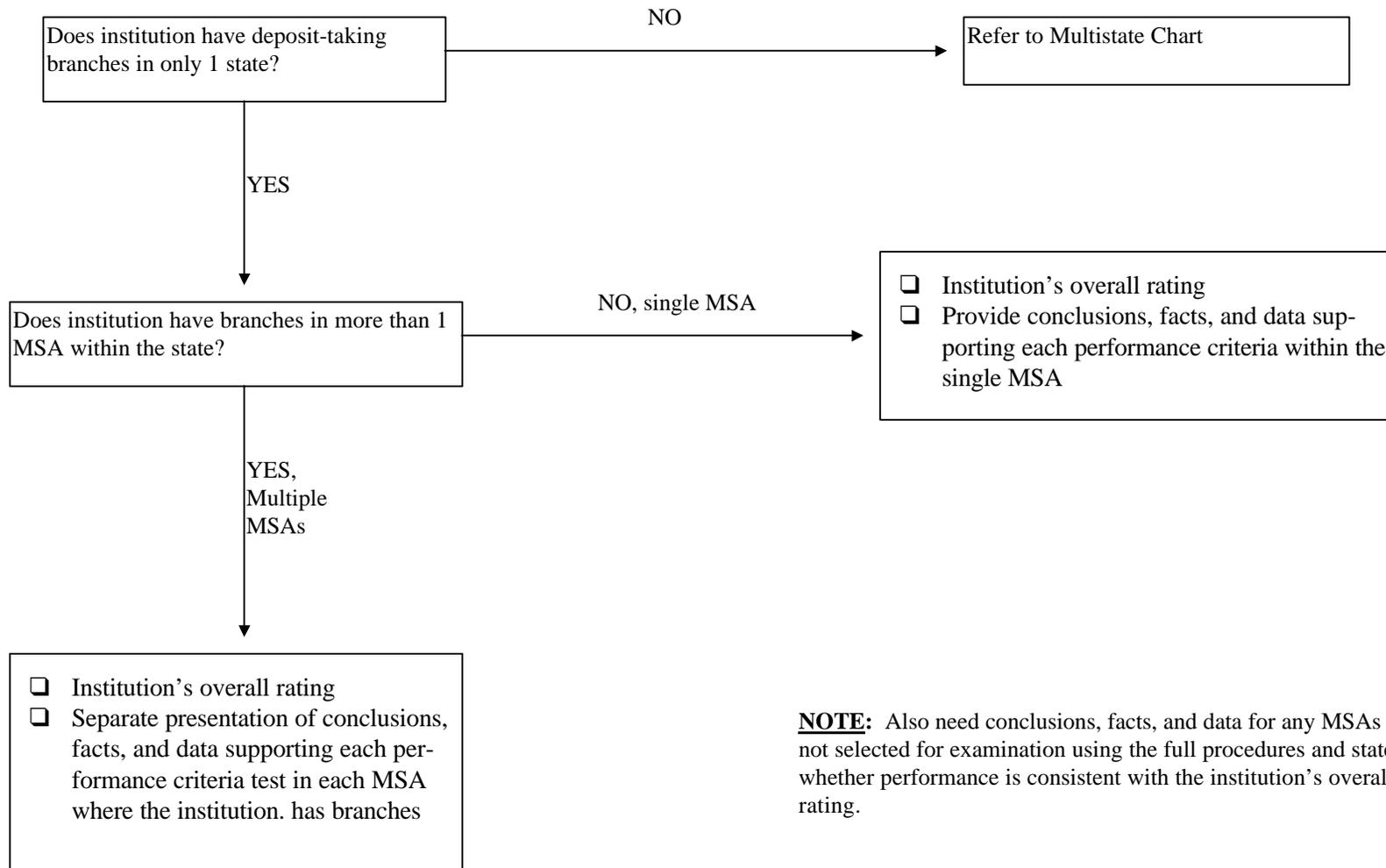
Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Accessibility of Delivery Systems	Delivery systems are readily accessible to all portions of the institution's assessment area(s).	Delivery systems are accessible to essentially all portions of the institution's assessment area(s).	Delivery systems are reasonably accessible to essentially all portions of the institutions assessment area(s).	Delivery systems are accessible to limited portions of the institution's assessment area(s).	Delivery systems are inaccessible to significant portions of the assessment area(s), particularly low- and moderate-income geographies and/or low- and moderate-income individuals.
Changes in Branch Locations	To the extent changes have been made, the institution's record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- and moderate- income geographies and/or to low- and moderate-income individuals.	To the extent changes have been made, the institution's opening and closing of branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate- income geographies and/or to low- and moderate-income individuals.	To the extent changes have been made, the institution's opening and closing of branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals.	To the extent changes have been made, the institution's record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals.	To the extent changes have been made, the institution's opening and closing of branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals.
Reasonableness of business hours and services in meeting assessment area(s) needs	Services (including where appropriate, business hours) are tailored to the convenience and needs of the assessment area(s), particularly low- and moderate- income geographies and/or individuals.	Services (including, where appropriate, business hours) do not vary in a way that inconveniences certain portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals.	Services (including, where appropriate, business hours) do not vary in a way that inconveniences portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals.	Services (including, where appropriate, business hours) vary in a way that inconveniences certain portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals.	Services (including, where appropriate, business hours) vary in a way that significantly inconveniences many portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals.
Community Development services	The institution is a leader in providing community development services.	The institution provides a relatively high level of community development services.	The institution provides an adequate level of community development services.	The institution provides a limited level of community development services.	The institution provides few, if any, community development services.



Community Reinvestment Act

CRA Ratings Matrix — Wholesale/Limited Purpose Institutions Community Development Test

Characteristic	Outstanding	Satisfactory	Needs To Improve	Substantial Noncompliance
Investment, Loan, and Service Activity	The institution has a high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors.	The institution has an adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors.	The institution has a poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors.	The institution has few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors.
Investment, Loan, and Service Initiatives	The institution extensively uses innovative or complex qualified investments, community development loans, or community development services.	The institution occasionally uses innovative or complex qualified investments, community development loans, or community development services.	The institution rarely uses innovative or complex qualified investments, community development loans, or community development services.	The institution does not use innovative or complex qualified investments, community development loans, or community development services.
Responsiveness to Community Development Needs	The institution exhibits excellent responsiveness to credit and community economic development needs in its assessment area(s).	The institution exhibits adequate responsiveness to credit and community economic development needs in its assessment area(s).	The institution exhibits poor responsiveness to credit and community economic needs in its assessment area(s).	The institution exhibits very poor responsiveness to credit and community economic development needs in its assessment area(s).



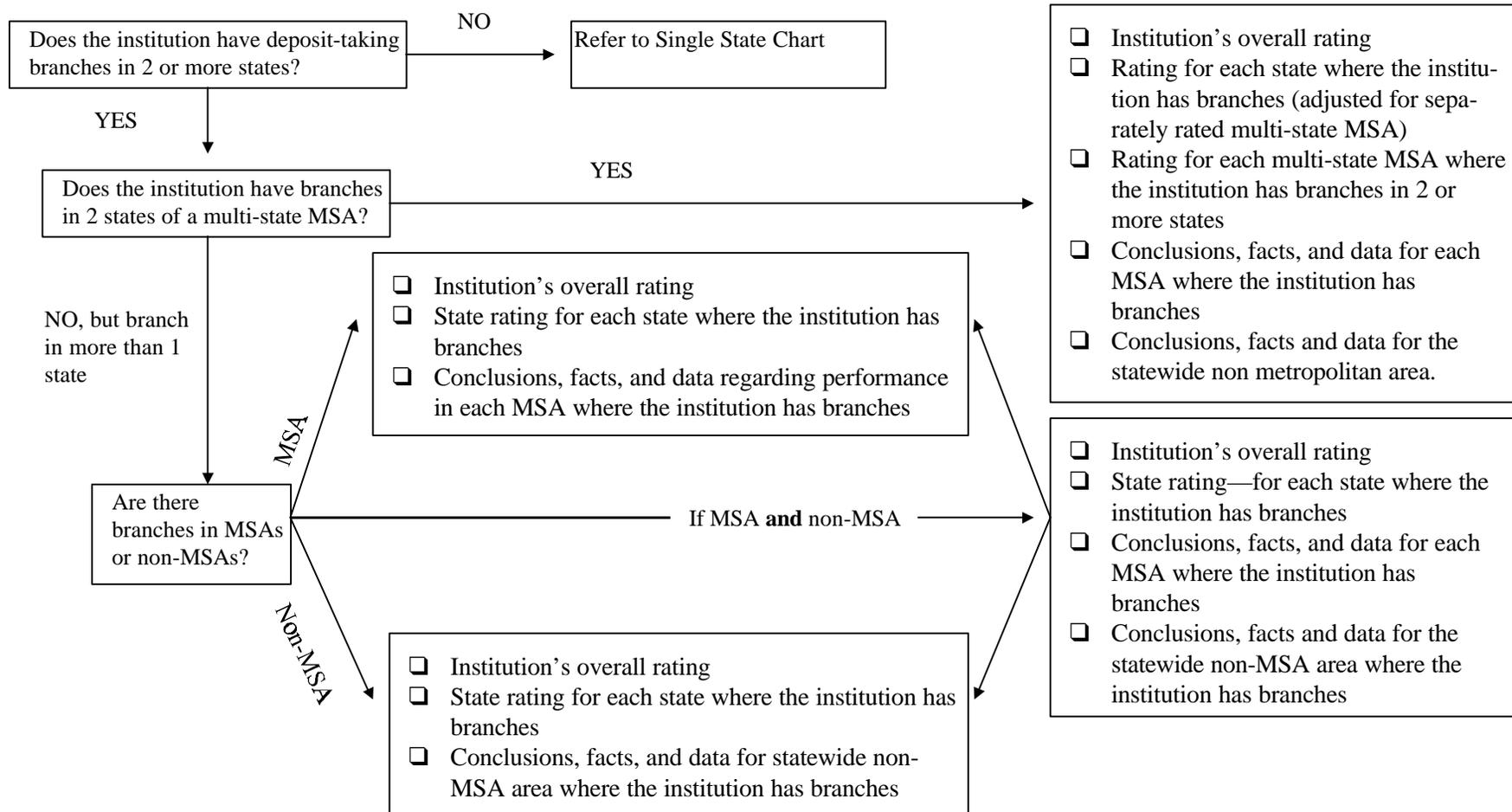
NOTE: Also need conclusions, facts, and data for any MSAs not selected for examination using the full procedures and state whether performance is consistent with the institution's overall rating.

Single State Chart

Prepared by Federal Reserve Board



Community Reinvestment Act



NOTE: Any State rating must also include a description of how the exam was performed and a list of branches examined. For MSA and non-MSA conclusions in the Performance Evaluation, state whether the area was examined using the full procedures and state whether performance is consistent with performance in the state.

Multi-State Chart

Prepared by Federal Reserve Board



OVERVIEW OF LAWS AND REGULATIONS

Disclosure and Reporting of CRA-Related Agreements

Disclosure and Reporting of CRA-Related Agreements

Executive Summary:

The CRA Sunshine Regulations as implemented by Section 711 of the Gramm-Leach-Bliley Act (GLBA), requires nongovernmental entities or persons (NGEPs), insured depository institutions, and affiliates of insured depository institutions that are parties to certain agreements that are in fulfillment of the Community Reinvestment Act of 1977 to make the agreements available to the public and the appropriate agency and file annual reports concerning the agreements with the appropriate agency. The rule identifies the types of written agreements that are covered by section 48 of the Federal Deposit Insurance Act (referred to as covered agreements) and defines many of the terms used in the statute. The rule also describes how parties to a covered agreement must make the agreement available to the public and the appropriate agencies and explains the type of information that must be included in the annual report filed by a party to a covered agreement.

Business Areas Impacted:

- Marketing
- Credit Operations
- Retail Operations
- Internal Controls Management
- Customer Service



Disclosure and Reporting of CRA-Related Agreements

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENTS, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt a policy for implementing the Act and OTS regulations. Maintain written procedures to ensure compliance with the statute.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>Covered-Agreement Determinations</p> <p>A covered agreement is any contract arrangement or understanding that meets all of the following criteria:</p> <ol style="list-style-type: none"> 1. The agreement is in writing. 2. The parties to the agreement include: <ol style="list-style-type: none"> I. One or more insured depository institutions or affiliates of an insured depository institution; and II. One or more NGEPs. 3. The agreement provides for the insured depository institution or any affiliate to: <ol style="list-style-type: none"> I. Provide to one or more individuals or entities (whether or not parties to the agreement) II. Make to one or more individuals or entities (whether or not parties to the agreement) loans that have an aggregate principal amount of more than \$50,000 in any calendar year. 4. The agreement is made pursuant to, or in connection with, the fulfillment of the CRA, as defined in § 533.4 of this part. 5. The agreement is with a NGEP that has had a CRA communication as described in § 533.3 of this part prior to entering into the agreement. 	Continuing	Covered Agreements



Disclosure and Reporting of CRA-Related Agreements

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENTS, RECORD OR REPORT
The content of the annual reports reference above are described in Section 533.7(d) and (e).		
<p>Training</p> <p>Provide training to any employee that has the ability to approve, direct, authorize, or negotiate an agreement, along with all other employees whose duties are affected by the requirements of the regulation.</p>	Continuing	<p>Policies and Procedures</p> <p>Training Records</p> <p>Curriculum</p>
Updating	Continuing	All Affected Documentation
<p>Internal Reviews</p> <p>Conduct an internal review at least annually to assess compliance with the regulation and conformity of an institution s practices with its policies and procedures.</p>	Annual (or more frequently)	Internal Review Procedures/Reports



Disclosure and Reporting of CRA-Related Agreements

SUMMARY OF THE DISCLOSURE AND REPORTING REQUIREMENTS OF THE REGULATION

DISCLOSURE OF COVERED AGREEMENTS TO THE PUBLIC

	NGEP	Insured Depository Institution or Affiliate
Which agreements must be disclosed to the public?	Covered agreements entered into after 11/12/99.	Covered agreements entered into after 11/12/99.
When does my duty to disclose a covered agreement to the public begin?	4/1/01	4/1/01
What event triggers my obligation to disclose a covered agreement to a member of the public?	An individual or entity must request you to make a covered agreement available.	An individual or entity must request you to make a covered agreement available.
How do I disclose a covered agreement to the public?	You must promptly make a copy of the covered agreement available. You may withhold information that is confidential and proprietary under FOIA standards. However, you must disclose certain enumerated items of information identified at § .6(b)(3).	You must promptly make a copy of the covered agreement available. You may withhold information that is confidential and proprietary under FOIA standards. However, you must disclose certain enumerated items of information identified at § .6(b)(3). An IDI or affiliate may make an agreement available by placing a copy of the covered agreement in the IDI's CRA public file. The IDI must make the agreement available in accordance with the CRA rule on public files.
When does my duty to disclose a covered agreement to the public end?	Twelve months after the end of the term of the agreement. However, if your agreement terminated before 4/1/01, your obligation to disclose terminates 4/1/02.	Twelve months after the end of the term of the agreement. However if your agreement terminated before 4/1/01, your obligation to disclose terminates 4/1/02.



Disclosure and Reporting of CRA-Related Agreements

DISCLOSURE OF COVERED AGREEMENTS TO THE RELEVANT SUPERVISORY AGENCY (RSA)

	NGEP	Insured Depository Institution or Affiliate
What agreements must be disclosed to the RSA?	Covered agreements entered into after 11/12/99.	Covered agreements entered into after 11/12/99.
When does my duty to disclose a covered agreement to the RSA begin?	4/1/01	4/1/01
When must I disclose a covered agreement to the RSA?	You must disclose your covered agreement to the RSA within 30 days after the RSA requests a copy of the agreement.	You must disclose your covered agreement to the RSA within 60 days of the end of the calendar quarter after the agreement is entered into. However, if your agreement terminated before 4/1/01, you must disclose your agreement to the RSA by 6/30/01.
How do I disclose a covered agreement to the RSA?	You must provide the RSA with a complete copy of the agreement. If you propose the withholding of any information that can be withheld from disclosure under FOIA, you must also provide a public version of the agreement that excludes such information and an explanation justifying the exclusion. The public version must include certain information. See § .6(b)(3).	You must provide the RSA with a complete copy of the agreement. If you propose the withholding of any information that can be withheld from disclosure under FOIA, you must also provide a public version of the agreement that excludes such information and an explanation justifying the exclusion. The public version must include certain information. See § .6(b)(3). Alternatively, you may provide a list of all covered agreements that you entered into during the calendar quarter, and include the information described at § .6(d)(1). If the RSA requests a copy of an agreement referenced in the list, you must provide a copy of the agreement and a public version (if applicable) within seven calendar days.



Disclosure and Reporting of CRA-Related Agreements

	NGEP	Insured Depository Institution or Affiliate
When does my duty to disclose a covered agreement to the RSA end?	Twelve months after the end of the term of the agreement. However, if your agreement terminated before 4/1/01, you must make the agreement available to the RSA until 4/1/02.	If you file a list, your obligation to provide a copy of an agreement referenced in the list terminates thirty-six months after the end of the term of the agreement.



Disclosure and Reporting of CRA-Related Agreements

FILING OF ANNUAL REPORTS WITH THE RSA

	NGEP	Insured Depository Institution or Affiliate
What agreements are subject to annual reporting requirements to the RSA?	Covered agreements entered into on or after 5/12/00.	Covered agreements entered into on or after 5/12/00.
What periods require an annual report?	You must report for each fiscal year in which you receive or use funds or other resources under the covered agreement. Alternatively, you may file your report on a calendar year basis.	You must report for each fiscal year in which you have any reportable data concerning the covered agreement described in §. 7(e)(1)(iii), (e)(1)(iv) or (e)(1)(vi). Alternatively, you may file your report on a calendar year basis.
When must I file the annual report?	<p><u>For fiscal years that end after 1/1/01</u>, you must file the report with each RSA within six months after the end of the fiscal year covered by the report.</p> <p>Alternatively, you may, within this six-month period, provide the report to an IDI or affiliate that is a party to the agreement. You must include written instructions requiring the IDI or affiliate to promptly forward the report to the RSA(s).</p> <p><u>For fiscal years that end between 5/12/00 and 12/31/00</u>, you must file the report with each RSA (or with an IDI or affiliate that is party to the agreement) no later than 6/30/01.</p>	<p><u>For fiscal years that end after 1/1/01</u>, you must file the report with each RSA within six months after the end of the fiscal year covered by the report.</p> <p>If a NGEP has provided its report to you, you must also file that report with the RSA(s) on behalf of the NGEP within 30 days of receipt.</p> <p><u>For fiscal years that end between 5/12/00 and 12/31/00</u>, you must file the report with each RSA no later than 6/30/01.</p>
May I file a consolidated annual report?	If you are a party to two or more covered agreements, you may file a single consolidated annual report concerning all the covered agreements.	If you are a party to two or more covered agreements, you may file a single consolidated annual report concerning all the covered agreements.



Disclosure and Reporting of CRA-Related Agreements

	NGEP	Insured Depository Institution or Affiliate
		If you and your affiliates are parties to the same covered agreement, you may file a single consolidated annual report relating to the agreement.
What must I include in the annual report?	You must include the information described at § .7(d).	You must include the information described at § .7(e).



Disclosure and Reporting of CRA-Related Agreements

Questionnaire

Does the institution have formal operating procedures that address the requirements of the CRA Sunshine Regulations?

Has the institution or its affiliates entered into any agreements that meet the definition of a covered agreement as defined in 533.2(a)?

Does the institution make copies of covered agreements involving the institution or its affiliates available to any individual or entity upon request in accordance with 533.6(b)?

Does the disclosed covered agreements involving the institution or its affiliates contain the following required information in accordance with 533.6(b)(3)?

- i. The names and addresses of the parties to the agreement;
- ii. The amount of any payments, fees, loans, or other considerations to be made or provided by any party to the agreement;
- iii. Any description of how the funds or other resources provided under the agreements are to be used;
- iv. The term of the agreement (if the agreement establishes a term); and
- v. Any other information that the relevant supervisory agency determines is not properly exempt from public disclosure.

If the institution does not disclose the information in accordance with 533.6(b), was the information withheld from public disclosure confidential or proprietary information that the party believes the relevant supervisory agency could withhold from disclosure under the Freedom of Information Act (5 U.S.C. 522 *et seq.*) (FOIA) in accordance with 533.6(b)(2)?

Within 60 days of the end of each calendar quarter, does the institution provide information pertaining of covered agreement(s) involving the institution or its affiliates to each relevant supervisory agency: in accordance with 533.6(d)?

- (i)(A) A complete copy of each covered agreement entered into by the insured depository institution or affiliate during the calendar quarter; and
- (B) A public version of the agreement that excludes such information (other than any information described in paragraph (b)(3) of this section) and an explanation justifying the exclusions; or



Disclosure and Reporting of CRA-Related Agreements

- (ii) A list of all covered agreements entered into by the insured depository institution or affiliate during the calendar quarter that contains:
 - A. The name and address of each insured depository institution or affiliate that is a party to the agreement;
 - B. The name and address of each NGEF that is a party to the agreement;
 - C. The date the agreement was entered into;
 - D. The estimated total value of all payments, fees, loans and other consideration to be provided by the institution under the agreement; and
 - E. The date the agreement terminates.

Does the institution file an annual report with each relevant supervisory agency, for itself or its affiliates, for all covered agreements entered into on or after May 12, 2000, for any fiscal year in which the institution or affiliate - as required by 533.7(c)(2)?

- (i) Provides or receives any payments, fees, or loans under the covered agreements that must be reported under paragraphs (e)(1)(iii) and (e)(1)(iv) of this sections; or
- (ii) Has data to report on loans, investments, and services provided by a party to the covered agreement under the covered agreement under paragraph (e)(1)(vi) of this section.

Does the annual report filed by the insured depository institution or affiliate include the following information as required by 533.7(e)?

- (i) The name and principal place of business of the insured depository institution or affiliate filing the report;
- (ii) Information sufficient to identify the covered agreement for which the annual report is being filed, such as by providing the names of the parties to the agreement and the date the agreement was entered into or by providing a copy of the agreement;
- (iii) The aggregate amount of payments, aggregate amount of fees, and aggregate amount of loans (listed separately) provided by the insured depository institution or affiliate under the covered agreement to any other party to the agreement during the fiscal year;



Disclosure and Reporting of CRA-Related Agreements

- (iv) The aggregate amount of payments, aggregate amount of fees, and aggregate amount of loans (listed separately) received by insured depository institution or affiliate under the covered agreement from any other party to the agreement during the fiscal year;
- (v) A general description of the terms and conditions of any payments, fees, or loans reported provided to or received from, another party under the agreement as reported under paragraphs (e)(1)(iii) and (e)(1)(iv) of this section;
- (vi) The aggregate amount and number of loans, aggregate amount and number of investments, and aggregate amount of services provided under the covered agreement to any individual or entity not a party to the agreement: (A) By the insured depository institution or affiliate and (B) By any other party to the agreement, unless such information is not known to the insured depository institution or affiliate or will be contained in an annual report filed by another party.

Does the insured depository institution file its annual report with each relevant supervisory agency for the covered agreement no later than six months following the end of the fiscal year covered by the report in accordance with 533.7(f)(2)(1)?

Does the insured depository institution or affiliate that receives an annual report from a NGEF pursuant to paragraph (f)(2)(i) the *Alternative method for fulfilling annual reporting requirement for a NGEF* file the report with the relevant supervisory agency or agencies on behalf of the NGEF within 30 days in accordance with 533.7(f)(2)(ii).

Does the institution have written policies and procedures that provide for the periodic self-assessments of its compliance with the various provisions of the CRA Sunshine regulation?



OVERVIEW OF LAWS AND REGULATIONS

Insurance Consumer Protection

Consumer Protection for Depository Institutions Sales of Insurance

Executive Summary

The Consumer Protections for Depository Institution Sales of Insurance regulation (12 CFR 536) establishes strict consumer protections in connection with the retail sales of insurance products or annuities to consumers. It applies to any thrift institution or any other individual or entity (including subsidiaries or affiliates) selling, soliciting, advertising, or offering insurance products or annuities to a consumer at an office of or on-behalf of the institution.

Insurance or annuity sales activities are deemed to be “on-behalf of” an institution if at least one of the following applies:

- The person represents to a consumer that the sale, solicitation, advertisement, or a offer of any insurance product or annuity is by or on behalf of the thrift institution;
- The thrift institution refers a consumer to a seller of insurance products or annuities and the institution has a written contractual arrangement to receive commissions or fees derived from the sale; or
- Documents evidencing the sale, solicitation, advertising, or offer of an insurance product or annuity identify or refer to the thrift institution.

The major provisions of the regulation include prohibition of particular sales practices and disclosure requirements, to ensure insurance and annuity sales areas are physically segregated from those where retail deposits are accepted.

Sales practice prohibitions include, tying the availability of credit to the purchase of an insurance product or annuity, misrepresenting characteristics of insurance products or annuities and discriminating against victims of domestic violence. To prevent these inappropriate sales practices and to lessen confusion, the regulation mandates disclosures be made to consumers.

Two separate and distinct disclosures (except to the extent that the disclosure would not be accurate) required by the regulation are – *insurance and credit*. Insurance disclosures are required before the completion of the initial sale of any insurance product or annuity. Credit disclosures are required at the time the consumer applies for an extension of credit in connection with which an insurance product or annuity is solicited, offered, or sold. Generally, disclosures are made orally and in writing. The regulation also requires written acknowledgment from the consumer that disclosures were received.



Insurance Consumer Protection

Finally, the regulation contains substantive requirements on advertising disclosures, qualification, and licensing of sales representatives, and teller referral fees.

Business Areas Impacted

- New Accounts/Customer Service
- Teller Operations
- Consumer Credit Operations
- Residential Lending Operations
- Insurance/Annuity Sales Operations
- Data Processing
- Training Coordinator
- Marketing



Insurance Consumer Protection

Highlights:

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Policy/Procedures</p> <p>Adopt a policy ensuring insurance or annuity sales activities meet enumerated regulatory obligations, institutional standards, and customer service.</p> <p>Establish and maintain comprehensive written procedures (task specific) and internal controls that ensure compliance with all regulatory requirements.</p>	Continuing	<p>Policy Statement</p> <p>Written Procedures</p>
<p>General Coverage</p> <p>A “covered” person is any:</p> <ol style="list-style-type: none"> 1. Savings association; or 2. Individual, entity (including subsidiaries or affiliates) or third party vendor only when selling, soliciting, advertising, or offering insurance products or annuities to a consumer at an office of a savings association or on behalf of a savings association. <p>Note: Activities “on-behalf of” a savings association are found under Section 536.20 (Definitions) in the regulation.</p>	Continuing	<p>Written agreements with individuals or entities engaged in insurance or annuity sales “on behalf” of the institution.</p>
<p>Prohibited Practices</p> <p>Ensure that insurance and annuity sales practices comply with anti-tying, anti-coercion, and domestic violence discrimination prohibitions.</p>	Continuing	<p>Written procedures</p> <p>Sales representative scripts</p> <p>Internal monitoring and review</p> <p>Training materials</p>



Insurance Consumer Protection

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Disclosure Requirements</p> <p>Ensure delivery of insurance and credit disclosures to a consumer in a readily understandable and meaningful form that calls attention to the nature and significance of the information provided. Content for disclosures is described in Section 536.40(a) and (b).</p> <p>Generally, disclosures must be made orally and in writing; however, the regulation specifies several exceptions for transactions by mail and telephone (See section 536.40 (c)(2) and (3)).</p> <p>Disclosures may be provided electronically:</p> <ul style="list-style-type: none"> • If the consumer expressly agrees to receive them electronically; and • If the disclosures are in a format the consumer can retain or obtain later. 	<p>Insurance disclosures must be made prior to the completion of the initial sale.</p> <p>Credit disclosures must be given at the time an application for credit is received, in connection with which an insurance product or annuity is offered or sold.</p> <p>Note time frames in Section 536.40 (c)(2) and (3) for providing disclosures in mail and telephone transactions.</p>	<p>Insurance disclosures</p> <p>Credit disclosures</p> <p>Loan applications</p> <p>Training programs and other guidelines to communicate and reinforce disclosure requirements</p> <p>Institution Web site</p> <p>Record retention guidelines</p>
<p>Consumer Acknowledgment</p> <p>Acknowledgments must be received from the consumer acknowledging receipt of insurance and/or credit disclosures. These can be written or electronic format.</p> <p>Oral acknowledgment is permitted for telephone transactions where disclosures are given orally, provided sufficient documentation is maintained showing the acknowledgment was received and reasonable efforts are made to obtain a written acknowledgment.</p>	<p>At the time the consumer receives the disclosures or at the time of initial purchase of an insurance product.</p> <p>At the time the disclosures are made.</p>	<p>Signed Acknowledgment</p> <p>Documentation showing oral disclosures provided and oral acknowledgment received</p> <p>Record retention guidelines</p> <p>Institution Web site</p>



Insurance Consumer Protection

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Consumer Complaints</p> <p>Ensure an effective process for handling, reporting, tracking and resolving consumer complaints derived from the sales activities of insurance products or annuities.</p>	Continuing	<p>Complaint and response documentation.</p> <p>Complaint Activity Database.</p> <p>Written reports</p>
<p>Updating</p> <p>Update policies, procedures, disclosures, and advertisements, as necessary to reflect changes in the regulation, internal systems, or operations. Ensure effective communication and distribution of updated material to all levels of personnel.</p>	Continuing	<p>All affected documentation</p> <p>Institution Web site</p>
<p>Record Retention</p> <p>Although the regulation does not address record retention standards, the association should retain sufficient documentation and information to support compliance with the disclosure and acknowledgment sections of the regulation.</p>	Two regular examination cycles	<p>Retain copies of disclosures</p> <p>Retain consumer's written acknowledgment</p>
<p>Training</p> <p>Provide training to management and line personnel whose duties are affected by the regulation. Provide appropriate background for the board of directors and senior management. Communicate policy and procedures to staff.</p>	Continuing	<p>Policies and Procedures</p> <p>Curriculum</p> <p>Training records</p>
<p>Monitoring</p> <p>Establish and implement standards and controls to supervise accurate execution of procedures and systems.</p>	Continuing	<p>Sales personnel disciplinary records</p> <p>Directives for managing insurance representatives</p> <p>Regular supervisory reports</p>



Insurance Consumer Protection

REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<p>Self-Evaluation</p> <p>Establish and executing an internal review program emphasizing periodic self-assessment reviews of insurance or annuity sales activities for compliance with regulatory obligations and association standards.</p>	<p>Per Risk Schedule</p>	<p>Compliance Management Program</p> <p>Written reports (include deficiencies and corrective action)</p> <p>Audit reports</p> <p>Sales personnel performance evaluation</p>



Insurance Consumer Protection

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OVERVIEW OF LAWS AND REGULATIONS

Privacy

Privacy

Executive Summary:

The privacy regulation, also known as Federal Reserve Regulation P, became effective on November 13, 2000, with mandatory compliance delayed until July 1, 2001. The regulation was issued pursuant to Title V, "Privacy," of the 1999 Gramm-Leach-Bliley Act (GLBA). Title V represents the first broad legislative effort to restrict the information shared by a financial institution about its customers with non-affiliated third parties.

In brief, the privacy regulation sets forth three elements: (1) requires a financial institution to provide notice to its customers about its privacy policies and practices; (2) describes the conditions under which a financial institution may disclose nonpublic personal information about consumers to nonaffiliated third parties; and, (3) provides a method for consumers to prevent the sharing described in element 2. As noted, the privacy regulation is applicable to all financial institutions since individual customers must be apprised of the information sharing practices of their institution, regardless of how liberal or restrictive they might be. If the institution shares information (as described in element 2), the individual is entitled to a written notice of "opt out" which prevents the distribution of nonpublic personal financial information, with some exceptions.

The privacy regulation acknowledges that, in very many instances, the routine business of banking relies on the unrestricted flow of personal financial data to service providers, data processors, regulatory authorities, et. al. Therefore, the regulation attempts to craft a solution that permits the individual consumer to elect limits on the sharing of data while not inhibiting the necessary flow of information for the payments system to function efficiently. This is accomplished through the three principal exceptions in the regulation, sections 13 – 15, addressing joint marketing arrangements, processing and servicing, and other specific, unique circumstances.

The privacy regulation employs a number of very specialized definitions. Terms such as "nonpublic personal information" and the distinctions drawn between such everyday terms as "customer" and "consumer" should be well understood prior to drafting privacy notices or training bank personnel. Because the privacy regulation was drafted in contemplation of its application to an online environment, there are particular provisions directed to those institutions offering electronic products and services. Finally, a distinction in the privacy regulation from most other federal consumer protection regulations is its deference to more consumer-protective state laws governing privacy and information-sharing. This is of particular significance to financial institutions operating on a multi-state basis; monitoring the progress of state legislative efforts may affect the practices of the corporate entity overall.



Business Areas Impacted:

- New Accounts
- Teller Operations
- Deposit Operations/Processing
- Marketing of Accounts
- Customer Service



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Policy/Procedures</p> <p>Establish a privacy policy that accurately states the institution's collection and use of consumers' financial information. The policy should address all issues pertinent to the flow of information within the institution, some of which might include:</p> <ol style="list-style-type: none"> 1. an <u>inventory</u> of existing information collection practices 2. an <u>evaluation</u> of the need to continue, rescind or add to existing information collection practices and of the efforts needed to comply with the regulation 3. the <u>development</u> of appropriate policies, practices, controls and training 4. the <u>implementation</u> of the regulation and a process for continuous monitoring thereafter. 	<p>Continuing</p>	<p>Privacy Policy</p>
<p>Coverage</p> <p>The Privacy regulation applies only to individuals seeking financial products or services for their personal, family or household use. Its coverage does <i>not</i> extend to individuals acting in a business capacity.</p> <p>The most critical terms to understand are the following:</p> <ol style="list-style-type: none"> 1. <u>Customer & Consumer</u> - A "consumer" is the broader of the two terms, generally defined as an individual seeking a financial product or service for personal, family or household use. A "customer" is a sub-group of consumers, specifically those with whom a financial institution establishes an on-going relationship. 	<p>Continuing</p>	<p>Privacy Policy</p>



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>2. <u>Nonpublic Personal Information (NPI)</u> - This is the term applied to the type of information protected by the Privacy regulation. It is comprised of two other types of information also defined in the regulation: <i>publicly available</i> information (from government records, media distribution, et. al.) that is not personally identifiable information (from sources such as loan applications, credit bureau reports, et. al.)</p>		
<p>Privacy Notices</p> <p>Privacy notices are generally divided into two categories: initial notice and annual notice. The regulation allows for some additional varieties (revised, short form and simplified), but these apply only in fairly narrow circumstances. Since the initial and annual notices will be far more prevalent, this guidance will focus principally on these two types of notices.</p> <p>1. <u>Initial Notice</u> - The initial notice must be provided to:</p> <ul style="list-style-type: none"> a. <i>a consumer</i> prior to sharing any nonpublic personal information about the individual with an unaffiliated third party. b. <i>a customer</i> no later than when a customer relationship is established (although the financial institution may provide the notice even earlier, if it so chooses). <p>2. <u>Annual Notice</u> - The annual notice is exclusive to customers. As a function of the on-going relationship characteristic of a customer relationship, the regulation provides for a periodic communication about financial privacy. In this way, a customer is reminded of the policy and practices of its institution and offers (if applicable), the continuing right to opt out.</p>	<p>No later than at the creation of the customer relationship (initial notice) and Annually (annual notice).</p>	<p>Initial Privacy Notice and Annual Privacy Notice</p>



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Since the regulation requires that both the initial and annual notice convey the same information elements (§573.6(a)(1-9); see below), the two notices will, most likely, appear similar. However, the regulation does not mandate that either notice be presented in a stand-alone format; the institution may include either notice along with other disclosures, just as long as the regulation's clear and conspicuous standard is satisfied.</p>		
<p>Content of Privacy Notices</p> <p>Ensure that privacy notices include all of the elements required under section 6. Briefly stated, the elements are:</p> <ol style="list-style-type: none"> 1. categories of NPI collected 2. categories of NPI disclosed 3. categories of affiliates and nonaffiliates to whom NPI is disclosed 4. disclosures relating to former customers 5. disclosures relating to joint marketing arrangements 6. description of opt out right and means by which to exercise 7. FCRA disclosures 8. summary of security procedures used to safeguard information <p>This list comprises the <u>minimum</u> level of information. If an institution chooses to include more, there is no explicit prohibition from doing so. However, keep in mind that the clear and conspicuous standard governs the "totality" of the notice's presentation. Any additional content, for example, marketing text, cannot obscure the required elements nor minimize their importance in any way.</p>	<p>Continuing</p>	<p>Privacy Notice(s)</p>



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Institutions who engage in no information sharing beyond the exceptions granted in sections 14 and 15 are permitted to offer a “simplified” notice at both the initial and annual notice stage. Under the simplified notice criteria (573.6(c)(5)), not all 8 elements must be included.</p>		
<p>Opt Out Notice</p> <p>The Opt Out Notice provides the means by which an individual can notify his/her financial institution that information sharing authority is being withheld. The notice can be a stand-alone document or it can be a component of the Initial or Annual Notice. And, while opt out notices offer a valuable right, they will not be offered by every financial institution because, in many cases, they will be unnecessary. If an institution only shares information falling under a section 14 or 15 exception, there is nothing from which the individual consumer need “opt out.”</p> <p>The Opt Out Notice must contain three separate pieces of information, per section 7(a)(1)(i-iii) of the regulation:</p> <ul style="list-style-type: none"> • that the financial institution discloses, or reserves the right to disclose, nonpublic personal information about its consumers to nonaffiliated third parties; • that the consumer has the right to opt out; and • the means by which the opt out right can be exercised. <p>Industry practices as of this writing generally reveal a preference to merge or append the opt out text to the privacy notice, rather than to provide a separate document. The regulation neither encourages nor discourages this practice; bear in mind, however, that the clear and conspicuous standard applies to</p>	<p>Continuing</p>	<p>Opt Out Notice</p>



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>the opt out portion just as to the privacy notice overall.</p>		
<p>Notice Delivery</p> <p>Section 9 of the Privacy regulation addresses the appropriate methods for delivering the various types of notices. The delivery provisions are considerably detailed, with some uniquely applicable to one type of notice, but not to another. However, the initial paragraph in section 9 establishes a minimum standard that is applicable to <i>all</i> notices:</p> <p style="padding-left: 40px;">“You must provide any notices... that this part requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the customer agrees, electronically.”</p> <p>Overall, the delivery provisions offer guidance rather than a prescriptive approach. The financial institution is directed to employ a standard of “reasonableness” with respect to its customers. To illustrate: the institution cannot reasonably expect that a consumer, who does not conduct any banking business electronically, would be appropriately notified if his privacy notice were to be delivered via e-mail. Similarly, it would not effect a reasonable delivery to the vast majority of retail customers who bank via ATM and U.S. mail to post the institution’s singular privacy notice in the lobby of the main branch facility. Instead, the institution should consider the array of delivery choices and the preferences of its customer base.</p> <p>Section 9, in a few instances, does expressly require or prohibit a particular delivery mechanism. These are:</p> <ul style="list-style-type: none"> • Oral description of notice is insufficient 	<p>Continuing</p>	<p>All Notices (Initial, Annual, Opt out, Revised, Short-form and Simplified)</p>



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<ul style="list-style-type: none"> For annual notices only, two unique methods of delivery are provided for e-banking customers and for those customers who have requested no postal correspondence For customers only, the various notices must be provided in a format that can be retained or accessed at a later date. 		
<p>Implementing Opt Out Elections</p> <p>Section 7(e) states: “You must comply with a consumer’s opt out direction as soon as reasonably practicable after you receive it.” The “reasonable” concept is explained in the Preamble to the Privacy regulation. Despite the request of many commenters to the proposed rule for a more precise standard, it was a deliberate multi-agency decision to retain a more general rule in light of the wide range of practices throughout the financial institution industry. To do otherwise, agency rationale stated, might disadvantage individual consumers in those situations when it would be within the bank’s ability to act before the prescribed deadline. Conversely, it could be that some financial institutions might face difficulties in complying with overly-rigid timeframes. Further, any standard established using current industry practices and capabilities could be rendered obsolete as advances in technology increase efficiency.</p>	Continuing	Opt Out Notice
<p>Reuse and Redislosure Limitations</p> <p>Section 11 addresses the various restrictions placed on information recipients who succeed the originally intended recipient. There are further qualifications placed on the information depending on whether or not it was shared pursuant to a section 14 or 15 exception to the privacy regulation. The table below offers a simplified graphic of the limitations to which subsequent recipients must adhere pursuant to this section:</p>	Continuing	Any contract(s) entered into by the financial institution and service providers (both affiliated and nonaffiliated).



<u>Nonpublic Personal Information:</u>			
Permissible Reuse and Redisclosure			
Received:			
Under an exception	To the affiliates of the <u>providing</u> financial institution	To the affiliates of the recipient, who are then subject to the same limits as the original recipient regarding reuse and redisclosure	To any party with whom the original recipient must transact business (e.g., subcontractor) in order to carry out the activity giving rise to the § 14/15 exception
Outside an exception	Same as above	Same as above	To any party, if the information could be properly conveyed by the <u>providing</u> financial institution
Disclosed:			
Under an exception	Same as above (i.e., the third party can disclose the info to your affiliates)	Same as above	To any party necessary, in the ordinary course of business, to carry out the activity giving rise to the § 14/15 exception under which you received the information (e.g., your subcontractor)
Outside an exception	Same as above (i.e., the third party can disclose the info to your affiliates)	Same as above	To any party, if the disclosure would be lawful if you, as the providing financial institution, made the disclosure directly to that party



REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	WRITTEN DOCUMENT OR RECORD
<p>Training/Updating</p> <p>Provide training to all employees who perform duties subject to the requirements of the regulation. This would encompass all staff who deal with consumer financial products or services, either in a direct customer-contact role or in a back-office/information processing capacity. Training should precede the individual's access to nonpublic personal information about the institution's customers, if possible.</p> <p>For all other bank personnel, a basic understanding of privacy principles, as well as the institution's implementation of the GLBA privacy regulation, is recommended. At a minimum, this should involve familiarity with the institution's own privacy notice, opt out applicability and a privacy officer/liaison to whom customer inquiries can be directed.</p> <p>Update all applicable policies, procedures and operational manuals to reflect regulatory changes.</p>	<p>Continuing</p> <p>For new hires, prior to handling protected information.</p>	<p>Training Manual(s)</p>
<p>Monitoring/Internal Review</p> <p>Establish and implement standards and controls to supervise accurate execution of procedures and systems.</p>	<p>Continuing</p>	<p>Internal Review</p> <p>Procedures/Reports</p>



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Compliance Requirements by Functional Area

This section provides practical guidance about various compliance requirements organized by nine categories. Each category groups regulatory requirements that share common attributes. For example, all of the major notices and disclosures required by the consumer protection laws and regulations are grouped together under a single heading (in this case “Disclosures/Notices”) and then subdivided by specific law or regulation. Information in this section is general and does not substitute for the specific requirements of the consumer protection laws and regulations.



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Disclosures/Notices

Truth in Lending Act

Regulation Z

12 CFR 226

A. Open-End Credit, Subpart B

Early Disclosures: Credit Card Applications and Solicitations [Section 226.5a]

The creditor must disclose the items listed under Section 226.5a(b) on or with a solicitation or an application to open a credit or charge card account. Most of the disclosed items must be provided in a prominent location in the form of a table with headings, content, and format substantially similar to any of the applicable tables found at Appendix G of the regulation. The other disclosures must be provided either in the table or clearly and conspicuously elsewhere on or with the application or solicitation.

Note special rules for disclosures in connection with:

1. Direct-mail applications and solicitations Section 226.5a(c)
2. Telephone applications and solicitations Section 226.5a(d)
3. Applications and solicitations made available to the general public Section 226.5a(e)

Early Disclosures: Home-Equity Plan Applications [Section 226.5b]

The creditor must provide (1) the disclosures set forth in Section 226.5b(d) (grouped together and segregated from all unrelated information) and (2) the home equity brochure referenced in Section 226.5b(e) in connection with applications for open-end credit plans secured by the consumer's dwelling. The disclosures and brochure must be provided at the time the application is furnished to the consumer, or no later than three business days after receiving a telephone application, an application from a magazine or other publication, or an application through an intermediary agent or broker.

Initial Disclosure Statement [Sections 226.5(b)(1) and 226.6]

The creditor must provide the initial disclosure statement containing the items described in Section 226.6 before the first transaction is made under the open-end credit plan.

Periodic Statement [Sections 226.5(b)(2) and 226.7]

In connection with open-end credit transactions, the creditor must mail or deliver a periodic statement for each billing cycle ending with a debit or credit balance of more than \$1 or on which a finance charge has been imposed. The periodic statement must be delivered at least 14 days prior to the date by which or the time period within which the new balance



Disclosures/Notices

(or any portion thereof) must be paid to avoid additional finance charges. The periodic statement must include the items specified in Section 226.7, to the extent applicable.

Disclosures: Supplemental Credit Devices and Additional Features [Section 226.9(b)]

If a creditor adds a credit feature or furnishes a credit device on the same finance charge terms after 30 days following delivery of the initial disclosure statement, the creditor must disclose that it is for use in obtaining credit under the terms previously disclosed before the consumer uses the feature or device for the first time.

If a credit feature is added or a credit device furnished and the finance charge terms for the feature or device differ from the those previously disclosed, the creditor must provide the applicable disclosures from Section 226.6(a) before the consumer uses the new feature or device.

Change in Terms Notice [Section 226.9(c)(1) and (2)]

The creditor must provide a 15-day advance written notice to each consumer affected by a change in any term disclosed in the initial disclosure statement or an increase in the required minimum periodic payment. No notice is required in the case of late-payment charges, over-the-limit charges, consumer default or delinquency, or any other related occurrences detailed in Section 226.9(c)(2).

Notice for Home-Equity Plans [Section 226.9(c)(3)]

If a creditor prohibits additional extensions of credit or reduces the credit limit applicable to a home-equity plan (based on Section 226.5b(f)(3)(i) or (vi)), written notice of the action must be mailed or delivered to each affected consumer not later than three business days after the action is taken. The notice must specify specific reasons for the action, and if reinstatement of credit privileges must be requested by the consumer, the notice must state that fact.

Disclosures upon Renewal of Credit Card [Section 226.9(e)]

A card issuer that imposes any annual or other periodic fee for the renewal of a credit card account (including fees based on account activity or inactivity) must mail or deliver written notice of the renewal to the cardholder, containing the information and provided within time frame set forth in Section 226.9(e).

Change in Credit Card Account Insurance Provider [Section 226.9(f)]

A card issuer must mail or deliver written notice of any intended change in the provider of insurance for repayment of all or part of the outstanding balance of an open-end credit card account not less than 30 days before the change occurs. The notice must include



the items specified in Section 226.9(f)(1), as applicable. The card issuer must also provide written notice after the change, including certain additional information specified in Section 226.9(f)(2), as applicable. A combined notice may be provided if mailed or delivered not less than 30 days before the change.

Liability of Cardholder for Unauthorized Use

[Section 226.12(b)]

A cardholder may not be held liability for unauthorized use of a credit card unless the card issuer has provided “adequate notice” of (1) the cardholder’s maximum potential liability and (2) the means by which the card issuer may be notified of loss or theft of the card. The notice must state that the cardholder’s liability will not exceed \$50 (or a lesser amount) and that the cardholder may give oral or written notification. It must also describe a means of notification, such as a telephone number, an address, or both.

“Adequate notice” means a printed notice that clearly lays out the pertinent facts so that the cardholder may reasonably be expected to have noticed it and understood its meaning. It may be given by any means reasonably assuring receipt by the cardholder.

Notification to Card Issuer Regarding Unauthorized Use

[Section 226.12(b)(3)]

A cardholder is considered to have furnished notification to a card issuer when reasonable steps have been taken to provide the card issuer with the pertinent information about the loss, theft, or possible unauthorized use of a credit card. Notification may be given in person, by telephone, or in writing.

Billing Error Notice

[Section 226.13(b)]

A consumer may assert that the occurrence of a “billing error” (see Section 226.13(a) for specific definition) by providing a written notice that (1) is received by the creditor within 60 days after transmission of the periodic statement reflecting the error; (2) enables the creditor to identify the consumer’s name and account number; and (3) indicates the perceived reasons that an error exists and the type, date and amount of the error.

Creditor Response to Billing Error Investigation

[Section 226.13(c), (e), (f), and (g)]

The creditor must provide, within the required time periods, the appropriate notification(s) to the consumer in response to a billing error notice following a reasonable investigation. The type of notice(s) to be delivered depends upon whether the creditor determines that a billing error has occurred as asserted or whether a different billing error or no billing error has occurred.



Disclosures/Notices

Notice of Right to Rescind

[Section 226.15]

In any transaction subject to rescission, the creditor must deliver two copies of the notice of the right to rescind to each consumer entitled to rescind which contains the information and is in the format specified in Section 226.15(b).

Notice of Exercise of Right of Rescission

[Section 226.15(a)]

To exercise the right to rescind, the consumer must notify the creditor of the rescission by mail, telegram, or other means of written communication within the specified time period.

Consumer's Waiver of Right to Rescind

[Section 226.15(e)]

The consumer may modify or waive the right to rescind if the consumer determines that the credit extension is needed to meet a bona fide personal emergency by taking the following action: provide the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signatures of all the consumers entitled to rescind.

Use of Annual Percentage Rate in Oral Disclosure

[Section 226.26(a)]

In response to a consumer's inquiry about the cost of open-end credit, the creditor is allowed to state only the annual percentage rate(s), except that the periodic rate(s) also may be stated.

B. Closed-End Credit, Subpart C

Closed-End Credit Disclosures

[Sections 226.17 and 18]

Prior to the consummation of a closed-end credit transaction, the creditor must provide the disclosures required by Section 226.18 in a clear and conspicuous written form that the consumer may keep. The disclosures must be grouped together and may not contain any unrelated information.

Early Good Faith Estimates of Disclosures

[Section 226.19(a)]

In a residential mortgage transaction subject to RESPA, the creditor must make good faith estimates of the disclosures required by Section 226.18 prior to consummation or must mail or deliver them not later than three business days after receipt of the consumer's written application, whichever is earlier. Rediscovery is required at the time of consummation under certain circumstances described in paragraph (a)(2).



Disclosures for Certain Variable Rate Transactions

[Section 226.19(b)]

If the APR may increase after consummation of a transaction secured by the consumer's principal dwelling with a term greater than one year, the creditor must provide, at the time of application or before the consumer pays a nonrefundable fee (whichever is earlier), the following information detailed in Section 226.19(b): (1) the Consumer Handbook on Adjustable Rate Mortgages and (2) a loan program disclosure for each variable-rate program of interest to the consumer containing the information described in Section 226.19(b)(2).

Disclosures for Refinancings

[Section 226.20(a)]

New disclosures must be provided to a consumer in connection with any "refinancing." A refinancing occurs when an existing obligation previously subject to Subpart C of Regulation Z is satisfied and replaced by a new obligation undertaken by the same consumer.

Disclosures for Assumptions

[Section 226.20(b)]

Prior to the occurrence of an "assumption," the creditor must make new disclosures to the subsequent consumer, based on the remaining obligation. An "assumption" occurs when a creditor expressly agrees in writing with a subsequent consumer to accept that consumer as a primary obligor on an existing residential mortgage transaction.

Notice of Right to Rescind

[Section 226.23]

In a transaction subject to rescission, the creditor must deliver two copies of the notice of the right to rescind to each consumer entitled to rescind which contains the information and is in the format specified in Section 226.23(b).

Notice of Exercise of Right of Rescission

[Section 226.23(a)]

To exercise the right to rescind, the consumer must notify the creditor of the rescission by mail, telegram, or other means of written communication within the specified time period.

Consumer's Waiver of Right to Rescind

[Section 226.23(e)]

The consumer may modify or waive the right to rescind if the consumer determines that the credit extension is needed to meet a bona fide personal emergency by taking the following action: provide the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signature of all the consumers entitled to rescind.



Disclosures/Notices

Use of Annual Percentage Rate in Oral Disclosure

[Section 226.26(b)]

In response to a consumer's inquiry about the cost of closed-end credit, the creditor is allowed to state only the annual percentage rate, except that a simple annual rate or periodic rate may also be stated if it is applied to an unpaid balance.

C. Special Rules for Certain Home Mortgage Transactions, Subpart E

Disclosures for Certain Closed-End and Reverse Mortgages [Section 226.31, 32 and 33]

Special disclosure requirements apply in the case of (i) certain closed-end home mortgages (where the APR or total points and fees payable by the consumer exceed a prescribed amount) as described in Section 226.32 and (ii) reverse mortgages as defined in Section 226.33. The content of the disclosures for these two types of mortgages is defined in Sections 226.32 and 226.33, respectively, and the form, timing and other aspects of these disclosures are described in Section 226.31.

Real Estate Settlement Procedures Act

Regulation X

24 CFR 3500

Special Information Booklet

[Section 3500.6]

The lender must provide a copy of the special information booklet (as described in Sections 3500.2 and 3500.6) to a person from whom the lender receives or for whom the lender prepares a written application for a federally related mortgage loan. When two or more persons apply together, the lender complies by giving the booklet to one of them. The booklet must be mailed or delivered to the applicant not later than three business days after the application is received or prepared. However, if the application is denied before the end of the three day period, the lender need not provide the booklet to the borrower. In addition, the lender does not have to provide the booklet in the case of: (i) refinancing transactions; (ii) closed-end subordinate lien loans; (iii) reverse mortgages; and (iv) any other mortgage loan not involving the purchase of a one- to four-family residential property.

Good Faith Estimate

[Section 3500.7]

The lender must provide all applicants with a good faith estimate (GFE) of the amount of or range of charges for the specific settlement services the borrower is likely to incur in connection with the settlement. The GFE must contain the information specified in Section 3500.7(c), and estimates must be made in good faith, reasonable, and based on experience in the locality of the mortgaged property. In addition, if the lender requires use of a particular provider of settlement services and requires the borrower to pay any portion of



the costs, the GFE must include additional information as specified in Section 3500.7(e). The form of the GFE is described in Section 3500.7(d).

The GFE must be mailed or delivered to the applicant not later than three business days after the application is received or prepared. However, if the application is denied within the three day period, the GFE need not be provided. In the case of open-end home equity lines covered by Regulation Z, no GFE need be provided if disclosures required by 12 CFR 226.5b are provided at the time of application.

HUD-1/HUD-1A Settlement Statements [Sections 3500.8, 3500.9 and 3500.10]

The HUD-1 Settlement Statement must be used in every settlement involving a federally related mortgage loan in which there is a borrower and a seller. For transactions in which there is no seller, such as a refinance or subordinate lien loan, the borrower's side of the HUD-1 or the HUD-1A form may be used. The HUD-1 must itemize all charges imposed on the borrower and seller by the lender, all sales commissions, and any other charges which either the borrower or seller will pay at settlement. Charges paid outside of settlement are labeled as "P.O.C." on the HUD-1 and are not included in computing totals. The use of the HUD-1 or HUD-1A is exempted for open-end lines of credit (home equity plans) covered by the Truth in Lending Act and Regulation Z.

The completed HUD-1 or HUD-1A must be available for inspection by the borrower one day prior to closing. It must also be given to the borrower, seller and lender, or their agents, no later than closing unless the right of delivery has been waived by the borrower, in which case the HUD-1 must be mailed or delivered as soon as practicable. If the borrower is not represented at closing, the HUD-1 must be mailed or delivered as soon as practicable.

Affiliated Business Arrangement Disclosure Statement [Section 3500.15]

An affiliated business arrangement is an arrangement in which a person in a position to refer settlement service business has either an affiliate relationship with or an ownership interest of more than one percent in a provider of settlement services, and such person refers business to that provider or affirmatively influences the selection of that provider.

In order for this arrangement not to violate Section 8 of RESPA, certain conditions must be met including a requirement that the person making the referral provides a written disclosure to the customer in the format set forth in Appendix D to Regulation X at the time of referral or the time of application (if the provider is required by the lender). The disclosure is designed to (i) specify the nature of the relationship (explaining the ownership and financial interest) between the parties giving and receiving the referral and (ii) describe the estimated charge or range of charges generally made by the provider of settlement services.



Disclosures/Notices

Initial Escrow Account Statement

[Section 3500.17]

After conducting an initial escrow analysis to determine the amount of the borrower's escrow payment at closing and for the first year, the lender must submit an initial escrow account statement to the borrower either at settlement or within 45 days after settlement. When the statement is provided at closing, it may be incorporated into or attached to the HUD-1 or HUD-1A Settlement Statement. If the account is established after settlement, the initial escrow statement must be provided within 45 days of establishing the account. The statement must include the information specified in Section 3500.17(g) and should be substantially in the format set forth in Section 3500.17(h).

Annual Escrow Statement

[Section 3500.17]

For each escrow account, the servicer must submit an annual escrow statement to the borrower within 30 days of the completion of the escrow computation year after conducting an escrow account analysis. The escrow year begins with the borrower's first payment. The statement must contain all of the information set forth in Section 3500.17(i) and should be substantially in the format set forth in Section 3500.17(j). The annual escrow account statement is designed to provide an account history, reflecting the activity in the account during the past year along with a projection of the activity in the account for the next year.

Notice of Shortage or Deficiency in Escrow Account

[Section 3500.17(f)]

The servicer must notify the borrower at least once during the escrow account computation year if there is a shortage or deficiency in the escrow account. The notice may be part of the annual escrow account statement or it may be a separate document.

Servicing Disclosure Statement

[Section 3500.21(b)]

Each person who applies for a covered loan must be provided with a servicing disclosure statement which explains the process of transferring servicing rights and the ramifications of the process on the applicant. It primarily discloses information about the likelihood of an assignment, sale or transfer of the loan. The servicing disclosure statement should contain the information specified in Section 3500.21(b). The statement must be provided at the time the application is submitted or within three business days after submission of the application. However, if the application is denied within the three day period, the servicing disclosure statement need not be given to the applicant. Each applicant or co-applicant must sign an acknowledgment of receipt of the servicing disclosure statement before settlement.



Notices of Transfer of Loan Servicing

[Section 3500.21(d)]

If servicing is assigned, sold, or transferred, both the transferor and transferee servicers must provide the borrower a written notice of transfer containing information specified in Section 3500.21(d). The transferor must deliver this notice at least 15 days before the effective date of the transfer. The transferee's notice must be given no later than 15 days after the effective date of the transfer. Alternatively, the transferor and transferee may use a combined notice if delivered at least 15 days before the effective date of the transfer. In limited situations specified in the Section 3500.21 (such as, for example, bankruptcy proceedings against the servicer) the notice may be delivered by the transferor or transferee no later than 30 days after the effective date of the transfer.

Home Mortgage Disclosure Act Regulation C

12 CFR 203

Modified Loan/Application Register (LAR)

[Section 203.5(c) and (d)]

The lender must make its LAR available for public inspection upon request after modifying it to protect the privacy interests of applicants and borrowers by deleting: (1) the application or loan number; (2) the date of receipt of the application; and (3) the date of action taken. The modified LAR must be available following the calendar year for which the data relates, no later than March 31 for requests received on or before March 1 and within 30 days for requests received after March 1. The lender must make its modified register available for a three year period.

Disclosure Statement

[Section 203.5(b)]

The institution's disclosure statement, prepared by the Federal Financial Institutions Examination Council (FFIEC), must be made available to the public for inspection and copying at its home office within 3 business days after receiving it from the FFIEC.

In addition, the institution must do either one of the following:

- make the statement available in at least one office in each additional MSA where it has offices within 10 business days of receipt from the FFIEC; or
- post the address for sending written requests for the statement in the lobby of each branch office in an MSA where it has offices, and mail or deliver a copy of the statement within 15 calendar days of receipt of a written request.

The lender must make the disclosure statement available to the public for a five year period.



Disclosures/Notices

Lobby Notice

[Section 203.5(e)]

The institution must post a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA.

National Flood Insurance Act

OTS Implementing Regulations

12 CFR 572

Standard Flood Hazard Determination Form

[Section 572.6]

When an institution makes, increases, extends, or renews any loan secured by a building or a mobile home and any personal property, it must use the standard flood hazard determination form developed by FEMA to determine whether the building or mobile home offered as security for the loan will be located in a Special Flood Hazard Area (SFHA) in which flood insurance is available under the National Flood Insurance Act.

Notice to Borrower and Servicer

[Section 572.9]

When an institution makes, increases, extends or renews a loan secured by a building or a mobile home located or to be located in a SFHA, the institution must provide a written notice to the borrower and servicer. The notice must be provided regardless of whether the property securing the loan is located in a participating or non-participating community. The notice must contain: (1) a warning that the building or mobile home is or will be located in a SFHA; (2) a description of the flood insurance purchase requirements; (3) a statement whether flood insurance coverage is available under the National Flood Insurance Program and may also be available from private insurers; and, (4) a statement whether federal disaster relief assistance may be available in the event of damage to the building or mobile home caused by flooding in a federally declared disaster.

The notice to the borrower must be delivered within a “reasonable” time before completion of the transaction. The notice to the servicer must be delivered as promptly as practicable after the notice to the borrower, but no later than the time the institution transmits other loan data concerning hazard insurance and taxes to the servicer. A copy of the borrower notice can satisfy the servicer notice requirement.

The regulations permit an alternate notice provision by which an institution may rely on assurances from a seller or lessor that the seller or lessor has provided the requisite notice to the purchaser or lessee.



Notice of Servicer's Identity

[Section 572.10]

An institution must notify the Director of FEMA's designee (e.g., the insurance carrier) of the identity of the loan servicer and of any change in the servicer. This notice must be sent within 60 days after the effective date of the transfer of servicing. The notice must be sufficient for the insurance carrier to identify the property securing the loan and the new servicer and its address.

Equal Credit Opportunity Act Regulation B

12 CFR 202

Providing Appraisal Reports

[Section 202.5a]

A creditor must provide a copy of the appraisal report used in connection with an application for credit to be secured by a lien on a dwelling, either as a matter of routine delivery or upon written request by the applicant who has been notified in writing of their right to obtain a copy. The notice of the right to receive a copy of the appraisal report must be given no later than when the creditor provides the notice of action taken under Section 202.9. The creditor must mail or deliver a copy of the appraisal report generally within 30 days of the request.

Notification of Action Taken

[Section 202.9(a)]

The creditor must notify an applicant of the action taken on a credit application, in accordance with the requirements of Section 202.9. The notification must be in writing and must include a statement of the action taken, the name, address and telephone number of the creditor, a statement of the provisions of Section 701(a) of the ECOA (see Section 202.9(b)), the name and address of the creditor's federal regulator, and a statement of the specific reasons for the action or the disclosure of the right to obtain such reasons. Generally, the notice must be provided within 30 days after receipt of a completed application. The notification requirements for business credit applicants may vary somewhat as described in Section 202.9(a)(3).

ECOA Notice

[Section 202.9(b)]

When providing a notification of action taken in connection with the requirements of Section 202.9(a), the creditor must provide a statement of the provisions of Section 701(a) of the ECOA that is substantially similar to the language contained in Section 202.9(b).



Disclosures/Notices

Monitoring Information

[Section 202.13]

A creditor must inform applicant(s) for a home mortgage loan that the federal government requests information on race or national origin, sex, marital status and age for monitoring purposes. The creditor must also inform the applicant(s) that if they choose not to provide the information or any part of it, the creditor is required to note on the application form, to the extent possible, the race or national origin and sex on the basis of visual observation or surname.

OTS Nondiscrimination Regulations

12 CFR 528.5

Equal Housing Lender Poster

[Section 528.5]

The institution must maintain an Equal Housing Lender Poster (in the prescribed format and containing the designated language) in the lobby of each of its offices in a prominent place or places readily apparent to all persons seeking loans.

Electronic Fund Transfer Act

Regulation E

12 CFR 205

Initial Disclosures

[Section 205.7]

At the time a consumer contracts for an electronic fund transfer (EFT) service or before the first EFT is made involving a consumer's account, an institution must provide certain initial disclosures to the consumer concerning the terms, conditions, charges, liability, and other matters outlined in Section 205.7(b) relating to the use of EFT service. The disclosures must be clear and readily understandable, in writing, and in a form the consumer may keep. See Appendix A of Regulation E for model disclosure forms.

Change in Terms Notice

[Section 205.8(a)]

An institution must provide consumers with written notice at least 21 days before the effective date of any change in a term or condition required to be disclosed under Section 205.7(b) if the change would result in (1) increased fees, (2) increased liability, (3) fewer types of available EFTs, or (4) stricter limits on the frequency or dollar amount of transfers. Prior notice need not be given if an immediate change is needed for security reasons.

Error Resolution Notice

[Section 205.8(b)]

For each account to or from which EFTs can be made, an institution must provide the consumer annually (or in each periodic statement) with a description of the manner for re-



solving errors in connection with EFT services. See Appendix A of Regulation E for model forms.

Electronic Terminal Receipts

[Section 205.9(a)]

At the time an electronic transfer is initiated at an electronic terminal by a consumer, the institution shall provide the consumer a written receipt showing the amount of the transfer, date of transfer, type of transfer and account(s) accessed, location of terminal, and other information outlined in Section 205.9(a). Note: the amount of the transfer may include a transaction fee if the amount of the fee is disclosed on the receipt and displayed on or at the terminal.

Periodic Statements

[Section 205.9(b) & (c)]

For any account to or from which electronic fund transfers can be made, the institution shall provide a monthly statement (quarterly, if no transfers have occurred or access is limited to receipt of preauthorized transfers) including a record of each transfer made in the period with date, accounts accessed, location and other information.

Passbook Entries

[Section 205.9(c)]

For passbook accounts that only receive preauthorized transfers, the institution may substitute entry of information on presentation of the passbook by the consumer in place of providing a periodic statement.

Notice for Preauthorized Transfers

[Section 205.10]

Except where the payor provides positive notice to the consumer that a transfer has been made to his account, the institution shall provide oral or written notice within two days or a readily available telephone line that the consumer may call to confirm the status of a preauthorized transfer, as described in Section 205.10(a).

Preauthorized electronic fund transfers (EFTs) from a consumer's account may be authorized only by a writing signed or similarly authenticated by the consumer. Consumers may stop payment of a preauthorized EFT from their account by notifying the institution orally or in writing at least three business days before the scheduled date of the transfer (and an institution may require written confirmation of a stop payment order within 14 days of oral notification). Section 205.10(b) and (c).

Error Investigation Results and Correction

[Section 205.11]

Within 10 days (or 45 days if provisional credit has been given), an institution must notify the consumer of the results of the investigation of an alleged error and any required correction that was made. If the institution determines that no error occurred or that an error



occurred in a manner or amount that is different from that described by the consumer, the institution must include a written explanation of its findings and note the consumer's right to request the documents relied upon in making its decision. Upon debiting a provisionally credited amount, the institution must (i) notify the consumer of the date and amount of the debiting and (ii) notify the consumer that the institution will honor checks and preauthorized transfers for five business days after the notification.

Expedited Funds Availability Act

Regulation CC

12 CFR 229

New Account Availability Disclosure

[Sections 229.16(b) and 229.17]

Potential customers must be provided with a specific funds availability policy disclosure prior to opening an account. The content of this disclosure must follow the requirements of Section 229.16 and reflect the policy and practices of the institution regarding the availability of deposited funds.

Requesting an Account Availability Disclosure

[Section 229.18(d)]

An institution must provide a copy of its specific availability policy disclosure described in Section 229.16 to any person, upon oral or written request.

Notice of Case-by-Case Holds

[Section 229.16 (c)(1) and (2)]

An institution that has a policy of making deposited funds available for withdrawal sooner than required by the regulation may extend the time when funds are available up to the time periods allowed if:

- (1) the institution provides notice of the possible extension of time for the withdrawal of deposited funds on a case-by-case basis within its specific availability policy disclosure as described in Section 226.16(c)(1);
- (2) the institution provides a written notice to the customer when it actually extends the time when funds will be available on a case-by-case basis for withdrawal in the manner prescribed by Section 229.16(c)(2); and
- (3) a statement that customers should ask if they need to know when a particular deposit will be available for withdrawal.



Notice of Exception Hold

[Section 229.13(g)]

An institution extending the time when funds will be available for withdrawal based on the application of an exception contained in Section 229.13(b)-(f), must provide the depositor with a written notice as described therein. These exceptions include large deposits, redeposited checks, repeated overdrafts, reasonable cause to doubt collectibility, and emergency conditions.

Deposit Slip Notice

[Section 229.18(a)]

A notice must be included on the front of all preprinted deposit slips stating that deposits may not be available for immediate withdrawal.

Lobby Notice

[Section 229.18(b)]

An institution must post a notice in a conspicuous place in each location where its employees accept deposits to consumer accounts which sets forth the time periods applicable to the availability of funds deposited in a consumer account.

Automated Teller Machine Notice

[Section 229.18(c)]

The institution must post or provide a notice at each ATM location that funds deposited in the ATM may not be available for immediate withdrawal. The notice may be posted on a sign, ATM screen or included on deposit envelopes provided at the ATM.

Institutions operating an off-premises ATM from which deposits are not removed more than two times each week must disclose at or on the ATM the days on which deposits made at the ATM will be considered received. [Section 229.19 (a)(4)]

Notice of Changes in Policy

[Section 229.18(e)]

An institution must deliver a notice to holders of consumer accounts at least 30 days prior to implementing a change to its availability policy regarding such accounts, except that a change resulting in expedited availability of funds may be disclosed not later than 30 days after implementation.

Notice of Nonpayment

[Section 229.33(d)]

An institution receiving a returned check or notice of nonpayment must send notice to its customer of the facts by midnight of the banking day following the banking day that it received the returned check or notice, or within a longer reasonable time.



Truth in Savings Act

Regulation DD

12 CFR 230

Account Disclosures

[Section 230.4(a) and (b)]

Account disclosures, containing the information required by Section 230.4(b), must be provided to consumers before an account is opened or a service provided, whichever occurs first. The disclosures are required to be mailed or delivered no later than 10 business days after an account is opened (or a service provided) if the consumer is not present at such time. Account disclosures must also be provided to consumers upon request; if the consumer is not present, the disclosures must be mailed or delivered within a reasonable time after the request is made.

Subsequent Disclosures for Changes in Terms

[Section 230.5(a)]

Advance notice must be provided to affected consumers concerning any change in account terms or the annual percentage yield (APY) if that change may reduce the APY or adversely affect the consumer. The notice is required to be mailed or delivered at least 30 calendar days before the effective date of the change and should include the effective date of the change.

Notices of Maturity of Time Account

[Section 230.5(b), (c), and (d)]

Institutions must provide notice of maturity of the following types of time accounts:

1. For time accounts with a maturity longer than one month that renew automatically, the notice must be mailed or delivered at least 30 calendar days before the scheduled maturity date (or at least 20 calendar days before the end of a grace period lasting at least 5 calendar days). The content of the notice must meet the requirements of Section 230.5(b).
2. For time accounts with a maturity of one month or less that renew automatically, the notice must be mailed or delivered within a reasonable time after maturity. The content of the notice must meet the requirements of Section 230.5(c).
3. For time accounts with a maturity of longer than one year that do not renew automatically, the notice must be mailed or delivered at least 10 calendar days before maturity. The content of the notice must meet the requirements of Section 230.5(d).



Periodic Statements

[Section 230.6]

If an institution provides a periodic statement in connection with an account, the statement must include certain disclosures specified in Section 230.6. Special rules apply for institutions that use the average-daily-balance method.

Community Reinvestment Act

Regulation BB

12 CFR 563e

CRA Lobby Notice

[Section 563e.44]

The institution must provide a public notice in the lobby of its main office and each of its branches. The notice informs the public of the OTS's obligation to evaluate the institution's CRA performance and encourages public involvement. The contents of this notice must follow the requirements of section 563e.44 and Appendix B of the regulation.

CRA Disclosure Statement

[Section 563e.43(b)(1)(ii)]

The institution must place the CRA Disclosure Statement prepared for it by the OTS in its public CRA file within three business days of its receipt.

Public Section of CRA Performance Evaluation

[Section 563e.43(a)(2)]

The institution must place a copy of the public section of its most recent CRA Performance Evaluation in its public CRA file within 30 business days after receipt from the OTS.

HMDA Disclosure Statement

[Section 563e.43(b)(2)]

Institutions that are required to report home mortgage loan data pursuant to HMDA and Regulation C must include in its public file a copy of its HMDA Disclosure Statement provided by the FFIEC for each of the prior two calendar years. In addition, institutions that elect to have the OTS consider the mortgage lending of an affiliate for any of these years must include the affiliate's HMDA Disclosure Statement for those years in its file. The statement(s) must be placed in the public file within three business days after its (their) receipt.



Disclosure and Reporting of CRA-Related Agreements

12 CFR 533

CRA Sunshine Regulation

Disclosure of Covered Agreements

[Section 533.6]

A. To Public:

Each NGEF and each IDI or affiliate that enters into a covered agreement after November 12, 1999, must make a copy of the covered agreement available to any individual or entity upon request.

B. To Relevant Supervisory Agency:

- Each NGEF that is a party to a covered agreement must provide a complete copy of the agreement, and if applicable a public version of the agreement.
- Each insured depository institution and affiliate must provide each relevant supervisory agency with:
 - 1) A complete copy of each covered agreement, and if applicable, a public version of the agreement, entered into by the insured depository institution or affiliate during the calendar quarter. The agreement must include the information specified in 533.6(b)(3); or
 - 2) A list of all covered agreements entered into by the insured depository institution or affiliate during the calendar quarter. The list must include the information specified in 533.6(d)(ii).

Consumer Protection for Depository Institution Sales of Insurance

12 CFR 536

Insurance Disclosures

[Section 536.40(a) and 536.40(c)(1)]

A savings association or any covered person must provide the disclosures specified under Section 536.40(a) in connection with the initial purchase of an insurance product or annuity. These disclosures must be made (except to the extent they may not be accurate) orally and in writing before the completion of the initial sale of any insurance product or annuity.



Credit Disclosures

[Section 536.40(b) and 536.40(c)(1)]

The credit disclosures set forth in Section 536.40(b) must be made orally and in writing at the time a consumer applies for an extension of credit in connection with which an insurance product or annuity is solicited, offered, or sold.

Note special rules for disclosures in connection with:

1. Direct mail insurance/annuity sales and credit applications Section 536.40(c)(2)
2. Telephone insurance/annuity sales and credit applications Section 536.40(c)(3)
3. Electronic media Section 536.40(c)(4)

Must be Readily Understandable and Meaningful

[Section 536.40 (c)(5) and (c)(6)]

Disclosures must be readily understandable and provided in a meaningful form. “Readily understandable” means disclosures shall be simple, direct, and designed to call attention to the nature and significance of information provided. The savings association or covered person may use short form insurance disclosures found at Section 536.40 (c)(5) in visual media advertisements and promotional materials.

Ensuring disclosures are “meaningful”, requires using one of the methods described in Section 536.40(c)(6) that calls attention to the significance of the information provided. Disclosures are not in a meaningful form if the savings association or covered person does not provide them in printed material and does not orally disclose the information to the consumer.

Consumer Acknowledgment

[Section 536.40(c)(7)]

A savings association or covered person must obtain a written acknowledgment of receipt from the consumer at the time insurance or credit disclosures are provided or at the time of the initial purchase by the consumer of an insurance product or annuity. Consumers may acknowledge receipt of disclosures in paper form or in electronic format. However, special rules in Section 536.4(c)(7) apply for transactions conducted by telephone or mail.

Privacy of Consumer Financial Information

Regulation P

12 CFR 573

Types of Privacy Notices

Initial - A financial institution must provide a clear and conspicuous written notice that accurately reflects its privacy policies and practices. The notice must be provided to a customer “not later than when you establish a customer relationship”; for a consumer, “before



Disclosures/Notices

you disclose any nonpublic personal information about the consumer to any nonaffiliated third party.” If the institution does not disclose information about consumers beyond the section 14 and 15 exceptions, an initial notice is not required. When an existing customer obtains a new financial product or service, the initial notice requirements are met if (1) a revised notice is provided or (2) the initial, annual or revised notice most recently provided to the customer is accurate as to the new product or service.

Annual – A financial institution must provide a clear and conspicuous written notice that accurately reflects the financial institution’s privacy policies and practices not less than annually during the continuation of the customer relationship. “Annually” is defined as at least once in any period of 12 consecutive months during which the relationship exists. The institution may select any 12 consecutive month period, but it must apply it to the customer on a consistent basis. The annual *notice* obligation ceases when the customer relationship ends and the individual becomes a “former customer,” a status conferred differently depending on the type of relationship (e.g., closed-end credit, deposit account) but always in the event that the institution has not communicated with the individual about the customer relationship for a period of 12 consecutive months (other than to provide annual privacy notices or promotional materials).

Revised - A revised notice (and corresponding opt out notice) is required when an institution plans to (i) disclose a new category of nonpublic personal information to any nonaffiliated third party; (ii) disclose nonpublic personal information to a new category of nonaffiliated third party; or (iii) disclose *information* about a former customer who was not previously provided an opt out opportunity. A revised notice is not required, however, when the most current notice provided to the customer is accurate as to the proposed new type of information sharing.

Simplified - If an institution does not disclose, and does not wish to reserve the right to disclose in the future, nonpublic personal information about customers or former customers to affiliates or nonaffiliated third parties beyond the regulation’s exceptions, a simplified notice will suffice. The *institution’s* simplified notice must state: (1) that it does not share information outside the exceptions, (2) the nonpublic personal information it collects, (3) its policies and practices with respect to safeguarding and maintaining the confidentiality of nonpublic personal information, and (4) any descriptions made regarding the nonaffiliated third parties subject to the exceptions.

Short Form - For financial institutions that choose to share information derived from non-customer consumers, the regulation offers a short form option. A clear and conspicuous short form initial notice, delivered *along* with an opt out notice, must state that a full length privacy notice is available upon request and must specify the means by which it can be obtained.



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA Designations

Bank Secrecy Act

BSA Implementing Regulations

31 CFR 103

12 CFR 563.177 and 563.180

Designated Person to Coordinate/Monitor BSA Compliance [12 CFR 563.177(c)(3)]

One of the four minimum components of an institution's BSA Compliance Program must include the designation of an individual(s) responsible for coordinating and monitoring day-to-day compliance under the BSA. The designation of the BSA Compliance Officer must be approved by the board of directors and noted in the minutes of the institution.

Community Reinvestment Act

Regulation BB

12 CFR 563e

Wholesale or Limited Purpose Institutions [Section 563e.25(b)]

In order to receive a designation as a wholesale or limited purpose savings association, an institution must file a request, in writing, with the OTS at least three months prior to the proposed effective date of the designation. If OTS approves the designation, it remains effective either until it is revoked by the institution or one year after OTS notifies the institution that it is revoking the designation.

Assessment Area Delineation [Section 563e.41]

Each savings association must designate one or more assessment areas within which the OTS evaluates its CRA performance. The parameters for appropriately delineating an institution's assessment area(s) are set forth in detail in Section 563e.41.

Consumer Protection for Depository Institution Sales of Insurance 12 CFR 536

Physical Location of Insurance/Annuity Sales Activities [Section 536.50(a)]

Each savings association must designate, identify, and physically segregate, "to the extent practical", the area(s) where insurance or annuity sales activities take place. A savings association must clearly, delineate and distinguish these areas from the location where retail deposits activities routinely occur.



Designations

Qualifications and Licensing Requirements

[Section 536.60]

A savings association may not permit any person to sell insurance products or annuities in any branch office or on its behalf, unless the person is appropriately qualified and licensed under applicable State licensing standards.



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Written Programs/Documentation

Equal Credit Opportunity Act

Regulation B

12 CFR 202

Written Applications

[Section 202.5(e)]

A creditor must take written applications for credit primarily related to the purchase or refinancing of a principal residence occupied or to be occupied by the applicant as a principal residence where the extension of credit is secured by the residence.

Note that information entered directly into and retained by a computerized system qualifies as a written application.

Special-Purpose Credit Program

[Section 202.8(a)]

Special-purpose credit programs offered by a for-profit organization must be in writing.

OTS Nondiscrimination Regulations

12 CFR 528

Loan Underwriting Standards

[12 CFR 528.2a(b)]

Institutions must have and provide a clearly written nondiscriminatory statement of loan underwriting standards to members of the public upon request, at each of its offices. These standards shall at least annually be reviewed ensuring the business practices implementing them institute equal opportunity in lending.

Expedited Funds Availability Act

Regulation CC

12 CFR 229

Procedures for Employee Training and Compliance

[Section 229.19(f)]

An institution must establish and maintain written procedures to ensure compliance with the regulation. It must also provide a copy of these to all employees who perform duties subject to the requirements of the regulation.



Written Programs/Documentation

Bank Secrecy Act

BSA Implementing Regulations

31 CFR 103

12 CFR 563.177 and 563.180

Written BSA Compliance Program

[Section 563.177(b) and (c)]

Institutions must establish and maintain a written compliance program (approved by the board of directors and noted in the minutes of the institution) designed to assure and monitor compliance with the BSA and its implementing regulations, that must include at a minimum: (i) a system of internal controls, (ii) daily coordination and monitoring by a designated individual, (iii) independent testing of compliance, (iv) training for appropriate personnel.

Community Reinvestment Act

Regulation BB

12 CFR 563e

Public File

[Section 563e.43]

An institution must maintain a public file in accordance with Section 563e.43. The public file must include written comments received from the public, the public section of the most recent CRA Performance Evaluation, a list of the institution's branches, a map of each assessment area, and other information about the institution's operations and services as described in Section 563e.43. Note variations in the requirements, depending upon whether the institution is (a) "small" or "large", (b) is required to report HMDA data, (c) has a strategic plan, or (d) has less than a satisfactory rating.

The institution must make the file available to the public for inspection upon request and at no cost. A complete public file must be kept at the main office and, if the institution is an interstate institution, at one branch office in each state.

The institution must make the following information publicly available at each branch: (1) a copy of the most recent CRA Performance Evaluation and a list of services provided by the branch and (2) within five days of a request from the public, a copy of all the information in the public file relating to the assessment area where the branch is located.

Upon request an institution must provide copies of the information in its public file, either on paper or electronically, whichever is acceptable to the person making the request prefers. The institution may charge a reasonable fee, not to exceed the cost of copying and mailing.



Written Programs/Documentation

Strategic Plans

[Sections 563e.27 and .43(b)(4)]

For institutions opting to have their CRA performance assessed under an approved strategic plan, the institution must include the plan in its public file. An institution need not include information submitted to OTS on a confidential basis in conjunction with the plan.

Privacy of Consumer Financial Information

Regulation P

12 CFR 573

- Notices must be in writing; oral description of notice insufficient 573.9(d)
- “Reasonable expectation of actual notice” [for electronic notices], post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular financial product or service 573.9(b)(1)(iii)
- “Retention or accessibility of notices for customers” [for electronic notices], make the current privacy notice available on a web site (or a link to another web site) for the customer who obtains a financial product or service electronically and agrees to receive the notice at the web site 573.9(e)(2)(iii)
- Joint marketing agreements under section 13: opt out requirements are n/a if (1) notice given and (2) contractual agreement entered into w/ 3rd party which prohibits the use of NPPI for reasons other than purpose for which it was communicated and 3rd party agrees to maintain confidentiality of info



Written Programs/Documentation

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COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Recordkeeping

Truth in Lending Act

Regulation Z

12 CFR 226

Record Retention

[Section 226.25]

The creditor is required to retain evidence of compliance with the regulation (other than the advertising requirements of Sections 226.16 and 226.24) for two years after the date the disclosures are required to be made or action is required to be taken. The record retention period may be extended in the event that enforcement proceedings are initiated against the institution.

Although not specified in the regulation, maintenance of other notices and disclosures such as the Servicing Transfer Notice and the Good Faith Estimate for a five-year period is recommended.

Real Estate Settlement Procedures Act

Regulation X

24 CFR 3500

Record Retention

The lender must retain each completed HUD-1 or HUD-1A and related documents for five years after settlement. [Section 3500.10(e)]

Documents provided pursuant to Section 3500.14 (Prohibition Against Kickbacks and Unearned Fees) must be retained for five years from the date of execution. [Section 3500.14(h)]

Documents provided pursuant to Section 3500.15 (Affiliated Business Arrangements) must be retained for five years after the date of execution. [Section 3500.15(d)]

Each servicer must keep records reflecting the handling of each borrower's escrow account for a period of at least five years after the servicer last serviced the escrow account. [Section 3500.17(l)]

The applicant's signed acknowledgment of the Servicing Disclosure Statement must be retained for five years after the date of settlement. [Section 3500.21(c)]

Although not specified in the regulation, maintenance of other notices and disclosures such as the Servicing Transfer Notice and Good Faith Estimate for a five-year period is recommended.



Home Mortgage Disclosure Act

Regulation C

12 CFR 203

Record Retention

[Section 203.5]

A copy of the Loan Application Register (LAR) must be retained for a period of at least 3 years.

The modified LAR must be available to the public for a period of 3 years.

The disclosure statement must be available to the public for a period of 5 years.

Flood Disaster Protection Act

OTS Implementing Regulations

12 CFR 550

Form and Notices

[12 CFR 572.6, 572.9]

An institution must retain copies of completed Standard Flood Hazard Determination Forms, in either hard copy or electronic form, for as long as it owns the loan.

An institution must retain a record of the receipt of the notices by the borrower and the servicer for as long as it owns the loan. The record of receipt should contain a statement from the borrower indicating that the borrower has received the notice; for example, a borrower's signed acknowledgment on a copy of the notice. The record of receipt may be kept in the form that best suits the institution's business, but must be retrievable within a reasonable period of time.

Equal Credit Opportunity Act

Regulation B

12 CFR 202

Record Retention

[Section 202.12]

Applications, supporting information and required notifications generally must be retained for 25 months (12 months for business credit) from date of the notice of action taken. A longer retention period may apply if an investigation or enforcement proceeding is underway. Special rules apply in the case of certain business-credit transactions and self-tests.



Electronic Fund Transfer Act

Regulation E

12 CFR 205

Record Retention

[Section 205.13(b)]

The institution must retain evidence of compliance with the requirements of the Act and Regulation E for a period of not less than two years from the date disclosures are required to be made or action is required to be taken. The period may be extended in the event of an investigation, action, or proceeding.

Expedited Funds Availability Act

Regulation CC

12 CFR 229

Record Retention

[Section 229.21(g)]

An institution must retain evidence of compliance with the regulation for at least two years. This record-retention period may be extended in the event of civil actions and enforcement proceedings brought against the institution.

Truth in Savings Act

Regulation DD

12 CFR 230

Record Retention

[230.9(c)]

An institution must retain evidence of compliance with the regulation for at least two years after disclosures are expired to be made or actions required to be taken. The record retention period may be extended in the event that enforcement proceedings are initiated against the institution.

Bank Secrecy Act

BSA Implementing Regulations

31 CFR 103

Monetary Instruments Recordkeeping (\$3,000 to \$10,000)

[31 CFR 103.29]

The institution must maintain records of the issuance or sale of monetary instruments (bank check or draft, cashier's check, money order or traveler's check) involving currency in amounts of \$3,000 to \$10,000, with supporting information as prescribed by Section



Recordkeeping

103.29(a). Verify that purchaser is a deposit accountholder or verify purchaser's identity in the manner described at Sections 103.29(a)(1) and 103.29(a)(2).

Contemporaneous purchases of the same or different types of instruments totaling \$3,000 or more must be treated as one purchase. Also multiple purchases totaling \$3,000 or more must be treated as a single purchase where the officer or employee has knowledge that these multiple purchases occurred.

Records of Persons with Financial Interests in Foreign Accounts [31 CFR 103.32]

Records of accounts required to be reported to the IRS pursuant to 31 CFR 103.24 (Reports of Foreign Financial Accounts) must be retained by each person having a financial interest in or signature or other authority over any such account. These records must contain the information prescribed by Section 103.32.

Extensions of Credit and Currency Transfers [31 CFR 103.33(a)- (c)]

The institution must maintain a record of each extension of credit in excess of \$10,000, except when the extension is secured by an interest in real property. The record must contain the name and address of the person to whom the extension of credit is made, and the amount, nature or purpose, and date of the credit. (31 CFR 103.33(a))

The institution must maintain a record of each advice, request, or instruction received or given regarding any transaction resulting in the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit of more than \$10,000 to or from any person, account, or place outside the United States. A record must also be maintained if the transaction is later canceled if the record is "normally made." (31 CFR 103.33(b))

The institution must maintain a record of each advice, request, or instruction given to another financial institution or other person located within or without the United States, regarding a transaction intended to result in the transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account or place outside the United States. (31 CFR 103.33(c))

Records of Wire (Funds) Transfer [31 CFR 103.33(e) and (g)]

Financial institutions are required to collect and retain the information specified in Section 103.33(e) and (g) in connection with all wire (funds) transfers of \$3,000 or more. The information to be collected and retained depends upon: (1) the type of financial institution, (2) its role in the wire transfer (originator, intermediary, or beneficiary), (3) the amount of the wire transfer, and (4) the relationship of the parties to the transaction with the financial institution. Certain exemptions to the recording requirements are described at Section



Recordkeeping

103.33(e)(6). Note specific requirements on retrievability of information set forth in Section 103.33(e)(4).

Additional Records

[31 CFR 103.34]

The institution must keep a record of each customer's taxpayer identification number, for each certificate of deposit sold or redeemed, or each deposit or share account opened. Section 103.34(a) contains a number of exceptions, such as for Federal, state or local governments and certain public officials. It also provides alternative methods of complying with the recordkeeping requirements if the institution is unable to obtain the number.

The regulations require a financial institution to keep a number of specific documents relating to deposit accounts and currency transfers. For example, the institution must keep each document granting signature authority over each deposit account and each statement, ledger card, or other record of each deposit account.

Record Retention Period

[31 CFR 103.38]

All records required to be retained by Part 103 must be retained for a period of 5 years. Records required by Subpart C to be retained may be those made in the ordinary course of business by an institution. If no record is made in the ordinary course of business in connection with any transaction where records are required to be retained, a record must be prepared in writing by the institution.

All records retained by Part 103 must be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made. Note that Section 103.33 contains specific requirements on retrievability in connection with information that must be retained in connection with wire (funds) transfers. Note also that Section 103.34 requires the institution to retain either the original or a microfilm or other copy or reproduction of each required record.

Community Reinvestment Act

Regulation BB

12 CFR 563e

Data Collection and Maintenance

[Section 563e.42]

Savings associations, other than small savings associations, must collect and maintain in machine readable form, certain data relating to its small business or small farm loan originations and purchases until the completion of its next CRA examination, as specified in Section 563e.42(a). In addition, institutions are allowed to collect and maintain certain additional information related to other types of lending, including data on consumer loans,



Recordkeeping

affiliate lending, and consortium or third party lending, as specified in Section 563e.42(c), (d) and (e).

Consumer Protection for Depository Institution Sales of Insurance 12 CFR 536

Consumer Acknowledgments [Section 536.40 (c)(7)]

In order to establish compliance with Part 536, a savings association or covered person must retain the written acknowledgment by the consumer that the consumer received the written disclosures. Additionally, for telephone transactions that permit consumers to orally acknowledge receipt of disclosures, the savings association or covered person must retain sufficient documentation demonstrating the acknowledgment was received and reasonable efforts were used to obtain a written acknowledgment.

Record Retention 12 CFR 563.170 (c)

Although the regulation does not establish any record retention requirements, applicable regulatory reporting standards would apply. These standards apply for disclosures and written acknowledgments. These types of records should be retained until the savings association's next regularly scheduled examination for compliance with the regulation.



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Advertising

Truth in Lending Act

Regulation Z

12 CFR 226

Open-End Credit Advertising Requirements

[Section 226.16]

The basic components of the open-end credit advertising requirements are as follows:

Available Terms: Advertisements may only state those credit terms that actually are or will be available.

Triggering Terms: If any of the terms required to be disclosed under Section 226.6 (Initial Disclosure Statement) is included in an advertisement, the advertisement must also clearly and conspicuously set forth (i) any minimum, fixed, transaction, activity or similar charge that may be imposed; (ii) any applicable periodic rate (and if the plan provides for a variable period rate, that fact must be disclosed); and (iii) any membership or participation fee that could be imposed.

Catalogues and multiple-page advertisements: If a catalogue or multiple-page advertisement that gives information in a table or schedule in sufficient detail to allow determination of the disclosures required by paragraph (b) of Section 226.16, it will be considered a single advertisement if the table or schedule is clear and conspicuous and any Section 226.6 terms appearing elsewhere clearly refer to the page on which the table or schedule begins.

Additional requirements for home equity plans: Describes requirements for home equity plans relating to: (i) advertisement of terms requiring additional disclosure (triggering terms); (ii) discounted and premium rates; (iii) balloon payments; (iv) tax implications; and (v) misleading terms.

Closed-End Credit Advertising Requirements

[Section 226.24]

The basic components of the closed-end credit advertising requirements are as follows:

Available Terms: Advertisements may only state those credit terms that actually are or will be available.

Advertisement of Rate of Finance Charge: If a credit advertisement states a rate of finance charge, it must state the rate as an “annual percentage rate” using that term. If the APR may be increased after consummation, that fact must be stated. The advertisement may also state a simple annual rate or periodic rate in conjunction with, but not more conspicuously than, the APR.



Triggering Terms: If an advertisement sets forth: (i) the amount or percentage of any downpayment, (ii) the number of payments or period of repayment; (iii) the amount of any payment; or (iv) the amount of any finance charge, the following terms must also be included in the advertisement: (a) the amount or percentage of the downpayment, (b) the terms of repayment, (c) the “annual percentage rate,” using that term and the fact that the rate may be increased after consummation (if applicable).

Catalogues and multiple-page advertisements: If a catalogue or multiple-page advertisement that gives information in a table or schedule in sufficient detail to allow determination of the disclosures required by paragraph (c)(2) of Section 226.24, it will be considered a single advertisement if: (i) the table or schedule is clearly set forth and (ii) any statement of the credit terms in paragraph (c)(1) of Section 226.24 appearing elsewhere in the catalogue or advertisement clearly refers to the page on which the table or schedule begins.

Equal Credit Opportunity Act

Regulation B

12 CFR 202

No Discouraging Applications on a Prohibited Basis

[Section 202.5]

A creditor is not permitted to make statements that discourage applicants or prospective applicants on a prohibited basis from making or pursuing an application.

OTS Nondiscrimination Regulations

12 CFR 528

Nondiscriminatory Advertising

[Section 528.4]

An institution may not directly or indirectly engage in any form of advertising which implies or suggests a policy of discrimination or exclusion in violation of the FHA, the ECOA, or the nondiscrimination requirements of 12 CFR 528 et seq. Advertisements, other than for savings, must include a facsimile of the prescribed equal housing lender logotype and legend.



Electronic Fund Transfer Act

Regulation E

12 CFR 205

Unsolicited Distribution of Access Devices

[Section 205.5(b)]

An institution may distribute an access device to a consumer on an unsolicited basis provided that the device is not validated, required disclosures are made and the device may be validated only in response to the consumer's oral or written request. In addition, the access device must be accompanied by a clear explanation that the device is not validated and how the consumer may dispose of it if validation is not desired.

Truth in Savings Act

Regulation DD

12 CFR 230

Advertising Requirements

[Section 230.8]

Advertisements, defined as commercial messages in any medium that directly or indirectly promote the availability of, or a deposit in, an account, must meet certain regulatory requirements. Specifically, advertisements: (i) may not be misleading or inaccurate; (ii) must state rates of return as APY; (iii) must include additional disclosures if APY is stated; (iv) must provide additional information if a bonus is stated; and (v) may utilize abbreviated disclosure rules if advertisement is made through certain types of media.

Advertisements are not permitted to refer to or describe an account as "free" or "no cost" if any maintenance or activity fee may be imposed on the account. In addition, the word "profit" shall not be used in referring to interest paid on an account.

OTS Advertising Regulation

12 CFR 563

Advertising

[Section 563.27]

Savings associations are not permitted to use advertising or make any representation which is inaccurate in any particular or which in any way misrepresents its services, contracts, investments, or financial condition.



Consumer Protection for Depository Institution Sales of Insurance 12 CFR 536

Advertising Requirements [Section 536.40 (c)]

Insurance disclosures may be provided in a short form using the language specified in paragraph 536.40 (c) (5). These short form insurance disclosures may be used in visual media, such as television, radio, ATM screens, signs, posters and written advertisements and promotional materials, such as brochures. There is no short form language for credit disclosures.

General Rule [Section 536.50 (d)]

Disclosure requirements do not apply to advertisements and promotional material of a general nature, describing or listing services or products offered.

OTS Advertising Regulation 12 CFR 563

Advertising [Section 563.27]

Savings associations are not permitted to use advertising or make any representation which is inaccurate in any particular or which in any way misrepresents its services, contracts, investments, or financial condition.



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Reports

Home Mortgage Disclosure Act

Regulation C

12 CFR 203

Reporting Requirements

[Section 203.5(a)]

The lender must submit its complete loan application register (LAR) in the prescribed electronic format to the OTS by March 1 following the calendar year for which the loan data is compiled.

Equal Credit Opportunity Act

Regulation B

12 CFR 202

Reporting Credit Information

[Section 202.10]

A creditor reporting credit information to a consumer reporting agency or in response to a credit inquiry concerning an account designated to reflect the participation of both spouses, must furnish the information in a manner that enables access to or provides the information for the particular spouse in question.

Bank Secrecy Act

BSA Implementing Regulations

31 CFR 103

12 CFR 563.177 and 563.180

Currency Transaction Reports

[31 CFR 103.22]

The institution must file with the IRS a completed Currency Transaction Report (CTR) (IRS Form 4789) for each transaction in currency (deposit, withdrawal, exchange or other payment or transfer) of more than \$10,000 within 15 days after the date of the transaction. Multiple transactions totaling more than \$10,000 during any one business day are treated as a single transaction if the institution has knowledge that they are by or on behalf of any person. Certain types of currency transactions, such as those involving "exempt persons" or those generated by particular retail or commercial customers meeting specified criteria for exemption, need not be reported. However, designations of "exempt persons" are made by filing IRS Form 4789, with the appropriate information provided. The exemption filings vary by customer type as described in Section 103.22.

Note: For any transaction requiring a CTR, the institution must verify and record the name and address of the individual presenting the transaction, and record the identity, account



number, and social security number (if any) of any person or entity on whose behalf the transaction is undertaken.

Currency and Monetary Instrument Report

[31 CFR 103.23]

The institution must file, with the appropriate U.S. Customs officer or the Commissioner of Customs, a completed Currency and Monetary Instrument Report (CMIR) (U.S. Customs Form 4790) for each shipment of currency or other monetary instrument(s) in excess of \$10,000 out of or into the U.S. except via the postal service or common carrier. For transport into or out of the U.S., the CMIR should be filed at the time of entry into or departure from the U.S. For receipt from outside the U.S. (where no report was filed), the CMIR should be filed within 15 days of receipt of the monetary instruments.

Reports of Foreign Financial Accounts

[31 CFR 103.24]

Each person subject to U.S. jurisdiction with a financial interest in, or signature authority over, a bank, securities, or other financial account in a foreign country must file a Report of Foreign Bank Financial Accounts (Treasury Form 90-22) concerning such relationship with the IRS on an annual basis.

Suspicious Activity Report

[31 CFR 103.21]

The institution must file a completed Suspicious Activity Report (OTS SAR Form 1601) for any transaction involving \$5,000 or more when the institution knows, suspects, or has reason to suspect that a transaction: (i) involves money laundering; (ii) is designed to evade regulations promulgated under the BSA; or (iii) has no business or apparent lawful purpose or is not the type that the customer would normally be expected to undertake. The SAR must be sent to the Financial Crimes Enforcement Network (FinCEN) at the Treasury Department within 30 days after the initial detection of facts giving rise to an SAR filing. (Note that if no suspect was initially identified, filing may be delayed for an additional 30 calendar days to identify a suspect).

Community Reinvestment Act

Regulation BB

12 CFR 563e

Reporting Requirements

[Section 563e.42(b)]

A “large” institution must report certain data annually by March 1 to the OTS in machine readable form covering: (1) all small business and small farm loans originated or purchased by the institution; (2) the aggregate number and dollar amount of community development loans originated or purchased; and (3) certain additional information for



COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA Reports

institutions subject to HMDA. The specific form of the data that must be submitted by the institution is described in detail in Section 563e.42.

Disclosure and Reporting of CRA-Related Agreements

12 CFR 533

CRA Sunshine Regulation

Filing of Annual Reports

[Section 533.7]

Each NGEP and each insured depository institution or affiliate that is a party to a covered agreement (entered into on or after May 12, 2000) must file an annual report with each relevant supervisory agency concerning the disbursement, receipt, and use of funds or other resources under the covered agreement(s), no later than six months following the end of the fiscal year covered by the report. The annual report must include the information specified in 533.7(d) and (e).



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COMPLIANCE REQUIREMENTS BY FUNCTIONAL AREA

Enforcement/Liability

Truth in Lending Act

Regulation Z

12 CFR 226

Administrative Enforcement

[TILA Section 108]

The TILA authorizes federal regulatory agencies to order financial institutions to make monetary or other adjustments to the accounts of consumers where the finance charge or APR was inaccurately disclosed. The Act generally requires the agencies to order restitution when the understatement of the APR or finance charge results from a clear and consistent pattern or practice of violations, gross negligence, or a willful violation intended to mislead the consumer.

The Joint Notice of Statement of Interagency Enforcement Policy, issued on July 11, 1980, summarizes and explains the reimbursement provisions of the TILA. It also describes corrective actions that the agencies believe will be appropriate and generally intend to take in situations where the act gives the agencies the authority to take equitable remedial action. If a creditor does not voluntarily correct violations, the agencies will utilize their cease-and-desist authority to require correction.

Criminal Liability

[TILA Section 112]

Anyone who willingly and knowingly fails to comply with any requirement of the TILA will be fined not more than \$5,000 or imprisoned not more than one year, or both.

Civil Liability

[TILA Sections 130 and 131]

If a creditor fails to comply with any requirements of the TILA, other than with the advertising provisions, it may be held liable to the consumer for actual damages and court costs and reasonable attorney fees. The creditor may also be held liable for other damages arising out of individual or class actions if certain requirements of the TILA are violated.

Real Estate Settlement Procedures Act

Regulation X

24 CFR 3500

Failure to comply with RESPA Section 8 Prohibitions

[Sections 3500.14, .15, .19]

Liability for failure to comply with RESPA Section 8 (24 CFR Sections 3500.14, 3500.15, and 3500.19) prohibition against kickbacks and unearned fees: (1) a fine of not more than \$10,000 or imprisonment for not more than one year, or both; (2) civil liability equal to three times the amount of any charge paid for such settlement service; and (3) the possibility that court costs and attorney's fees can be recovered.



Enforcement/Liability

Failure to comply with mortgage loan servicing provisions

[Section 3500.21]

Liability for failure to comply with any provision of Section 6 of RESPA (24 CFR 3500.21) involving the mortgage servicing transfers:

- (1) In the case of an individual action, an amount equal to the sum of:
 - A. Actual damages;
 - B. Additional damages as the court may allow, in the case of a pattern or practice of noncompliance, not to exceed \$1,000; and
 - C. The costs of the action and any reasonable attorney's fees incurred in connection with the action may also be awarded.
- (2) In the case of a class action, an amount equal to the sum of:
 - A. Actual damages;
 - B. Additional damages as the court may allow, in the case of a pattern or practice of noncompliance, in an amount not greater than \$1,000 for each member of the class, but not to exceed the lesser of \$500,000 or 1% of the net worth of the servicer; and
 - C. The costs of the action and any reasonable attorney's fees incurred in connection with the action may also be awarded.

Failure to submit Escrow Account Statements

[Section 3500.17]

Liability under Section 10 of RESPA (24 CFR 3500.17) for failure to submit to a borrower an initial or annual escrow account statement as required:

The lender or escrow servicer is subject to a civil penalty of \$55 for each such failure. The total amount imposed on a lender or escrow servicer for inadvertent failures during any 12-month period may not exceed \$110,000. Intentional violations are subject to a penalty of \$110 for each failure, with no limit on the total amount of the penalty.

Liability for Directing use of a Particular Title Company

[Section 3500.16]

Liability under Section 9 of RESPA (24 CFR 3500.16) for lenders holding legal title to property being sold who directly or indirectly require the borrower to purchase title insurance from any particular title company as a condition for selling the property:

Three times all charges made for such title insurance to the buyer.



Home Mortgage Disclosure Act

Regulation C

12 CFR 203

Administrative Enforcement

[Section 203.6]

Violations of Regulation C are subject to administrative sanctions as provided in Section 305 of the Act, including the imposition of civil money penalties, where applicable.

National Flood Insurance Act

Failure to Comply With Statutory Requirements

[42 USC 4012a(f) and (g)]

The National Flood Insurance Act, as amended, provides for the assessment of civil money penalties for violations of the purchase, escrow, notice or forced placement requirements. If an institution is found to have a pattern or practice of committing violations of those requirements, the appropriate Federal supervisory agency shall assess civil money penalties in an amount not to exceed \$350 per violation, with the total amount against any one institution not to exceed \$100,000 in any calendar year.

In addition, the Act provides that the appropriate Federal supervisory agency may require an institution to take such remedial actions as are necessary to ensure that it complies with the national flood insurance program if the agency determines that: (1) the institution has engaged in a pattern and practice of noncompliance in violation of the regulatory requirements (i.e., 12 CFR Part 572); and, (2) the institution has not demonstrated measurable improvement in compliance despite the assessment of civil money penalties.

Equal Credit Opportunity Act

Regulation B

12 CFR 202

Administrative Enforcement Authority

[Section 202.14]

The OTS may enforce the ECOA and Regulation B against savings associations under Section 8 of the Federal Deposit Insurance Act. When the OTS has a reason to believe that an institution has engaged in a pattern or practice of discrimination in violation of the ECOA, the matter must be referred to the Department of Justice.

Penalties and Liabilities

[Section 202.14]

Regulation B provides actual damages and punitive damages of up to \$10,000 in individual lawsuits and up to the lesser of \$500,000 or one percent of the institution's net worth in



class action suits. Court costs and reasonable attorney fees may also be awarded to an aggrieved applicant in a successful action.

Fair Housing Act/OTS Nondiscrimination Regulations

Enforcement

[Sections 810, 813 and 814 of the FHA]

An aggrieved person may pursue remedies for discrimination under the FHA either before an administrative tribunal or in federal court. Administrative remedies may include permanent or temporary injunctions, restraining orders, or other relief including monetary damages and civil penalties. In civil actions, the court may grant relief as it deem appropriate, including any permanent or temporary injunction, temporary restraining order, or other similar remedy. The court may also award actual and punitive damages. In addition, the Attorney General may bring a civil action against any person(s) when reasonable cause exists to believe such persons(s) are engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by the Fair Housing Act.

Electronic Fund Transfer Act

Regulation E

12 CFR 205

Civil Liability

[EFTA Section 915]

An institution may be liable under the Act for (1) actual damages and statutory damages between \$100 and \$1,000 in the case of individual actions or (2) actual damages and statutory damages up to the lesser of \$500,000 or 1% of the institution's net worth in the case of class action suits. In both successful individual and class actions, court costs and reasonable attorney fees may be recovered by the consumer.

Criminal Liability

[EFTA Section 916]

Criminal penalties run from a \$5,000 fine and one year's imprisonment for knowing and willful failures to comply with the EFTA, to a \$10,000 fine and 10 year's imprisonment for the fraudulent use of a debit instrument.



Expedited Funds Availability Act

Regulation CC

12 CFR 229

Civil Liability

[Section 229.21; Section 229.38]

Civil liability may be imposed against an institution for failure to comply with the regulatory requirements in an amount equal to actual damages sustained, additional amounts of up to \$1,000 per individual action, and reasonable attorney's fees. In the case of a class action, total recovery may not exceed the lesser of \$500,000 or one percent of the net worth of the institution.

Civil liability may also be imposed in the check collection process for failure to exercise ordinary care or act in good faith [§ 229.38]. A paying bank faces liability for the failure to make timely return of a check.

Truth in Savings Act

Regulation DD

12 CFR 230

Administrative Enforcement Authority

[Section 230.9]

The OTS may enforce the TISA and Regulation CC against any thrift institution under Section 8 of the Federal Deposit Insurance Act.

Bank Secrecy Act

BSA Implementing Regulations

31 CFR 103

12 CFR 563.177 and 563.180

Enforcement

[31 CFR 103.46]

The Secretary of the Treasury has overall authority for enforcement and compliance under Part 103. Authority to examine institutions to determine compliance with the requirements of Part 103 is delegated to the financial regulatory agencies.

Civil and Criminal Penalties

[31 CFR 103.47 and 49]

Civil penalties of up to \$100,000 can be assessed against an institution and participating directors, officers, or employees, depending on such factors as the size of the transaction and whether the violation was willful. Criminal penalties to both the institution and indi-



viduals involved may include fines of up to \$500,000 and up to 10 years in prison for those involved in willful violations and/or in patterns of illegal activity.

Community Reinvestment Act

Regulation BB

12 CFR 563e

Effect of CRA Performance on Applications

[Section 563e.29]

The OTS takes into account, among other factors, an institution's record of performance under CRA when considering an application by the institution for: (1) establishing a domestic branch or other facility that would be authorized to take deposits; (2) the relocation of the main office or a branch; (3) the merger or consolidation with or the acquisition of the assets or assumption of the liabilities of an institution requiring OTS approval under the Bank Merger Act; (4) a Federal thrift charter; and (5) acquisitions subject to Section 10(e) of the Home Owners' Loan Act.



APPENDIX

Appendix: Compliance Checklists

The checklists in this section will help compliance officers or auditors who review compliance activities. These checklists include all of the consumer protection laws and regulations covered in the body of this Guide and some less complex laws/regulations. The checklists should not be used without a thorough understanding of the underlying laws or regulations.

APPENDIX

COMPLIANCE CHECKLISTS

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ADVERTISING Checklist

	Yes	No		Yes	No
1. Do the savings association's advertisements accurately and fairly represent its" [§563.27]			5. If the savings association sells its securities "over-the-counter," do all communications make disclosures that:		
a. services?			a. The security is not federally insured?		
b. contracts?			b. An investment in such debt security is subject to certain "investment considerations" and "risk factors?"		
c. investments?			c. Certain tax consequences could result if the investor will receive a "Cash Bonus" or "Cash Premium" by purchasing the security?		
d. financial condition?			d. Potential investors should obtain and read a copy of the offering circular before making an investment in the securities?		
2. Is the savings association properly displaying the FDIC's official sign for insured savings associations at its applicable offices and branches [§ 328.4(a) of the FDIC's regulations]?			6. Does the savings association's publicity of "over-the-counter" securities make any comparison or reference to insured accounts if offers?		
The following questions relate specifically to advertising of debt securities [§563g and TB 31-2]			7. Do the savings association's communications make any statements that imply the debt security is likely to remain outstanding until maturity?		
3. Does the content of the media ads, sales literature and other forms of publicity relating to the offering of a debt security require a filing and review by the Board?					
4. If the communication is exempt from filing, does it contain the required disclosures and information?					



BANK PROTECTION ACT Checklist

	Yes	No		Yes	No
1. Has the board of directors designated a security officer? [§ 568.2]			c. Tamper-resistant locks on exterior doors and windows that may be opened?		
2. Does the institution have a written security program for each of its offices, and has it been approved by the board of directors? [§ 568.2]			d. An alarm system, or other appropriate device, for promptly notifying the nearest responsible law enforcement officers of an attempted robbery, burglary, or larceny?		
3. Does the institution's security program: [§ 568.3(a)(1-4)]			5. Does the institution have such other devices as the security officer determines to be appropriate? [§568.3(b)(5)]		
a. Establish procedures for opening and closing for business?			Were the following considered in the determination by the security officer, as appropriate: [§ 568.3(b)(5)]		
b. Establish procedures for the safekeeping of all currency, negotiable securities, and similar valuables at all times?			a. The incidence of crimes against financial institutions in the area?		
c. Establish procedures that will assist in the identification of persons that commit crimes against the institution, and that will preserve evidence that may aid in their identification and prosecution?			b. The amount of currency and other valuables exposed to robbery, burglary, or larceny?		
d. Provide for initial and periodic training of officers and employees in their responsibilities under the security program, and in proper employee conduct during and after a burglary, robbery, or larceny?			c. The distance of the office from the nearest responsible law enforcement officers?		
e. Provide for selecting, testing, operating and maintaining the security devices listed below in question 4?			d. The cost of the security devices?		
4. Does the institution have the following security devices: [§ 568.3(b)(1-4)]			e. Other security measures in effect at the office?		
a. A means of protecting cash and other liquid assets, such as a vault, safe or other secure space?			f. The physical characteristics of the structure of the office and its surroundings?		
b. A lighting system for illuminating, during darkness, the area around the vault or other secure space?			6. Does the security officer report at least annually to the board of directors on the implementation, administration, and effectiveness of the security program? [§ 568.4]		
			7. Have external crimes been reported to the FBI, local police, and bonding company as necessary?		



BANK SECRECY ACT Checklist

	Yes	No		Yes	No
Internal Compliance Programs and Procedures					
1. Has the institution adopted written policies and operating procedures required by 12 CFR Section 563.177?			b. The filing of U.S. Customs Form 4790 for each shipment of currency or other monetary instrument(s) in excess of \$10,000 out of the United States or into the United States, except via common carrier, by, or to the institution [Section 103.23(a)]?		
2. Has the written program been approved by the institution's board of directors and noted in the minutes [Section 563.177(b)]?			c. The maintenance of required records for each monetary instrument purchase or sale for currency in amounts between \$3,000 and \$10,000, including the supporting information prescribed in Section 103.29(a)?		
3. Does the written Bank Secrecy Act compliance program, at a minimum:			d. The annual filing of Report of Foreign Bank Financial Accounts (Treasury Form 90-22) of each person, subject to the jurisdiction of the United States, who has financial interest in, or signature authority over, a bank, securities or other financial accounts in a foreign country [Section 103.24]?		
a. Provide for a system of internal controls to ensure ongoing compliance [Section 563.177(c)(1)]?			5. Does the institution verify that procedural guidelines are adequately communicated to responsible personnel and that they are followed?		
b. Provide for independent testing for compliance to be conducted by either institution personnel or an outside party [Section 563.177(c)(2)]?			6. Verify that the institution's written procedural guidelines for record retention include the retention of either the original, microfilm, copy or other reproduction of the items listed below for at least five years:		
c. Designate a qualified individual(s) responsible for coordinating and monitoring day-to-day compliance [Section 563.177(c)(3)]?			a. Each CTR (IRS Form 4789) [Section 103.27(a)(3)]?		
d. Provide training for appropriate personnel [Section 563.177(c)(4)]?			b. Documentation to support each exemption granted. [Section 103.22 (d)(6)(x)]?		
e. Include procedural guidelines for meeting the reporting and recordkeeping requirements of the BSA regulations?			c. Documentation to support each extension of credit over \$10,000, except when the extension is secured by an interest in real property [Section 103.33(a)]?		
f. Include procedural guidelines for the detection, prevention and reporting of suspicious transactions related to money laundering activities?					
4. Verify that the procedural guidelines include the following:					
a. The reporting of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through or to the financial institution, which involves a transaction in currency of more than \$10,000 (CTR, IRS Form 4789) [31 CFR Section 103.22(a)(1)]?					



BANK SECRECY ACT Checklist

	Yes	No		Yes	No
d. Each advice, request, or instruction received or given regarding a transaction which results in the transfer of funds, currency, checks, investment securities or other monetary instruments or credit, of more than \$10,000 to or from a person, account, or place outside the United States [Section 103.33(b)]?	<input type="checkbox"/>	<input type="checkbox"/>	k. Each check or draft in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment [Section 103.34(b)(7)]?	<input type="checkbox"/>	<input type="checkbox"/>
e. Each advice, request, or instruction given to another financial institution or other person located within or outside the United States, regarding a transaction intended to result in a transfer of funds, currency, checks, investment securities, other monetary instruments or credit, of more than \$10,000 to a person, account, or place outside the United States [Section 103.33(c)]?	<input type="checkbox"/>	<input type="checkbox"/>	l. Each item relating to any transaction of more than \$10,000 received directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States [Section 103.34(b)(8)]?	<input type="checkbox"/>	<input type="checkbox"/>
f. Each payment order of \$3,000 issued in connection with wire (funds) transfer activity as an originating, intermediary or beneficiary institution [Section 103.33(e)]?	<input type="checkbox"/>	<input type="checkbox"/>	m. A record of each receipt, on any one occasion, of more than \$10,000 directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States [Section 103.34(b)(9)]?	<input type="checkbox"/>	<input type="checkbox"/>
g. A list of each individual, including the name, address, and account number, who holds a deposit account for which the institution has been unable to secure a taxpayer identification number from that person after making a reasonable effort to obtain the number [Section 103.34(a)(1)(ii)]?	<input type="checkbox"/>	<input type="checkbox"/>	n. Records prepared or received by a bank in the ordinary course of business which would be needed to reconstruct a demand deposit account and to trace a check in excess of \$100 deposited in such demand deposit account [Section 103.34(b)(10)]?	<input type="checkbox"/>	<input type="checkbox"/>
h. Each document granting signature authority over each deposit account [Section 103.34(b)(1)]?	<input type="checkbox"/>	<input type="checkbox"/>	o. A record of the name, address, and taxpayer identification number, if available, of any purchaser of a certificate of deposit, that describes the instrument, payment method, and transaction date [Section 103.34(b)(11)]?	<input type="checkbox"/>	<input type="checkbox"/>
i. Each statement, ledger card or other record of each deposit account showing each transaction involving the account, except those items exempted by Section 103.34(b)(3-4)?	<input type="checkbox"/>	<input type="checkbox"/>	p. A record containing the name, address, and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction [Section 103.34(b)(12)]?	<input type="checkbox"/>	<input type="checkbox"/>
j. Each document relating to a transaction of more than \$10,000 remitted or transferred to a person, account or place outside the United States [Section 103.34(b)(5,6)]?	<input type="checkbox"/>	<input type="checkbox"/>	q. Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions? The slip or ticket shall record the amount of any currency involved [Section 103.34(b)(13)].	<input type="checkbox"/>	<input type="checkbox"/>



BANK SECRECY ACT Checklist

		Yes	No			Yes	No
Internal Controls							
1. Has the institution implemented an internal audit, management review or self-assessment program that reviews: (1) the institution's compliance program; (2) internal controls to prevent money laundering; and (3) compliance with BSA regulations?				b. Address compliance with applicable anti-money laundering laws and regulations (e.g., 12 CFR 563.177, 31 CFR 103)?			
2. If the institution has an internal audit function, verify that the audit procedures:				c. Identify potentially high risk activities, businesses, and foreign countries commonly associated with money laundering?			
a. Confirm the integrity and accuracy of the systems for the reporting of large currency transactions?				2. Does the institution ensure that the anti-money laundering policies apply to all operations of the institution, including: (1) activities, including teller and currency operations, the sale of monetary instruments, wire transfers, safe deposit box; (2) departments, including trust, loan, international, discount brokerage; and (3) other operations, including correspondent and private banking?			
b. Include a review of tellers' work and Forms 4789 and 4790?				3. Verify that management implemented a high level of internal controls to minimize the risk of money laundering. These controls should include, at a minimum:			
c. Confirm the integrity and accuracy of the institution's recordkeeping activities?				a. Money laundering detection procedures, including sound policies and procedures, periodic account monitoring and education and training?			
d. Test adherence to the in-house record retention schedule?				b. Identification and monitoring of non-bank financial institutions that are depositors of the institution and that engage in a high volume of cash activity (e.g., money transmitters and check cashing businesses)?			
e. Include steps necessary to ascertain that the institution is maintaining the required list of exempt customers?				c. Periodic account activity monitoring, particularly in accounts considered high risk?			
f. Test the reasonableness of the exemptions granted?				d. Internal investigations, monitoring and reporting of suspicious transactions?			
g. Include steps necessary to ascertain that the institution has procedures in place for maintaining required information from customers purchasing monetary instruments for cash in amounts between \$3,000 and \$10,000 inclusive and that appropriate identification measures are in place?				Education and Training			
h. Include steps necessary to ascertain that the institution is conducting an ongoing training program?				1. Does the institution's program for educating appropriate employees regarding the BSA and money laundering include the following:			
Anti-Money Laundering Program							
1. Do the institution's policies governing the BSA and anti-money laundering activities:				a. Reporting of large currency transactions, and related exemptions?			
a. Define money laundering in its different forms (e.g., placement, layering, and integration)?							



BANK SECRECY ACT Checklist

	Yes	No		Yes	No
b. Sale of monetary instruments?			2. Does the institution file the appropriate form to designate a person as exempt within 30 days after the first reportable currency transaction [Section 103.22(d)(3)]?		
c. Record retention requirements?			3. Does the institution review and verify the information supporting each exemption at least annually? [Section 103.22(d)(4)]?		
d. Reporting suspicious activity or alleged criminal conduct?			4. Does the institution [Section 103.22(d)(6)]:		
e. Examples of money laundering cases and the ways in which they can be detected, resolved and reported?			a. Assure itself that each exemption is appropriate?		
f. The different forms that money laundering can take (e.g., deposit accounts, wire transfers, loans, etc.)?			b. Document the basis or bases for each exemption?		
g. Wire (fund) transfer activity?			c. Document its compliance with the exemption requirements?		
h. Overall internal policies and procedures?			5. For exempt non-listed businesses and payroll customers [Sections 103.22(d)(5), 103.22(d)(9)] does the institution:		
2. Has the institution implemented procedures to review the scope and frequency of training and education to determine the importance management places on those activities?			a. Make biennial filings for continuing exemptions?		
3. Does the institution verify whether personnel are sufficiently knowledgeable about the BSA and the institution's procedures to ensure compliance?			b. Monitor the currency transactions in each customer's account for suspicious activity as necessary, but at least annually?		
4. Does the institution's training program(s) include personnel from all departments (e.g., lending, fiduciary, and international departments, discount brokerage, private banking, correspondent and specialized foreign exchange units, and cash control centers)?			6. Does the institution file SAR's when appropriate, even as to exempt customers [Section 103.22(d)(9)]?		
5. Are interviews conducted to verify that personnel from the areas covered under the preceding paragraph are knowledgeable regarding the BSA requirements, possible money laundering schemes, and the identification of suspicious or unusual activities?			7. For each customer exempt on or before October 20, 1998, does the institution either [Section 103.22(d)(11)]:		
Exemptions			a. Terminate the customer's exempt status, or		
1. Does the institution exempt from CTR reporting only those eligible for exemption [Section 103.22(d)(2)]?			b. Continue the prior exemption until the earlier of June 30, 2000 or the date the customer is properly exempt?		



BANK SECRECY ACT Checklist

		Yes	No			Yes	No
Currency Flows and Reporting of Large Cash Transactions							
1. Does the institution review the cash totals shipped to and received from the Federal Reserve Bank, correspondent banks or between branch offices for a reasonable period of time (generally no less than three months) or, if available, the latest FinCEN Analysis of Federal Reserve Cash Flows, for unusual activity (e.g., material variance in totals of currency shipped or received or large denomination currency exchanged)?				4. Does the institution have an automated system in place to capture individual or multiple cash transactions in excess of \$10,000 on the same business day by or on behalf of the same individual, or by account?			
2. Does the institution verify the cause of any unusual activity and verify if the volume of CTR filings during the period is consistent with any changes in the patterns of cash activity?				a. Is the system tested to determine whether it is comprehensive regarding all points of cash entry and exit?			
3. Does the institution review samples of completed CTRs, whether hard copy or from computer generated filings, to determine that (as specified in Section 103.22):				b. Does the aggregation system cover all applicable areas within the institution (e.g., discount brokerage, private banking, fiduciary, or any other departments in the institution that engage in currency transactions subject to the regulation)?			
a. CTRs are properly completed in accordance with IRS instructions?				5. If the institution does <u>not</u> have an automated system in place, does it document how it identifies reportable transactions?			
b. Transaction amounts are consistent with the type and nature of business or occupation of the customer?				6. If the institution has an automated system in place to capture individual or multiple cash transactions of <u>less than</u> \$10,000, does the system detect for:			
c. CTRs are filed for large cash transactions identified by tellers' proof sheets, automated large currency transaction system, or other type of aggregation system, unless an exemption exists for the customer?				a. Evidence of structured transactions?			
d. If an exemption exists, CTRs are filed for customers who exceed their exemption limits?				b. Concentration accounts" (accounts that have frequent cash deposits aggregating less than \$10,000 on any business day, and relatively few transfers of large amounts out of the accounts, by check or wire)?			
e. CTRs are filed within 15 calendar days after the date of the transaction (25 days if magnetically filed) [Section 103.27(a)(1)]?				c. Customers with frequent cash transactions of less than \$10,000 who have not provided tax identification numbers?			
				d. Customers with frequent cash transactions that have provided either a foreign address or post office box as an address or have requested that the institution hold monthly statements?			
				7. If available, are the following reports reviewed by management for activities usually associated with money laundering activities:			



BANK SECRECY ACT Checklist

	Yes	No		Yes	No
a. Suspected kiting reports? (These reports identify excessive activity in accounts and should be reviewed for cash activity. The account profile of an account used for money laundering can be similar to that of an account used for check kiting in that it may have a high volume of activity, matching deposits and withdrawals, or low average balances in relation to activity).			8. Are review statements, reconciliation and general ledger sheets of the institution's correspondent banks reviewed over at least a two month period to determine if large transactions are reflected on either the institution's or correspondent records? If so, does the institution verify that their nature is investigated and properly reported?		
b. Demand deposit activity reports? (These reports cover all customer and employee accounts. They generally show daily balances and accumulated deposits and withdrawals over a 30-day period. Careful review will show accounts that have changed, either in average balance or in numbers of transactions).			9. Does the institution review incoming mail to determine if it is receiving currency deposits via mail, courier services or internal deliveries?		
c. Incoming and outgoing wire transfer logs? (These logs can identify transfers of funds out of the country or to remote banks, transfers funded by cashier's checks or money orders in amounts under the \$10,000 CTR filing threshold, and other suspicious patterns for noncustomers as well as account holders).			Sale or Purchase of Monetary Instruments Over \$3,000		
d. Incoming and outgoing facsimile logs? (There are for payment instructions related to funds transfers).			1. Do the institution's records include the following information required by Section 103.29(a)(1) for purchasers who have deposit accounts with the institution:		
e. Loans listed by collateral? (These are loans collateralized by cash, certificates of deposit or bank accounts).			a. The name of the purchaser?		
f. Loans collateralized by fund transfers from offshore banks?			b. Date of purchase?		
g. Loans secured largely with cash and whether the payments are made in cash?			c. The type(s) of instrument(s) purchased?		
h. Loan with proceeds that purchase certificates of deposit?			d. The serial number(s) of each of the instrument(s) purchased?		
			e. The dollar amount(s) of each of the instrument(s) purchased in currency?		
			f. Method of verifying identity, either at the time of purchase or when the deposit account is opened?		
			2. Do the institution's records include the following information required by Section 103.29(a)(2) for purchasers who do not have deposit accounts with the institution:		
			a. The name and address of the purchaser?		
			b. The social security or alien identification number of the purchaser?		
			c. The date of birth of the purchaser?		
			d. The date of purchase?		



BANK SECRECY ACT Checklist

		Yes	No			Yes	No
e. The type(s) of instrument(s) purchased?				4. If the institution sends or receives fund transfers to/from financial institutions in other countries, especially those with strict privacy and secrecy laws, has it ensured that amounts, frequency and countries of origin or destination are consistent with the nature of the business or occupation of the customer?			
f. The serial number(s) of each of the instrument(s) purchased?							
g. The dollar amount(s) of each of the instrument(s) purchased?				5. Does the institution have procedures or other effective means to monitor accounts with frequent cash deposits and subsequent wire transfers of funds to a larger institution or out of the country?			
h. Method of verifying identity of purchaser and specific identifying information (e.g., state of issuance and number of driver's license)?							
3. Are the institution's records retained for five years and retrievable, upon request from the Treasury, at any time [Section 103.29(c)]?				<u>Responsibilities of Originating Institutions</u>			
4. Does the institution have a system for capturing same day, contemporaneous, or multiple sales of monetary instruments to one customer totaling \$3,000 or more [Section 103.29(b)]?				1. If the originator has an established relationship with the institution, does it retain the following records for each fund transfer origination of \$3,000 or more with the payment order or in its files [Section 103.33(e)(1)(i)]:			
5. If the institution uses manual systems to identify cash sales of monetary instruments, are the institution's records sufficiently detailed to identify the method of payment for all sales or purchases of monetary instruments?				(Note: A customer has an established relationship with a financial institution if the customer has a loan, deposit, or other asset account, or is a person with respect to which the institution has on file the person's name and address, as well as taxpayer ID number, or, if none, alien identification number or passport number and country of issuance, and to which the institution provides financial services relying on that information.) [Section 103.11(l)]			
6. If the institution uses automated systems to identify cash sales of monetary instruments, does it audit or does management review the program tests to verify the accuracy and validity of the identification system?				a. Name and address of the originator?			
				b. Amount of the payment order?			
				c. Date of the payment order?			
				d. Any payment instructions?			
				e. The identity of the beneficiary's bank?			
Wire (Funds) Transfer							
1. Has an audit trail of wire transfer activities been established?							
2. Is there an adequate separation of duties or other compensating controls in place to ensure proper authorization for sending and receiving transfers, and for correcting postings to accounts?							
3. Does the institution verify that the CTRs are filed, when applicable, for noncustomers submitting cash for fund transfers [Section 103.22]?							



BANK SECRECY ACT Checklist

<p>f. As many of the following items as are received with the payment order:</p> <ul style="list-style-type: none"> • Name and address of the beneficiary? • Account number of the beneficiary? • Any other specific identifier of the beneficiary? 			<p>3. Is the information the institution must retain for originators retrieved by reference to the name of the originator? When the originator is an established customer of the institution and has an account used for funds transfers, is the information also is retrieved by account number [Section 103.33(e)(4)]?</p>		
<p>2. If the originator does <u>not</u> have an established relationship with the institution, does it retain the following records for each fund transfer origination of \$3,000 or more [Section 103.33(e)(2)]:</p>			<p>4. For transmittals of \$3,000 or more, does the institution include the following in the transmittal order [Section 103.33(g)(1)]:</p>		
<p>a. For payment orders made in person, verification that the institution required identification of the person and a record of the verified information?</p>			<p>a. The name and, if the payment is ordered from an account, the account number of the transmitter?</p>		
<p>b. When the institution has knowledge that the person placing the payment order is not the originator, a record of the originator's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, if known by the person placing the order, or a notation in the record of the lack thereof?</p>			<p>b. The address of the transmitter, except for transmittal orders through Fedwire until such time as the institution that sends the order to the Federal Reserve Bank completes its conversion to the expanded Fedwire format?</p>		
<p>c. When the payment order is not made in person, a record of the name and address of the person placing the payment order, as well as the person's taxpayer identification number (e.g., social security or employer identification number) or, if none, alien identification number or passport number and country of issuance, or a notation in the record of the lack thereof, and a copy or record of the method of payment (e.g., check or credit card transaction) for the funds transfer?</p>			<p>c. The amount of the transmittal order?</p>		
			<p>d. The date of the transmittal order?</p>		
			<p>e. The identity of the recipient's financial institution?</p>		
			<p>f. As many of the following items as are received with the transmittal order:</p> <ul style="list-style-type: none"> • The name and address of the recipient? • The account number of the recipient? • Any other specific identifier of the recipient; and either the name and address or numeric identifier of the transmitter's financial institution? 		
			<p>5. Is the institution complying with the FFIEC's December 23, 1992 policy statement, which recommends that the text of every payment order include the name, address, and account number of the originator and beneficiary?</p>		



BANK SECRECY ACT Checklist

<p>d. Require the foreign bank to monitor sub-account activities to detect, report, and investigate suspicious or unusual transactions and report findings to the U.S. institution?</p>			<p>7. Do the foreign banks that maintain the payable through relationship review and explain suspicious transactions?</p>		
<p>e. Clearly state the liability of both the U.S. institution and the foreign bank to which the payable through accounts service is being offered?</p>			<p>8. Does the institution prohibit cash transactions by sub-account holders?</p>		
<p>2. Does the institution have a system of internal controls for opening and monitoring payable through accounts? If yes, does it provide for:</p>			<p>9. If the answer to #9 is no, does the institution properly complete CTRs for all large cash transactions?</p>		
<p>a. Procedures for opening accounts?</p>			<p>10. If possible, does the institution know whether the home country supervisor of the foreign bank require banks to identify and monitor the transactions of their customers consistent with the U.S. requirements?</p>		
<p>b. Operational procedures?</p>			<p>11. Does the institution obtain adequate information about the ultimate users of the payable through accounts?</p>		
<p>c. Staff responsibilities?</p>			<p>12. Does the institution ensure that its payable through accounts are not being used for money laundering or other illicit purposes,</p>		
<p>d. Training?</p>			<p>13. If the answer to #13 is no, has the institution taken steps to terminate account relationships as expeditiously as possible?</p>		
<p>e. Audit?</p>			<p>14. Does the institution maintain adequate information (e.g., financial statements, licensing confirmation, etc.) regarding the foreign bank?</p>		
<p>f. Identifying and reporting of unusual or suspicious transactions?</p>			<p>15. Does the institution evaluate the method (e.g., audit or other review) used by the institution to ascertain:</p>		
<p>3. Does the institution prohibit foreign banks from opening sub-accounts (second tier) for other foreign banks, casas de cambios, finance companies or other financial intermediaries?</p>			<p>a. The procedures of the foreign bank for opening accounts, to determine if they are consistent with U.S. requirements?</p>		
<p>4. If the answer to #4 is no, has the institution developed procedures to identify second tier sub-account holders and the nature of the business transactions?</p>			<p>b. The foreign bank's monitoring of sub-account activities to detect and report suspicious or unusual transactions?</p>		
<p>5. Does the institution review the listing of account and sub-account holders to ensure that no accounts have been opened for individuals or businesses located in countries that are prohibited from doing business in the U.S. as determined by the Treasury's Office of Foreign Assets Control (Refer to "Economic Sanctions," Checklist)?</p>					
<p>6. Does the institution monitor account activity for unusual or suspicious transactions?</p>					



BRANCH CLOSING POLICY Checklist

b. Did the notice contain information consistent with the notice required by Section 42? (See question #3 of this checklist)

Yes	No

c. Was the notice filed with the appropriate federal banking agency at least 90 days prior to the date of the proposed branch closing? [42(a)(1)]

Yes	No



CONSUMER LEASING ACT Checklist

		Yes	No			Yes	No
1. Does the lessor provide the following specific disclosures [§213.4]:							
a. a brief description of the lease property?				j. a statement that the lessee should refer to the lease documents for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and any security interests, if applicable?			
b. the total amount of the initial payment required of the lessee at consummation, with proper itemization?				k. the lessee's liability at early termination or at the end of the lease term?			
c. the number, amount and due dates or periods of payments under the lease and the total amount of such periodic payments?				l. a statement that the lessee may obtain, at the lessee's expense, a professional appraisal by an independent third party, agreeable to both the lessee and lessor, of the value that could be realized at sale of the leased property?			
d. the total amount of all other charges payable to the lessor?				m. a statement of the rent and other charges, rebuttable presumptions and any mutually agreeable final adjustments, if the lessee is liable at the end of the lease term for the difference between the residual value of the leased property and its realized value?			
e. the total of payments payable by the lessee?				n. the total dollar amount of all official and license fees, registration, title, or taxes required to be paid in connection with the lease?			
f. in a motor vehicle lease, a mathematical progression of how the scheduled periodic payment is derived?				o. a brief description of the insurance required?			
g. a statement of the conditions under which either party to the lease may terminate it prior to the end of the lease term and the amount or method of determining the amount of any penalty or other charge for early termination?				p. a statement identifying any express warranty or guarantee made by the manufacturer or the lessor?			
h. a statement identifying the party responsible for maintaining or servicing the leased property, together with a brief description of the responsibility, a statement of reasonable standards for wear and use, if the lessor set such standards and, in a motor vehicle lease, a notice regarding wear and use that indicates the lessee may be charged for excessive wear based on the lessor's standards?				q. the amount or the method of determining the amount of any penalty or other charge for delinquency, default or late payments?			
i. a statement of whether or not the lessee has the option to purchase at the end of the lease term and at what price or method of determining the price?				r. a description of the security interest held or to be retained by the lessor and a clear identification of the secured property?			



CONSUMER LEASING ACT Checklist

	Yes	No		Yes	No
<p>s. a notice stating that the percentage rate may not measure the overall cost of financing the lease, if the lessor provides a percentage rate in an advertisement or in documents evidencing the lease transaction?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>5. If the financial institution includes in its advertisement (i) the amount of any payment or (ii) a statement of any capitalized cost reduction or other payment required prior to or at consummation or by delivery, if delivery occurs after consummation, does it also state [§213.7(d)]:</p>		
<p>t. for open-end leases for non-motor vehicles, a statement that that the lessee is liable for the fair market value of the property at inception?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>a. that the transaction advertised is a lease?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. Are the required disclosures [§213.3]:</p>			<p>b. the total amount due prior to or at consummation or by delivery, if delivery occurs consummation?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>a. clear and conspicuous?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>c. the number, amounts, and due dates or periods of scheduled payments under the lease?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>b. in writing and in a form the consumer may keep?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>d. whether or not a security deposit is required?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>c. properly segregated?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>e. that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>d. provided to the consumer in the time and manner required?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>6. Does the institution retain evidence of compliance with the requirements of the regulation (other than the advertising requirements of §213.7) for a period of not less than two years after the date the disclosures are required to be made or an action is required to be taken? [§213.8]</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>3. Are new disclosures made by the financial institution for renegotiations and extensions? [§213.5]</p>	<input type="checkbox"/>	<input type="checkbox"/>			
<p>4. Are disclosures required in connection with advertisements clear and conspicuous and are specific terms referenced in advertisements those that the lessor usually and customarily offers or would be willing to offer? [§213.7(a) and (b)]</p>	<input type="checkbox"/>	<input type="checkbox"/>			



ECONOMIC SANCTIONS Checklist

	Yes	No		Yes	No
1. Has the institution developed policies and procedures for complying with the Treasury's Office of Foreign Assets Control (OFAC) regulations? [31 CFR 500]			4. If the institution has any blocked accounts:		
2. Does the institution maintain a current listing of prohibited countries, entities, and individuals?			a. did it file a report with OFAC within 10 business days of blocking an account? [§501.603(b)]		
3. Are new and established accounts and customer transactions periodically compared to the current OFAC listing?			b. did it file a report with OFAC within 10 business days of rejecting a prohibited payment or wire transfer? [§501.604(c)]		



ELECTRONIC FUND TRANSFER ACT Checklist

	Yes	No		Yes	No
A. Section 205.5 – Issuance of Access Devices					
1. Does the institution issue validated access devices only:			2. Does the institution NOT use negligence of the consumer as a basis for greater liability than is permissible under Regulation E? [Official Staff Commentary §205.6(b)]		
a. In response to requests or applications [§ 205.5(a)(1)]; or,			3. Is the consumer's liability for unauthorized use of a lost or stolen access device limited to the lesser of \$50 or actual loss if the consumer notifies the institution within two business days of discovery of loss or theft of the access device? [§205.6(b)(1)]		
b. As a renewal or substitution for an accepted access device [§ 205.5(a)(2)].			4. If the consumer fails to notify the institution of loss or theft of an access device within two business days of discovery of loss or theft, is consumer liability limited to \$500, as follows: [§205.6(b)(2)]		
2. Does the institution issue unsolicited access devices only when the devices are:			a. The lesser of \$50 or actual loss within the first two business days; and,		
a. Not validated [§205.5(b)(1)]; and,			b. Unauthorized transfer amounts that occur after the two business days and before notification (provided the institution proves these unauthorized transfers could have been prevented had notification within the two business days occurred)?		
b. Accompanied by an explanation that the device is not validated, and how to dispose of the device if the customer does not want it [§205.5(b)(2)]; and			5. If a consumer fails to notify the institution of an unauthorized transfer within 60 days of transmittal of the periodic statement upon which that transfer appears, is consumer liability limited to: [§ 205.6(b)(3)]		
c. Accompanied by the required disclosures, [§205.5(b)(3)]; and,			a. The lesser of \$50 or actual loss that appears on the statement or occurs during 60 day period; and,		
d. Validated only on consumer request and after proper identification is made? [§205.5(b)(4)]			b. The amount of unauthorized transfers that occur after the close of 60 days and before notice to the institution (provided the institution proves the unauthorized transfers could have been prevented had notification been provided within the 60 days)?		
3. Does the institution verify the consumer's identity by a reasonable means (such as by photograph, personal visit, or signature)? [§205.5(b)(4)]			C. Section 205.7 – Initial Disclosures		
B. Section 205.6 – Liability of Consumer for Unauthorized Transfers			1. Does the institution make the following disclosures:		
1. Does the institution impose liability on the consumer for unauthorized transfer only:			a. A summary of the consumer's liability under § 205.6 (or lesser liability under state law or agreement)? [§ 205.7(b)(1)]		
a. If an accepted access device is used [§205.6(a)]; and,					
b. If the institution has provided a means to identify the consumer to whom it was issued; and,					
c. If the institution has provided the disclosures required by Section 205.7(b)(1), (2), and (3)?					



ELECTRONIC FUND TRANSFER ACT Checklist

	Yes	No		Yes	No
b. The telephone number and address of the person or office to be notified when the consumer believes that an unauthorized EFT has been or may be made? [§205.7(b)(2)]			1. Has the institution made any changes in a term or condition since the last examination that required a written notice to a consumer? The change would need to result in: increased fees, increased liability for the consumer, fewer types of EFTs available, and stricter limitations on the frequency or dollar amounts of transfers. [§205.8(a)]		
c. The institution's business days, as determined under §205.2(d)? [§ 205.7(b)(3)]			If so, was the notice provided at least 21 days before the effective date of such change? [§205.8(a)]		
d. The type of EFTs that the consumer may make and any limitations on the frequency and dollar amount of transfer? [§205.7(b)(4)] (If details on the limitations on frequency and dollar amount of transfers are essential to maintain the security of the system, they need not be disclosed.)			2. Does the institution provide either the long form error resolution notice at least once every calendar year or the short form error resolution notice on each periodic statement? [§205.8(b)]		
e. Any charges for EFTs or for the right to make transfers? [§205.7(b)(5)]			<i>E. Section 205.9—Receipts at Electronic Terminals; Periodic Statements</i>		
f. A summary of the consumer's right to receive documentation of EFTs, as provided in §205.9, 205.10(a), and 205.10(d)? [§205.7(b)(6)]			1. Does the institution make a receipt available to the consumer, in a retainable form, at the time an EFT is initiated? [§205.9(a)]		
g. A summary of the consumer's right to stop payment of a preauthorized EFT and the procedure for initiating a stop-payment order, as provided in §205.10(c)? [§205.7(b)(7)]			2. Does the receipt contain the following items as applicable: [§205.9(a)]		
h. A summary of the institution's liability to the consumer for its failure to make or to stop certain transfers under §910 of the Act? [§205.7(b)(8)]			a. The amount of the transfer (amount may be combined with any transfer charge if certain conditions are met)? [§205.9(a)(1)]		
i. Circumstances under which the institution in the ordinary course of business will disclose information to third parties concerning the consumer's account? [§205.7(b)(9)]			b. The calendar date the transfer was initiated? [§205.9(a)(2)]		
j. An error resolution notice meeting the requirements of [§205.7(b)(10)]?			c. The type of transfer and account to or from which funds are transferred? (Transactions are exempt from the type-of-account requirement if the access device used can only access one account.) [§205.9(a)(3)]		
<i>D. Section 205.8 – Change in Terms; Error Resolution Notice</i>			d. A number or code that identifies one of the following:		
			i. the consumer's account, or		
			ii. the access device used? [§205.9(a)(4)]		
			NOTE: The number or code need not exceed four digits or letters to comply.		



ELECTRONIC FUND TRANSFER ACT Checklist

	Yes	No		Yes	No
e. Identification or location of the terminal? [§205.9(a)(5)]			h. The beginning and ending balances; [§205.9(b)(4)]		
f. The name of any third party to or from whom funds are transferred unless the name is provided in a non-machine readable form? [§205.9(a)(6)]			i. The address and telephone number to be used for inquiries or notice of errors; and, [§205.9(b)(5)]		
3. Does the institution mail or deliver a periodic statement for each monthly or shorter cycle in which an EFT has occurred? [§205.9(b)]			j. If applicable, the telephone number to use in finding out whether a preauthorized credit has been made as scheduled? [§205.9(b)(6)]		
4. If no EFTs have occurred, has the institution mailed or delivered a periodic statement at least quarterly for non-passbook accounts? [§205.9(b)]			6. For passbook accounts that only receive preauthorized credits, does the institution upon presentation by the consumer enter in a passbook or on a separate document the amount and date of each EFT made since the passbook was last presented? [§205.9(c)]		
5. Does the periodic statement or accompanying documents contain the following items: [§205.9(b)(1)]			<i>F. Section 205.10 – Preauthorized Transfers</i>		
a. The amount of the transfer (amount may include transfer charge if it was added in accordance with the terminal receipt requirements);[§205.9(b)(1)(i)]			1. If a consumer's account is to be credited by a preauthorized EFT from the same payor at least once every 60 days: [205.10(a)(1)]		
b. The date the transfer was posted to the account; [§205.9(b)(1)(ii)]			a. Does the institution provide oral or written notice, within two business days, after the transfer occurs or was scheduled to occur, that the transfer did or did not occur; or		
c. The type of transfer and account; [§205.9(b)(1)(iii)]			b. If the telephone alternative is selected, does the institution disclose the telephone number in initial disclosures and on each periodic statement; and		
d. The location of the terminal; [§205.9(b)(1)(iv)]			c. Is the number "readily available" during the institution's business hours?		
e. The name of any third party to or from whom funds were transferred;[§205.9(b)(1)(v)]			2. Does the institution credit the consumer's account for preauthorized EFTs as of the day the funds are received? [§205.10(a)(3)]		
f. The account number(s); [§205.9(b)(2)]			3. Does the institution obtain authorization from the consumer for preauthorized EFTs? [§205.10(b)]		
g. The total amount of any fees or charges assessed during the statement period for EFTs, the right to make EFTs or for account maintenance (excluding any finance charges under Regulation Z, overdraft or stop payment charges and any transfer charges combined with transfer amounts under §205.9(a)); [§205.9(b)(3)]			4. Does the financial institution comply with §205.10(c) regarding stop payment orders?		



ELECTRONIC FUND TRANSFER ACT Checklist

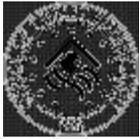
	Yes	No		Yes	No
5. If a preauthorized EFT from a consumer's account varies in amount from the previous transfer under the same authorization or preauthorized amount, does the institution provide proper notice at least ten days before the scheduled date of transfer? [§205.10(d)] (Note: If the designated payee makes the notification, the institution is absolved from this requirement.)			a. Provisionally credit the amount of the alleged error (including interest, where applicable) to the consumer's account within ten business days of the initial report (except where written confirmation is required but not received within ten business days)? [§205.11(c)(2)(i)]		
6. Does the institution refrain from conditioning an extension of credit to a consumer on repayment by preauthorized EFTs? [§205.10(e)(1)]			b. Notify the consumer within two business days of the amount and date of the provisional crediting and the fact that the consumer will have full use of funds pending the outcome of the investigation? [§205.11(c)(2)(ii)]		
7. Does the institution refrain from requiring a consumer to establish an account with a particular institution for receipt of EFTs as a condition of employment or receipt of a government benefit? [§205.10(e)(2)]			c. Give the consumer full use of the funds during the investigation period? [§205.11(c)(2)(ii)]		
G. Section 205.11--Procedures for Resolving Errors			6. If the institution provisionally credited the consumer's account and determines that an error has occurred, have procedures been established to: [§205.11(c)(2)]		
1. If the institution requires a written confirmation of an error within ten business days of an oral notice, is this requirement disclosed to the consumer with the address of where it must be sent? [§205.11(b)(2)]			a. Correct the error (including crediting interest or refunding fees) within one business day? [§205.11(c)(2)(iii)]		
2. Does the institution promptly investigate alleged errors and resolve them within ten business days of receiving a notice of error? [§205.11(c)(1)]			b. Notify the consumer within three business days of the correction and that a provisional credit has been made final? [§205.11(c)(2)(iv)]		
3. Does the institution inform the consumer of the results of the investigation within three business days after completing its investigation? [§205.11(c)(1)]			7. If the institution determines that no error has occurred, have procedures been established to: [§205.11(d)]		
4. After the institution determines an error occurred, is the error corrected within one business day? [§205.11(c)(1)]			a. Within three business days of concluding the investigation, provide a written explanation of its findings and include the notice of the consumer's right to request the documents upon which the institution relied in making its determination? [§205.11(d)(1)]		
5. If the institution needs more time and informs the consumer that it may take up to 45 days, does the institution: [§205.11(c)(2)]			b. Provide copies of documents? [§205.11(d)(1)]		



ELECTRONIC FUND TRANSFER ACT Checklist

	Yes	No		Yes	No
<p>c. Upon debiting a provisionally credited amount, notify the consumer of the date and amount of the debit and the fact that the institution honors checks and drafts to third parties and preauthorized transfers for five business days after notification (specifying the calendar date debiting will occur) to the extent that they would have been paid if the provisionally credited funds had not been debited? [§205.11(d)(2)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p><i>J. Internal Control Procedures</i></p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>H. Section 205.13 – Administrative Enforcement</i></p>			<p>1. Does the institution have adequate procedures to insure that notification of loss, theft, or unauthorized use promptly results in halting unauthorized transfers from a consumer's account, and recrediting amounts when appropriate?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>1. Has the institution preserved evidence of compliance with the requirements of the Act for a two-year period or longer? [§205.13(b)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>2. Do the institution's procedures indicate a willingness to resolve consumer complaints regarding EFT matters?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p><i>I. Section 205.15—Electronic Fund Transfer of Government Benefits</i></p>			<p>3. Does a review of statements indicate that transaction identifications are in compliance with Regulation E?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>1. If a government agency does not provide a periodic statement for electronic government benefits, does the agency:</p>			<p>4. Do automated teller and point-of-sale transfer receipts provide a clear description of the transaction that is in compliance with Regulation E?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>a. make the consumer's account balance available through a readily available telephone line and at a terminal; [§205.15(c)(1)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>5. Is the institution's advertising of EFT services free of ambiguous and deceptive statements?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>b. promptly provide a written history of the consumer's account transactions in response to a request that covers at least 60 days preceding the date of request by consumer; and [§205.15(c)(2)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>6. Is the consumer's responsibility with regard to personal access codes explained?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>c. provide modified initial disclosures according to §205.15(d)(1) and an annual error resolution notice according to §205.15(d)(2)?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>7. Does a review of merchant agreements and internal controls indicate that consumers are treated consistently with what has been disclosed to them (transaction limitations, costs, documentation, identification, etc.)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<p>8. Does the institution maintain any log or tracking sheet for error resolution?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<p>9. Are personnel able to distinguish between the applicability of Regulation E and Z as part of the issuance of debit and credit cards, error resolution procedures and consumer liability?</p>	<input type="checkbox"/>	<input type="checkbox"/>

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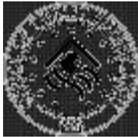
**EQUAL CREDIT OPPORTUNITY ACT
FAIR HOUSING ACT
OTS NONDISCRIMINATION REGULATIONS
Checklist**

		Yes	No			Yes	No
1.	Does the institution ensure that its representatives do not make, and its advertising does not include, statements that would discourage, on a prohibited basis, a person from making or pursuing an application? [§202.5(a) and §528.4]			3.	Does the institution provide a copy of the appraisal report used in connection with an application for credit that is to be secured by a dwelling? [§202.5a]		
2.	Does the institution ensure that it limits requests for information about:			4.	Does the institution ensure that it does not take a prohibited basis into account when evaluating the creditworthiness of applicants, [§202.6(b)(1) and §528.2(c)] except for age, and then only when [§202.6(b)(2)]:		
	<ul style="list-style-type: none"> applicant race, sex, marital status and age to what is required for monitoring purposes for loans secured by a dwelling? [§202.5(b), §202.13(a)] an applicant's spouse or former spouse to situations where such person will be liable on or use the account, or where their income, property, alimony, child support or maintenance payments are a basis for repayment of the loan? [§202.5(c)(2)] the marital status (recorded only as married, unmarried and separated) of an applicant if the application is for other than individual unsecured credit? [§202.5(d)(1)] whether applicant's income is derived from alimony, child support, or separate maintenance payments until after applicant is advised of the option to exclude such income sources (and information about them) from a determination of his or her creditworthiness? [§202.5(d)(2)] the applicant's optional designation of a "title" (e.g., Mr., Mrs., Miss or Ms.), and does not ask about applicant's sex or use any terms other than those that are neutral as to sex on an application form? [§202.5(d)(3)] applicant's dependents, and does not ask about applicant's birth control practices, intentions concerning childbearing or rearing, or capability to bear children? [§202.5(d)(4)] 			<ul style="list-style-type: none"> the age of an elderly applicant is used to favor that applicant in extending credit; and either the applicant's age is used as a predictive variable in an empirically derived, demonstrably and statistically sound credit scoring system, provided that the age of an elderly applicant is not assigned a negative factor or value; or the applicant's age is used for the purpose of determining a pertinent element of creditworthiness in a judgmental underwriting system? 			
				5.	When evaluating an applicant's creditworthiness, does the institution ensure that it does not take into account information about applicant's child rearing or child bearing propensities, or applicant's possession of a telephone listing? [§202.6(b)(3) & (4)]		
				6.	Does the institution ensure that it does not improperly discount or exclude the income of an applicant (or spouse) due to a prohibited basis, or because it is derived from part-time employment, an annuity, pension or other retirement benefit, or where the applicant relies on alimony, child support or separate maintenance payments? [§202.6(b)(5)]		
				7.	When considering an applicant's credit history, does the institution ensure that it considers:		
				<ul style="list-style-type: none"> all accounts designated as accounts that the applicant and applicant's spouse are permitted to use, or for which both are contractually liable; 			



**EQUAL CREDIT OPPORTUNITY ACT
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Checklist**

	Yes	No		Yes	No
<ul style="list-style-type: none"> on applicant's showing, information that tends to indicate that the reported credit history does not accurately reflect the applicant's creditworthiness; and at applicant's request, any available credit history of a spouse or former spouse that applicant demonstrates accurately reflects applicant's creditworthiness? [§202.6(b)(6)] 			<ul style="list-style-type: none"> the name and address of the creditor's regulator? and either <ul style="list-style-type: none"> a statement of specific reasons for the action? [§202.9(b)(2)] or a disclosure of the process by which to receive such reasons? [§202.9(a)(2)] 		
8. With respect to existing open-end accounts, does the institution ensure that it does not terminate or change the terms of the account, or require reapplication on the basis of the account holder's age, retirement, or change of name or marital status, unless there is evidence of the obligor's inability or unwillingness to repay? [§202.7(c)]			12. When applications are submitted through a third party, does the institution ensure that the applicant is properly notified of action taken? [§202.9(g)]		
9. Does the institution ensure that it does not require signature of a spouse (or other person) on a credit instrument, unless: (a) the spouse (or other person) is a joint applicant; (b) the applicant's creditworthiness is based, in part, by property jointly owned with the proposed co-signor; (c) the transaction involves property subject to state law community property interests; or (d) in cases of secured credit, the signature is reasonably necessary to assure the property offered will be available for the debt? [§202.7(d)]			13. When responding to credit inquiries or otherwise furnishing credit information, does the institution ensure that it properly reports information about accounts in which both spouses participate? [§202.10]		
10. Does the institution ensure that it does not refuse to extend credit, or terminate an account, because credit life, health, accident, disability, or other credit-related insurance is not available on the basis of the applicant's age? [§202.7(e)]			14. With respect to non-business credit, does the institution retain for 25 months (after notice of action taken or notice of incompleteness) [§202.12(b)]: <ul style="list-style-type: none"> the application and all material supporting the evaluation thereof? all information obtained for monitoring purposes? the notification of action taken? a statement of specific reasons for adverse action? discrimination complaints under Regulation B? 		
11. Does the institution notify applicants of action taken on their applications in a manner that is timely under Regulation B [§202.9(a)(1)], and when notification is of adverse action is it in writing and does it contain: <ul style="list-style-type: none"> the name and address of the creditor? an accurate statement of the action taken? a statement of the provisions of §701(a) of ECOA? [§202.9(b)(1)] 			15. Does the institution ensure that it retains all information from a file under investigation until final disposition of the investigation and any resulting enforcement action?		
			16. Does the institution ensure that it retains application materials concerning business credit for the time period (12 months), and in the form, required by Regulation B?		



**EQUAL CREDIT OPPORTUNITY ACT
FAIR HOUSING ACT
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Checklist**

	Yes	No		Yes	No
17. Does the institution ensure that it does not discriminate against any person because of race, color, religion, sex, handicap, familial status, or national origin in the making, purchasing, or pricing of any loan, or other financial assistance, for purchasing, constructing, improving, repairing or maintaining a dwelling? [Fair Housing Act § 805]			20. Does the institution have clearly written, non-discriminatory underwriting guidelines, readily available to the public upon request? [[§528.2a (b)]		
18. Does the institution ensure that it does not discriminate in the making, purchasing, or pricing of any loan because of the age or location of the property, or because of the race, color, religion, sex, handicap, familial status, marital status, age or national origin of any applicant, co-applicant, prospective tenant of the owner, or the occupants of other dwellings in the vicinity? [§ 528.2(a)]			21. Does the institution properly include in its advertisements, a facsimile of the Equal Housing lender logotype and legend, and does it post and maintain one or more Equal Housing Lender Posters (in the prescribed format) in the lobby of each of its offices in a prominent place readily apparent to persons seeking loans? [§528.4 & .5]		
19. Does the institution ensure that it does not use or rely upon an appraisal of a dwelling that improperly discriminates on the basis of the age or location of the dwelling? [§ 528.2a(a)]			22. Does the institution ensure that it properly maintains and reports its HMDA LAR, including the requirement to record and report denial reasons? [§528.6]		

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EXPEDITED FUNDS AVAILABILITY ACT Checklist

	Yes	No		Yes	No
Operations					
A. Date of Deposit					
1. Does the bank consider every day except Saturday, Sunday, or Federal Holidays, as a "business day"? [§229.2(g)]			7. If the bank limits cash withdrawals, does the bank make \$400 available for cash withdrawals no later than 5:00 pm on the appropriate business day (second day for local checks, fifth for nonlocal checks) following the day of deposit? [§229.12(d)]		
2. Does the bank consider as a "banking day" those business days upon which an office of the bank is open for substantially all of its business? [§229.2(f)]			B. Required Next Day Availability		
3. Does the bank have a cut-off, for receipt of deposits, of 2 p.m. or later for bank offices and 12:00 noon or later for ATMs? [§229.19(a)(5)(ii)]			1. Does the bank make funds from the following types of deposits available for withdrawal no later than the first business day following the date of deposit?		
4. Does the bank comply with the following rules in determining when funds are considered to have been deposited?			a. Electronic payments. [§229.10(b)]		
a. Deposits over the counter or at ATMs are considered deposited when "received". [§229.19(a)(1)]			b. Checks drawn on the U.S. Treasury and deposited to the payee's account. [§229.10(c)(1)(i)]		
b. Mail deposits are considered deposited when they are received by the mailroom of the bank. [§229.19(a)(2)]			c. "On Us" checks or checks that are drawn on and deposited in branches of the same bank in the same state or check processing region. [§229.10(c)(1)(vi)]		
c. Deposits in a night depository, lock box, or similar facility are considered received when the deposits are removed from the facility and are available for processing. [§229.19(a)(3)]			2. Does the bank make funds from the following deposits available no later than the first business day after the day of deposit, if the deposit is made in person to a bank employee, or no later than the second business day if the deposit is not made in person to a bank employee?		
d. Deposits at an off-premise ATM (not within 50 feet of the bank) that is not serviced more than twice a week are considered received as of the date the deposits are removed from the ATM by the bank. [§229.19(a)(4)]			a. Cash Deposits. [§229.10(a)(1) and (2)]		
5. Does the bank consider deposits made on a nonbanking day to have been received no later than the next banking day? [§229.19(a)(5)(i)]			b. U.S. Postal Service money orders deposited in an account held by the payee of the check. [§§229.10(c)(1)(ii), 229.10(c)(2)]		
6. When funds must be available on a given "business day," does the bank make the funds available at the later of 9 a.m. or at the time the bank's teller facilities (including ATMs) are available for account withdrawals? [§229.19(b)]			c. Checks drawn on a Federal Reserve Bank or Federal Home Loan Bank deposited in an account held by the payee of the check. [§§229.10(c)(1)(iii), 229.10(c)(2)]		
			d. Checks drawn by a state or local governmental unit and deposited:		
			• in an account held by the payee of the check [§§229.10(c)(1)(iv)(A), 229.10(c)(2)]		



EXPEDITED FUNDS AVAILABILITY ACT Checklist

	Yes	No		Yes	No
<ul style="list-style-type: none"> • in a depository bank located in the same state as the governmental unit issuing the check [§§229.10(c)(1)(iv) (B), 229.10(c)(2)]; and • accompanied by a special deposit slip (if required by the bank to make the funds available on the next business day). [§§229.10(c)(1)(iv)(D), 229.10(c)(3)] 			<ul style="list-style-type: none"> b. Is the \$400 available for cash withdrawal sometime before 5:00 pm on the second business day after the day of deposit? c. Are any remaining funds available for withdrawal the business day after the \$400 was made available? 		
e. Cashier's checks, certified checks, and teller's checks (as defined in §229.2) deposited in an account held by the payee of the check when:			<ul style="list-style-type: none"> 3. For Treasury checks and U.S. Postal Money Orders that do not meet the criteria for next-day (or second day) availability, does the bank make funds available no later than the second business day after the date of deposit? [§229.12(b)(2) and (3)] 4. Are funds deposited by cash or check at a nonproprietary ATM available no later than the fifth business day after the banking day of deposit? [§229.12(f)] 		
<ul style="list-style-type: none"> • the check is accompanied by a special deposit slip (if required by the bank to make the funds available on the next business day)? [§§229.10(c)(1)(v)(C), 229.10(c)(3)] 					
3. If the bank requires the special deposit slips, for questions 2(d) and 2(e) above does it provide the slip to its customers, or inform its customers how to prepare or obtain the slips? [§229.10(c)(3)(ii)]			<p><i>D. Nonlocal Checks</i></p> <ul style="list-style-type: none"> 1. Are funds from nonlocal checks generally available no later than the fifth business day after the day of deposit? [§229.12(c)(1)] 2. If the bank is located in a city listed in Appendix B, does it have procedures to make funds for certain nonlocal checks available on a shorter schedule as required by the Appendix? [§229.12(c)(2)] 		
Are the special deposit slips reasonably available? [§229.10(c)(3)(ii)]					
4. Is the first \$100 of a customer's daily aggregate deposits of checks not subject to the next-day availability rules, available on the next business day? [§229.10(c)(1)(vii)]			<ul style="list-style-type: none"> 3. If the bank limits cash withdrawals, [§229.12(d)] <ul style="list-style-type: none"> a. Is \$100 available on the next business day after the day of deposit for withdrawal in cash or by check? b. Is \$400 available for cash withdrawal sometime before 5:00 pm on the fifth business day after the day of deposit? c. Are any remaining funds available for cash withdrawal the business day after the \$400 was made available? 		
5. Is the \$100 in addition to other deposited amounts with required next-day availability? [§229.10(c)(1)(vii)]					
<i>C. Local Checks and Certain Other Deposits</i>					
1. Are funds from local checks generally available no later than the second business day after the day of deposit? [§229.12(b)(1)]					
2. If a bank limits cash withdrawals, [§229.12(d)]					
<ul style="list-style-type: none"> a. Is the \$100 available on the next business day after the day of deposit for withdrawal in cash or by check? 					



EXPEDITED FUNDS AVAILABILITY ACT Checklist

	Yes	No		Yes	No
E. Payable Through Checks					
1. Does the bank's policy distinguish between local and nonlocal checks (are funds from local and nonlocal checks available on the second business day following the day of deposit)? [§229.16(b)(2), footnote 3(a)]			d. encourage customers to ask when particular deposits will be made available for withdrawal? [§229.16(c)(1)(iii)]		
2. If local and nonlocal checks are treated differently,			2. When case-by-case holds are placed, does the bank provide the customer with a written notice of the hold? [§229.16(c)(2)]		
a. Does the policy state that payable through checks will be treated as local or nonlocal based on the location of the bank where the check is payable? [§229.16(b)(2)]			3. Does the notice include:		
b. Does the policy either: • Describe how the customer can determine whether the checks will be treated as local or nonlocal or, • State that special rules apply and that the customer may ask about the availability of these checks?			a. the customer's account number; [§229.16(c)(2)(i)(A)]		
			b. the date and amount of the deposit; [§229.16(c)(2)(i)(B)]		
			c. the amount of the deposit that is being delayed; [§229.16(c)(2)(i)(C)]		
			d. the day the funds will be available for withdrawal? [§229.16(c)(2)(i)(D)]		
			4. Does the bank provide the notice at the time the deposit is made, if the deposit is made to an employee of the depository bank? [§229.16(c)(2)(ii)]		
			5. If the notice is not given at the time of deposit, does the depository bank mail or deliver the notice to the customer not later than the first business day after the day of the deposit? [§229.16(c)(2)(ii)]		
Extended Holds			6. If the bank does not provide the notice at the time of deposit, does it refrain from charging the customer overdraft or return check fees if:		
F. Case-by-Case Holds			a. the overdraft or other fee would not have occurred if the deposited check had not been delayed; and		
1. Does the bank's specific availability policy disclosures indicate that case-by-case holds may be placed? [§229.16(c)(1)]			b. the deposited check was paid by the paying bank? [§229.16(c)(3)]		
If yes, does the disclosure:			7. If the bank does not provide the notice at the time of deposit and charges overdraft fees, does it notify the customer of the right to a refund of such fees and how to obtain the refund? [§229.16(c)(3)]		
a. state that the bank may extend the time period in which deposits may be available for withdrawal? [§229.16(c)(1)(i)]			8. Does the bank refund the fees if the conditions listed in question 6 above are met and the customer requests a refund? [§229.16(c)(3)]		
b. provide the latest time a deposit will be available for withdrawal, if the availability time frame is extended? [§229.16(c)(1)(i)]					
c. state that the bank will notify the customer if funds from a particular deposit will exceed the time period outlined in the bank's funds availability policy? [§229.16(c)(1)(ii)]					



EXPEDITED FUNDS AVAILABILITY ACT Checklist

		Yes	No			Yes	No
G. Exception Based Holds							
1. When invoking an exception hold for other than new accounts, does the bank provide the customer with a written notice which includes:				4. Do cash deposits made in person to a bank employee become available for withdrawal on the first business day following the day of deposit? [§229.13(a)(1)(i), 229.10(a)(1)]			
a. the customer's account number; [§229.13(g)(1)(i)(A)]				5. Are cash deposits not made in person to a bank employee available for withdrawal on the second business day following the day of deposit? [§229.13(a)(1)(i), 229.10(a)(2)]			
b. the date and amount of the deposit; [§229.13(g)(1)(i)(B)]				6. Are electronic transfers into new accounts available for withdrawal on the business day following the day of the transfer is received? [§229.13(a)(1)(i), 229.10(b)]			
c. the amount of the deposit that is being delayed; [§229.13(g)(1)(i)(C)]				7. Is the first \$5,000 from any of the following types of check deposits available for withdrawal from a new account not later than the first business day after the day of the deposit, if the deposits meet the requirements of Section 229.10(c)*: [§229.13(a)(1)(ii)]			
d. the reason the exception was invoked; [§229.13(g)(1)(i)(D)]				a. Treasury checks [§229.10(c)(1)(i)]			
e. the day the funds will be available for withdrawal (unless the emergency conditions exception is invoked and the bank does not know when the funds will become available)? [§229.13(g)(1)(i)(E)]				b. U.S. Postal service money orders [§229.10(c)(1)(ii)]			
2. Does the bank refrain from delaying funds availability beyond a reasonable time period? (Note: Five days for local checks and six days for nonlocal checks is considered reasonable.) [§229.13(h)(4)]				c. Federal Reserve or Federal Home Loan Bank checks [§229.10(c)(1)(iii)]			
Exceptions				d. State or local government checks [§229.10(c)(1)(iv)]			
H. New Accounts [§229.13(a)]				e. Cashier's certified and Teller's check [§229.10(c)(1)(v)]			
1. Does the bank's definition of a new account comply with the definition under Section 229.13(a)(2)? (Note: If a customer has had another transaction account at the bank within the thirty days prior to opening an account, the customer does not qualify for the "new account" exception.)				f. Traveler's checks [§229.10(c)(1)(v)]			
				• See Section I. B. of the checklist.			
2. If the bank's definition is different, does it delay availability to new account holders beyond the limits set forth in the regulation?				8. Is the amount of any deposit type listed in question 7 exceeding \$5,000 available for withdrawal no later than the ninth business day following the day of deposit? [§229.13(a)(1)(ii)]			
3. Do bank disclosures accurately reflect the bank's practice for making deposited funds available for new accounts?				<i>1. Large Deposits [§229.13(b)]</i>			
				1. If the bank invokes the large deposit rule, does it do so only to that portion of the aggregate local and nonlocal check deposits which exceed \$5,000 on any one banking day? [§229.13(b)]			



EXPEDITED FUNDS AVAILABILITY ACT Checklist

		Yes	No			Yes	No
<p>2. Does the financial institution refrain from applying this exception to deposits made in cash, by electronic payment, or to checks which must receive next-day availability under Section 229.10(c)? (See commentary to Section 229.13(b))</p>				<p>a. six or more times during the preceding 6 months; or [§229.13(d)(1)]</p>			
<p>3. Does the bank provide customers with a written notice of the longer delay? [§229.13(g)(1)]</p>				<p>b. two or more times during the preceding 6 months, if the amount of any negative balance would have been \$5,000 or more? [§229.13(d)(2)]</p>			
<p>Is the notice: [§229.13(g)(1)(ii)]</p>				<p>3. Is this practice articulated in the bank's written policy and initial disclosure statement? [§229.16(a)]</p>			
<p>a. provided at the time of the deposit, when the deposit is received in person by an employee of the bank, or</p>				<p>4. When the bank imposes the longer delay period, is the depositor notified of the reason, in writing, at the time of deposit? If not, is a notice mailed on or before the First business day after the day of the deposit or the day the bank learns and the facts giving rise to the exception? [§229.13(g)]</p>			
<p>b. mailed on or before the first business day after the day the bank learns of the facts giving rise to the exception?</p>				<p>5. Does the bank return the account to the normal availability schedule when the account is no longer repeatedly overdrawn? (Note: Banks may use this exception for six months after the last overdraft that makes the depositor a "repeated overdraft". See K.2 above). [§229.13(d)]</p>			
<p><i>J. Redeposited Checks [§229.13(c)]</i></p>				<p><i>L. Reasonable Cause to Doubt Collectibility</i></p>			
<p>1. Does the bank refrain from applying the redeposited exception to:</p>				<p>1. Does the bank refrain from applying the reasonable cause exception to: [§229.13(e)(1)]</p>			
<p>a. checks which are returned due to a missing endorsement and are subsequently endorsed and redeposited? [§229.13(c)(1)]</p>				<p>a. U.S. Treasury checks;</p>			
<p>b. checks which were returned because they were postdated, but are not postdated when redeposited? [§229.13(c)(2)]</p>				<p>b. U.S. Postal money orders;</p>			
<p>2. Does the bank consider the day the check was redeposited to be the day of deposit when determining when funds must be made available for withdrawal? (Commentary to Section 229.13(c))</p>				<p>c. state and local government checks;</p>			
<p><i>K. Repeated Overdraft Exception [§229.13(d)]</i></p>				<p>d. "on-us" checks?</p>			
<p>1. Does the bank impose longer holds for depositors who have a history of overdrafts?</p>				<p>2. When the bank invokes a reasonable cause exception, does it provide the customer with a written notice of exception at the time the deposit was made, if the deposit was made in person to an employee of the bank? [§229.13(g)(1)(ii)]</p>			
<p>2. Does the bank invoke the repeated overdraft exception only when the account balance is negative (or would have been negative had checks or other charges been paid):</p>							



EXPEDITED FUNDS AVAILABILITY ACT Checklist

	Yes	No		Yes	No
3. If the deposit was not made in person to an employee of the bank, or if the hold was placed because of information learned subsequent to the receipt of the deposit, does the institution mail the exception notice to the customer? [§229.13(g)(1)(ii)]			M. Emergency Conditions [§229.13(f)] 1. Does the bank refrain from imposing emergency condition holds on checks subject to next-day availability under 229.10(c)? (Commentary to Section 229.13(f)) 2. Does the bank invoke the emergency conditions exception only in the following circumstances and when the bank has exercised necessary diligence as circumstances require: a. an interruption of communications or computer or other equipment; [§229.13(f)(1)] b. suspension of payments by another bank; [§229.13(f)(2)] c. war; or [§229.13(f)(3)] d. an emergency condition beyond the control of the bank? [§229.13(f)(4)] 3. Does the bank make funds available for withdrawal no later than a reasonable period after the emergency has ended or within the time period established by the temporary and permanent schedules, whichever is later? [§229.13(h)(3)] (As stated in the commentary to §229.13(h)(4), a reasonable period is 5 business days for local checks and 6 for nonlocal checks.) 4. Does the bank provide customers with a written notice of the longer delay? [§229.13(g)(1)] 5. Is the notice provided at the time of the deposit, if the deposit is received in person by an employee of the bank or is the notice mailed on or before the first business day after the day the bank learns of the facts giving rise to the exception? [§229.13(g)(1)(ii)]		
4. Does the bank retain copies of each reasonable cause exception notice, along with a brief statement of the facts which lead to the hold, for a period of two years? [§229.13(g)(5)]					
5. Does the depository bank refrain from invoking the reasonable cause exception based on the race or national origin of the depositor or the class of the check? [§229.13(e)(1)]					
6. Does the bank refrain from assessing a fee for any subsequent overdraft, returned check, or other unpaid charge (or advise customers of their right to a refund of such fees and refund them upon request) if all of the following are met:					
a. the depository bank extended the availability period based on its belief that the check was uncollectible [§229.13(e)(1)];					
b. the depositor was not provided with the written notice required by Section 229.13(g)(1) at time of deposit [§229.13(e)(2)];					
c. the overdraft or return would not have occurred if the availability period had not been extended [§229.13(e)(2)(i)]; and					
d. the deposited check was finally paid by the paying bank? [§229.13(e)(2)(ii)]					
7. Does the exception notice inform the customer where to direct a request for a refund of the overdraft fees? [§229.13(e)(2)]					



EXPEDITED FUNDS AVAILABILITY ACT Checklist

	Yes	No		Yes	No
Miscellaneous					
<i>N. Calculated Availability</i>					
Nonconsumer Transaction Accounts [§229.19(d)]					
1.	Does the bank calculate funds availability for non-consumer accounts based on a sample of the customer's deposits? If yes, obtain a copy of the bank's formula for determining its availability schedule. Review a sample of checks similar to that used by the bank to calculate funds availability and answer the following:				
a.	Is the sample of checks large enough to accurately utilize the formula?				
b.	Does the formula accurately represent the average composition of the customer's deposits?				
			c.	Does the specified percentage of available funds appear reasonable? (Is a set percentage available the next business day, with remaining funds available according to the customer's deposit mix?)	
			2.	Based on the sample, are the terms of availability for the account equivalent or more prompt than the terms outlined in the regulation?	
			Payment of Interest		
			Review a copy of the bank's availability schedule for check deposits credited through the Reserve Bank or its correspondent bank. Determine the time that the bank receives provisional credit for check deposits.		
			For each interest-bearing transaction account offered by the bank (e.g., NOW accounts, ATS accounts), does the bank begin to accrue interest on the funds deposited no later than the business day on which the bank receives provisional credit for the funds? [§229.14]		

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FAIR CREDIT REPORTING ACT Checklist

	Yes	No		Yes	No
<p>1. When adverse action is based on a consumer report (as defined in the Fair Credit Reporting Act), does the financial institution disclose the fact that the adverse action was based, in whole or in part, on the consumer reporting agency report, and does it provide: (A) the name, address and telephone number of the consumer reporting agency furnishing the report, (B) a statement that the consumer reporting agency did not make the decision to provide the consumer the specific reasons why the adverse action was taken, and (C) a notice of the consumer's right to obtain a free copy of the consumer report from the consumer reporting agency within a 60 day period and to dispute the accuracy or completeness of any information contained in the report? [§ 615(a)]</p>			<p>2. When adverse action is based on other outside information, does the financial institution disclose the consumer's right to know the nature of the information as provided in § 615(b) of the Act?</p>		
			<p>3. Does the financial institution have procedures in place to provide the nature of the outside information (Question #2) upon request?</p>		
			<p>4. Is the financial institution a Consumer Reporting Agency, and if so does it comply with the requirements of Act?</p>		



FAIR DEBT COLLECTION PRACTICES ACT Checklist

	Yes	No		Yes	No
1. Is the institution aware of the circumstances in which the FDCPA applies and, as appropriate, has it established internal procedures and controls to assure compliance with the FDCPA?	<input type="checkbox"/>	<input type="checkbox"/>	3. In attempting to collect consumer debts as a "debt collector" under the FDCPA, did the institution:	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the institution or its subsidiary acted as a "debt collector" under the FDCPA by either:			a. communicate with the consumer or any third party in a prohibited manner?	<input type="checkbox"/>	<input type="checkbox"/>
a. regularly attempting to collect defaulted consumer debts owed to others; or,	<input type="checkbox"/>	<input type="checkbox"/>	b. adhere to the required debt validation procedure?	<input type="checkbox"/>	<input type="checkbox"/>
b. attempting to collect its own consumer debts in a name other than its own?	<input type="checkbox"/>	<input type="checkbox"/>	c. use any harassing, abusive, unfair or deceptive practice or means?	<input type="checkbox"/>	<input type="checkbox"/>
(If the answers to questions 2a and 2b are "No," the institution or its subsidiary has not acted as a debt collector under the FDCPA and should not complete the remainder of the checklist.)			d. collect any more than authorized by the debt instrument or state law?	<input type="checkbox"/>	<input type="checkbox"/>
			e. properly apply any payment received in the case of multiple debts owned by the same consumer?	<input type="checkbox"/>	<input type="checkbox"/>
			f. bring legal action only in a judicial district permitted under the FDCPA?	<input type="checkbox"/>	<input type="checkbox"/>



HOME MORTGAGE DISCLOSURE ACT Checklist

	Yes	No		Yes	No
<p>1. Is the financial institution exempt from the requirements of Regulation C because it is subject to a state disclosure law that imposes similar requirements?</p> <p style="padding-left: 20px;">Do not proceed if the answer to the preceding question is "Yes."</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>e. The type of action taken and the date?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>2. Did the financial institution have a home office or branch office in an MSA on December 31 of the preceding year? [Regulation C, Appendix A]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>f. The location of the property to which the loan or application relates, by MSA number, state and county codes and census tract, if the institution has a home or branch office in that MSA?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>3. Did the financial institution have total assets of more than \$29 million on December 31 of the preceding year? [Regulation C, Appendix A]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>g. The race or national origin, and sex of the applicant or borrower (using applicable codes)?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>4. Does the financial institution meet the definition of "financial institution" as that term is defined in Section 203.2(e)?</p> <p style="padding-left: 20px;">If all of the answers to questions 2, 3, and 4 are "Yes," the financial institution is subject to HMDA and should complete the following questions.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>h. The gross annual income relied upon in processing the application (rounded up to the nearest thousand)? (i.e. \$35,550 reported as 36)</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>5. Is the financial institution collecting loan data regarding</p> <p style="padding-left: 20px;">a. applications for, and</p> <p style="padding-left: 20px;">b. origination, and</p> <p style="padding-left: 20px;">c. purchases of home purchase and home improvement loans (including refinancing) for each calendar year? [§203.4(a)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Note: Collection of the information in g. and h. is optional on loans purchased or if the financial institution had assets of \$30 million or less on the preceding December 31. If the applicant fails to provide this information in mail or telephone applications, the race or national origin and sex need not be recorded, however, an applicable code number is provided for this situation (do not use "N/A"). Collection of this information is "not applicable" if the applicant or borrower is not a natural person (corporation, etc.).</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>6. Does the financial institution collect the following data: [Regulation C, Appendix A]</p> <p style="padding-left: 20px;">a. A unique number for the loan or loan application, and the date the application was received?</p> <p style="padding-left: 20px;">b. The type and purpose of the loan, using the applicable codes?</p> <p style="padding-left: 20px;">c. The owner-occupancy status of the property to which the loan relates, using the applicable codes?</p> <p style="padding-left: 20px;">d. The amount of the loan or application, rounded up to the nearest thousand?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>i. The type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year?</p> <p>j. The reasons for denial of an application, using up to three appropriate codes?</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<p>7. Is the loan data presented in the format prescribed in Regulation C, Appendix A of the regulation (or in electronic form as prescribed in agency instructions)?</p> <p style="padding-left: 20px;">Questions 8 and 9 do not apply to purchased loans or if the financial institution had assets on the preceding December 31 of \$30 million or less.</p>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<p>8. Does the financial institution collect data concerning race or national origin, and sex as prescribed in Regulation C, Appendix B of the regulation?</p>	<input type="checkbox"/>	<input type="checkbox"/>



HOME MORTGAGE DISCLOSURE ACT Checklist

	Yes	No		Yes	No
9. Does the financial institution note data concerning race or national origin, and sex on the basis of visual observation if the applicant chooses not to provide this information? [Regulation C, Appendix B]			16. Are the disclosure statements available for inspection and copying during normal business hours?		
10. Does the financial institution avoid reporting data on transactions excluded by Section 203.4(d) of the regulation?			17. Does the financial institution avoid charging a fee for obtaining a copy of its disclosure statement, other than a reasonable charge for photocopying?		
11. Did the financial institution send an edited machine-readable copy to the appropriate agency office by March 1 following the year for which the loan data are compiled? [§203.5(a)]			18. Does the financial institution make its loan application register available to the public (after modifying it in accordance with Appendix A) following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1? [§203.5(c)]		
12. Does the financial institution retain a copy of its loan register for at least three years? [§203.5(a)]			19. Does the financial institution make its modified loan application register available to the public for a period of three years? [§203.5(d)]		
13. Does the financial institution make its mortgage loan disclosure statement available to the public no later than three business days after the institution receives it from the FFIEC? [§203.5(b)]			20. Does the financial institution post a general notice about the availability of its HMDA data in the lobby of its home office and any branch offices located in an MSA? [§203.5(e)]		
14. Does the financial institution make its mortgage loan disclosure statement available to the public for five years? [§203.5(d)]			21. Does the financial institution promptly, upon request, provide the location of offices where the disclosure statement is available? (The financial institution may comply with this requirement by including such locations in its notice.) [§203.5(e)]		
15. Does the financial institution make its mortgage loan disclosure statement available at its home office and at least one branch office in each MSA (or post the address for sending written requests for the statement in the lobby of each branch office in an MSA where the institution has offices, and mail or deliver a copy of the statement within 15 calendar days of receiving a written request)? [§203.5(b)]					



INTEREST ON DEPOSITS Checklist

	Yes	No		Yes	No
1. Does the association reserve the right to require the minimum advance notice on its accounts in its account contracts?	<input type="checkbox"/>	<input type="checkbox"/>	4. Does the association establish and maintain deposit documentation practices and records and does it administer and monitor its deposit-related activities? [§557.20]	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the association aware that, for Federal savings associations, the OTS preempts state laws regarding abandoned and dormant accounts, checking accounts, disclosure requirements, funds availability, savings account orders of withdrawal, service charges and fees, state licensing or registration requirements and special purpose savings services? [§557.11-.13]	<input type="checkbox"/>	<input type="checkbox"/>	5. Are adequate controls in place to assure that payment of finders' and brokers' fees on demand deposit accounts meet the limitations in order not to be considered interest payments? [§561.16(b)]	<input type="checkbox"/>	<input type="checkbox"/>
3. If the association pays variable rates on savings accounts, does the variable rate have a schedule, index or formula on which it is based? [§557.14(b)]	<input type="checkbox"/>	<input type="checkbox"/>	6. Does the association have procedures in place to restrict the number of transactions on MMDA accounts? [§561.28(a)(2)]	<input type="checkbox"/>	<input type="checkbox"/>



NATIONAL FLOOD INSURANCE ACT Checklist

	Yes	No		Yes	No
<i>Coverage [12 CFR 572.3]</i>			<i>Property Determination [12 CFR 572.6]</i>		
1. Does the institution make (including loans acquired through table funding), increase, extend or renew any loan secured by improved real estate or a mobile home? This checklist does not apply if the answer is no.			1. Are flood zone determinations accurately prepared on the Standard Flood Hazard Determination Form (SFHDF)?		
2. Does the institution identify special flood hazard areas (SFHAs)?			2. Does the institution maintain the SFHDF either in hard copy or electronic form for as long as it owns the loan?		
3. Does the institution determine if the communities in which the property securing the loan is or will be located participates in the National Flood Insurance Program (NFIP)?			3. Does the institution rely on a prior determination only if it is made on the SFHDF, is no more than seven years old and the community has not been remapped?		
<i>Insurance Requirements [12 CFR 572.3]</i>			4. If the institution utilizes a third-party to prepare flood zone determinations, do the contractual documents between the parties:		
1. Does the institution ensure that borrowers obtain, prior to loan closing, insurance in an amount at least equal to the lesser of the outstanding principal balance of the loan or the maximum limit of coverage available under the National Flood Insurance Act?			a. provide for the third-party's guarantee of work?		
2. Does the institution ensure that sufficient insurance is maintained for as long as it owns the loan? If no, refer to the "Forced Placement" subsection.			b. contain provisions to resolve disputes relating to determinations, to allocate responsibility for compliance, and to address which party will be responsible for penalties incurred for non-compliance?		
3. If the institution purchases servicing rights to loans covered by the regulation, do the documents between the parties specify the contractual obligations on the institution with respect to flood insurance compliance?			<i>Determination Fees [12 CFR 572.8]</i>		
4. If the institution utilizes third parties to service loans covered by the regulation, do the contractual documents between the parties meet the requirements of the regulation?			1. Absent some other authority (such as contract language), does the institution charge a fee to the borrower for a flood determination only when a loan:		
5. Where multiple properties securing the loan are located in SFHAs, does the institution ensure that sufficient insurance is in place, either through a single policy with a scheduled list of several buildings or multiple policies?			a. is made, increased, renewed or extended,		
			b. is made in response to a remapping by FEMA, or		
			c. results in the purchase of flood insurance under the forced placement provisions?		
			2. If the institution is authorized to charge fees for determination in situations other than those noted above, is the practice followed consistently?		
			3. Are the fees charged by the institution for making a flood determination reasonable?		



NATIONAL FLOOD INSURANCE ACT Checklist

		Yes	No			Yes	No
<i>Notice Requirements [12 CFR 572.9]</i>				<i>Escrow Requirements [12 CFR 572.5]</i>			
1. Are borrowers provided written notice within a reasonable time prior to loan closing?				1. If the institution requires the escrow of funds for property taxes, hazard insurance or other fees on residential improved real estate, does it also require the escrow of funds to cover premiums associated with flood insurance for loans closed after October 1, 1996?			
2. Does the notice contain the following required information?				2. For loans closed after October 1, 1996 that are subject to RESPA and where flood insurance is required, does the institution comply with the provisions of §10 of RESPA (24 CFR Section 3500.17 of HUD Regulation X) for those escrow accounts?			
a. a warning that the building or mobile home is, or will be, located in a SFHA;							
b. a description of the flood insurance requirements;							
c. a statement that flood insurance is available under the NFIP and may also be available from private insurers; and							
d. a statement whether Federal disaster relief assistance may be available in the event of damage to a building or mobile home caused by flooding in a Federally-declared disaster.							
3. In the case of a sale or lease, if the institution uses the alternate notice provision permitted by the regulation, does the institution obtain satisfactory written assurance from the seller or lessor that, within a reasonable time before completion of the transaction, the seller or lessor has provided the notice?				<i>Forced Placement Requirements [12 CFR 572.7]</i>			
4. Does the institution provide a copy of the borrower notification to the servicer of the loan within the required time frames?				1. If at any time during the life of the loan, the institution determines that property securing the loan lacks adequate flood insurance coverage:			
5. Does the institution retain a record of receipt of the notifications provided to the borrower and the servicer for as long as it owns the loan?				a. Does the institution provide written notice to the borrower stating that the necessary coverage must be obtained within 45 days after the notice or the institution will purchase it on the borrower's behalf?			
				b. Does the institution purchase the coverage on the borrower's behalf if the borrower does not obtain the required policy within the required time period?			
				<i>Notice to Director of FEMA [12 CFR 572.10]</i>			
				1. Does the institution provide the appropriate notice to the carrier of the insurance policy (the Director of FEMA's designee) regarding the identity of the servicer of a designated loan?			
				2. If the institution sells or transfer the servicing of designated loans to another party, does it provide the appropriate notice to the carrier of the insurance policy within 60 days after the effective date of the transfer of the servicer?			



REAL ESTATE SETTLEMENT PROCEDURES ACT Checklist

	Yes	No		Yes	No
1. Are written loan policies in connection with federally related mortgage loans in compliance with Regulation X?			8. From a review of Form HUD-1 or HUD-1A, prepared in connection with the transaction, are amounts shown on the GFE reasonably similar to fees actually paid by the borrower?		
2. Does the institution have established operating procedures which address the requirements of Regulation X?			9. Does the financial institution require the borrower to use the services of a particular individual or firm for settlement services?		
3. Are mortgage lending personnel knowledgeable for the requirements of RESPA and Regulation X?			a. In cases where the lender requires the use of particular provider of a settlement service (except the lender's own employees) AND requires the borrower to pay any portion of the cost, does the GFE include:		
Special Information Booklet			i. The fact that the particular provider is required?		
4. For applicable transactions, is the Special Information Booklet provided within three business days after the financial institution or broker receives or prepares a written application for a loan?			ii. The fact that the estimate is based on the charges of the designated provider?		
Good Faith Estimate (GFE)			iii. The name, address, and telephone number of each provider?		
5. Is a GFE of charges for settlement services, if required, provided within three business days after an application is received or prepared?			iv. The specific nature of any relationship between the provider and the lender?		
6. Does the good faith estimate appear in a similar form as in Appendix C, to Regulation X?			b. If the lender maintains a list of required providers (five or more for each services) and, at the time of application has not chosen the provider to be selected from the list, does the lender satisfy the GFE requirements by providing a written statement that the lender will require a particular provider from a lender-controlled list and by providing the range of cost for the required providers?		
7. Does the GFE contain the following required elements:			10. If an affiliated business arrangement exists between a referring party and any provider of settlement services, does the lender require the services of particular providers?		
a. The lender's name, or if the GFE is being given by a broker, the legend required in accordance with Appendix C?			a. If an affiliated business arrangement exists, is the lender's only required use that of the attorney, credit bureau, or appraiser?		
b. An estimate of all charges listed in Section L of the HUD-1 or HUD-1A, expressed either as a dollar amount or range?					
c. For "no cost" or "no point" loans, charges shown on the GFE to include payments to be made to affiliated or independent settlement service providers (shown on HUD-1 or HUD-1A as "paid outside of closing")?					
d. An estimate of any other charge the borrower will pay based upon common practice in the locality or the mortgaged property?					



REAL ESTATE SETTLEMENT PROCEDURES ACT Checklist

		Yes	No			Yes	No
b. Did the financial institution provide the Appendix D disclosure form?				16. Does the applicant receive the mortgage servicing transfer disclosure at the time of application or, if the application was not taken face-to-face, within three business days after receipt of the application?			
Uniform Settlement Statement Form (HUD-1 and HUD-1A)							
11. Does the financial institution use the current Uniform Settlement Statement (HUD-1 or HUD-1A) as appropriate?				17. Does the disclosure state whether the loan may be assigned or transferred while outstanding?			
12. Does the HUD-1 or HUD-1A contain the following:				Notice to Borrower of Transfer of Mortgage Servicing			
a. Charges properly itemized for both borrower and seller in accordance with the instructions for completion of the HUD-1 or HUD-1A?				18. If the institution has transferred servicing rights, was notice to the borrower given at least fifteen days prior to the transfer?			
b. All charges paid to one other than the lender itemized and the recipient named?				19. If the institution has received servicing rights, was notice given to the borrower with fifteen days after the transfer?			
c. Charges required by the financial institution but paid outside of closing, itemized on the settlement statement, marked as "paid outside of closing" or "P.O.C.," but not included in totals?				20. Does the notice by transferor and transferee include the following information as contained in Appendix MS-2 to Regulation X:			
13. If the financial institution conducts settlement:				a. The effective date of the transfer?			
a. Is the borrower, upon request, allowed to inspect the HUD-1 or HUD-1A at least one day prior to settlement?				b. The new servicer's name, address and toll-free or collect call telephone number of the transferor servicer?			
b. Is the HUD-1 or HUD-1A provided to the borrower and seller at settlement?				c. A toll-free or collect call telephone number of the present servicer to answer inquiries relating to the transfer?			
c. In cases where the right to delivery is waived or the transaction is exempt, is the statement mailed as soon as possible after settlement?				d. The date on which the present servicer will cease accepting payments and the date the new servicer will begin accepting payments relating to the transferred loan?			
14. Are the HUD-1 and HUD-1A forms retained for five years?				e. Any information concerning the effect of the transfer on the availability of terms of optional insurance and any action the borrower must take to maintain coverage?			
Mortgage Servicing Transfer Disclosure				f. A statement that the transfer does not affect the terms or conditions of the mortgage, other than terms directly related to its servicing?			
15. Does the mortgage servicing transfer disclosure form language substantially conform with the model disclosure in Appendix MS-1 to Regulation X?				g. A statement of the borrowers rights in connection with complaint resolution?			



REAL ESTATE SETTLEMENT PROCEDURES ACT Checklist

	Yes	No		Yes	No
Responding to Borrower Inquiries					
21. Have late fees been imposed within 60 days following a transfer of servicing or were payments treated as late when received by transferor rather than transferee?			23. Does the institution provide information regarding an overdue payment to any consumer reporting agency during the 60-day period beginning on the date the institution received any qualified written request relating to a dispute regarding the borrower's payments?		
22. Does the institution respond to borrower inquiries relating to servicing of RESPA covered mortgage loans and refinancings as prescribed in the regulation?			Escrow Accounts		
Specifically, does the institution:			24. Does the institution perform an escrow analysis at the creation of the escrow account?		
a. Provide a written response acknowledging receipt of a qualified written request from a borrower for information relating to the servicing of the loan within 20-business days?			25. Is the initial escrow statement given to the borrower within 45 days after the escrow account is established?		
If not, has the action requested been taken within the 20-business day period?			26. For continuing escrow arrangements, is an annual escrow statement provided to the borrower at least once every twelve months?		
b. Within 60-business days after the receipt of a qualified written request:			27. Does the initial annual escrow statement itemize:		
(i) make appropriate corrections in the account of the borrower and provide written notification of the correction (including in the notice the name and the telephone number of a representative of the institution who can provide assistance)? OR			a. Amount of monthly mortgage payment?		
(ii)(A) Provide the borrower with a written explanation that the reasons the account is correct (including the name and telephone number of a representative of the institution who can provide assistance)? OR			b. Portion of the monthly payment being placed in escrow?		
(ii)(B) Provide the borrower with a written explanation that explains why the information requested is unavailable or cannot be obtained by the institution (including the name and telephone number of a representative of the institution who can provide assistance)?			c. Charges to be paid from the escrow account during the first 12 months?		
			d. Disbursement date?		
			e. Amount of cushion?		
			28. Is the escrow statement provided within 30 days of the completion of the escrow account computation year?		
			29. Does the annual escrow statement itemize:		
			a. Current mortgage payment and portion going to escrow?		
			b. Amount of last years mortgage payment and portion that went to escrow?		
			c. Total amount paid into the escrow account during the past computation year?		



REAL ESTATE SETTLEMENT PROCEDURES ACT Checklist

		Yes	No			Yes	No
d. Total amount paid from the escrow account during the year for taxes, insurance premiums, and other charges?				33. Does the financial institution charge a fee specifically for preparing and distributing the HUD-1 forms, escrow statements or documents required under the Truth-in-Lending Act?			
e. Balance in the escrow account at the end of the period?				Purchase of Title Insurance			
f. Explanation of how any surplus is being handled?				34. When the financial institution owns the property being sold, does it require or give the impression that title insurance is required from a particular company?			
g. Explanation of how any shortage or deficiency is to be paid by the borrower?				Payment or Receipt of Referral or Unearned Fees			
h. If applicable, the reason(s) why the estimated low monthly balance was not reached?				35. Is institution management aware of the prohibitions against payment or receipt of kickbacks and unearned fees?			
30. Are monthly escrow payments following settlement no larger than 1/12 of the amount expected to be paid for taxes, insurance premiums, and other charges in the following twelve months, plus 1/6 of that amount?				36. Are federally related mortgage loan transactions referred by brokers, affiliates, or other parties? OR; Does the institution refer services to brokers, affiliates, or other parties?			
31. Does the servicer notify the borrower at least annually of any shortage or deficiency in escrow account?				37. If fees were paid to the institution or any parties identified:			
32. Does the institution make payments from the escrow account for taxes, insurance premiums and other charges in a timely manner as they become due?				a. Were all fees paid to the broker, affiliate, service provider, or other party consistent with the requirements of section 3500.14(g) and for goods or facilities actually furnished or services actually performed?			
No Fees for RESPA Disclosures				b. Were payments made to an affiliate or the affiliate's employees?			



RIGHT TO FINANCIAL PRIVACY ACT Checklist

	Yes	No		Yes	No
1. Has the financial institution established procedures for fulfilling requests by government authorities for customers' financial records in compliance with the act?	<input type="checkbox"/>	<input type="checkbox"/>	6. Does the financial institution maintain records of all disclosures of customers' records made to a government authority in connection with a government loan, guaranty or insurance program? (§ 1113(h)(6))	<input type="checkbox"/>	<input type="checkbox"/>
2. Has the financial institution received any requests covered by the act for customers' financial records? If "yes" is answered, complete the remaining questions.	<input type="checkbox"/>	<input type="checkbox"/>	a. Does the financial institution allow the customer to examine these records upon request?	<input type="checkbox"/>	<input type="checkbox"/>
3. Does the financial institution have internal controls in place which are adequate to ensure that all requests are handled in compliance with the act?	<input type="checkbox"/>	<input type="checkbox"/>	7. Does the financial institution keep adequate records of those instances in which a customer's financial records are disclosed to a government authority, upon authorization by the customer, including a copy of the request and the identity of the government authority? (§ 1104(c))	<input type="checkbox"/>	<input type="checkbox"/>
4. As required by § 1103(b), does the financial institution provide customers' financial records to government authorities only after receiving proper written certification required by the act?	<input type="checkbox"/>	<input type="checkbox"/>	a. Does the financial institution allow the customer to examine these records upon request (unless blocked by a court order)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Does the financial institution refrain from requiring a customer's authorization for disclosure of financial records as a condition of doing business? (§ 1104(b))	<input type="checkbox"/>	<input type="checkbox"/>	Questions 3-7 answered with a "no" require an explanation on how the financial institution intends to comply with the requirements of the act.		



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
Truth in Lending Credit and Charge Card Disclosures					
<p>1. Is the institution a credit or charge card issuer under Sections 226.2(a)(17) and §226.2(a)(15)?</p> <p>If yes, answer questions 2 through 8.</p> <p>2. Does the institution furnish, in tabular format, on or with creditor-initiated direct mail applications and pre-approved solicitations to open credit card accounts, the following written disclosures:</p> <p style="margin-left: 20px;">a. The annual percentage rate or rates for purchases? [§226.5a(b)(1)]</p> <p style="margin-left: 20px;">b. Any annual or periodic fee that may be imposed for issuance or availability of a card, including a one-time membership fee, periodic membership fees or fees based on account activity or inactivity? [§226.5a(b)(2)]</p> <p style="margin-left: 20px;">c. Any minimum or fixed finance charge that could be imposed during a billing cycle? [§226.5a(b)(3)]</p> <p style="margin-left: 20px;">d. Any transaction fee that may be imposed for the use of the card for purchases? [§226.5a(b)(4)]</p> <p style="margin-left: 20px;">e. The length or range of any "grace period" or the fact that there is none? [§226.5a(b)(5)]</p> <p style="margin-left: 20px;">f. The name (or an explanation, if applicable) of the balance computation method? [§226.5a(b)(6)]</p> <p style="margin-left: 20px;">g. The amount (or range, if different from state to state) of any cash advance fee imposed for an extension of credit? [§226.5a(b)(8)]</p> <p style="margin-left: 20px;">h. Any late payment charge (or range, if different from state to state)? [§226.5a(b)(9)]</p> <p style="margin-left: 20px;">i. Any fee (or range, if different from state to state) that may be charged for exceeding the credit limit? [§226.5a(b)(10)]</p>			<p>3. Does the institution provide, with creditor-initiated telephone applications and pre-approved solicitations for open-end credit card accounts, oral disclosures of items under 2.a. through 2.f. above? [§226.5a(d)]</p> <p style="margin-left: 20px;">If not, does the institution alternatively provide written disclosure within 30 days after the consumer requests the card, but no later than the delivery of the card, the following:</p> <p style="margin-left: 40px;">a. Items under 2.a. through 2.i. above</p> <p style="margin-left: 40px;">b. The fact that the consumer need not accept the card or pay any fee disclosed unless the consumer uses the card?</p> <p>4. Does the institution disclose with creditor-initiated applications and pre-approved solicitations of open credit card accounts, available to the public by means other than by mail or telephone (for example, "take one" applications), any one of the following: [§226.5a(e)]</p> <p style="margin-left: 20px;">a. On the application or solicitation (accurate as of the printing date), the items under 2.a. through 2.i. (for variable APRs the fully indexed rate used within 30 days of the printing date); the date the required information was printed, including a statement that the information was accurate as of that date and is subject to change; a statement that the consumer should contact the institution for any changes in the information disclosed and a toll free telephone number or mailing address for the consumer to obtain information about changes in required disclosures?</p>		



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
<p>b. On the application or solicitation (accurate as of the time made available to the public), the disclosures required by Sections 226.6(a) through 226.6(c), a statement that the consumer should contact the institution for any changes in the information disclosed, and a toll free telephone number or mailing address for the consumer to obtain information about changes in the disclosures?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>8. If the institution offers credit insurance and decides to change insurance providers, are consumers informed of the proposed change in providers and of any increase in rate or substantial decrease in coverage, as a result of the change, and are consumers given an opportunity to discontinue the insurance? [§226.9(f)]</p>	<input type="checkbox"/>	<input type="checkbox"/>
			Truth in Lending Home Equity Lines of Credit		
<p>c. On the application or solicitation, if they do not contain information required to be disclosed under items 2.a. through 2.i., a statement that costs are associated with the use of credit cards; a statement that the applicant may contact the institution to request disclosure of specific cost information by calling a toll free number or by writing to an address specified in the application; and a toll free telephone number and mailing address for the consumer to obtain cost information?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>1. Does the institution offer home equity lines of credit? If yes, answer questions 2 through 11.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>5. Does the institution, in response to a consumer's request for cost information, disclose (orally or in writing) the required credit disclosures within 30 days of receiving the request? [§226.5a(e)(4)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>2. Does the institution deliver the home equity brochure or a suitable substitute at the time the application is provided to the consumer or within three business days of receiving an application in the case of publication, telephone or third party application requests?</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>6. Does the institution provide appropriate disclosures for creditor-initiated direct mail, telephone, and general public applications and solicitations to open charge card accounts, as required by Sections 226.5a(b), (c) and (d) of Regulation Z?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>3. Does the institution furnish, on or with the HELC application or within three business days for publication, telephone or third party applications:</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>7. If the institution imposes an annual fee, including any fee based on account activity or inactivity, does the institution provide (at least 30 days or one billing cycle, whichever is less, before the renewal date): [§226.9(e)(1)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>a. A statement that the consumer should retain a copy of the disclosures (provided it is not in a form he can keep)? [§226.5b(d)(1)]</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>a. Renewal statements containing items in steps 2.a. through 2.f. above?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>b. The time which an application must be submitted to obtain the specific disclosure terms? [§226.5b(d)(2)(i)]</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>b. A statement as to how and when the cardholder may terminate credit availability under the account to avoid paying the renewal fee?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<p>c. An identification of any disclosed term that is subject to change before the plan opens? [§226.5b(d)(2)(i)]</p>	<input type="checkbox"/>	<input type="checkbox"/>
			<p>d. The fact that the consumer may receive a refund of all fees if the consumer elects not to enter into the plan due to a change in terms before the agreement is final (other than index fluctuations in a variable-rate plan)? [§226.5b(d)(2)(ii)]</p>	<input type="checkbox"/>	<input type="checkbox"/>
			<p>e. The fact that the consumer's dwelling secures the HELC and in case of default, the loss of the dwelling may occur? [§226.5b(d)(3)]</p>	<input type="checkbox"/>	<input type="checkbox"/>



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
f. The creditor's rights under certain conditions to terminate the plan, require immediate repayment and impose fees upon termination, prohibit additional extensions of credit, reduce the credit limit and implement changes in the plan as specified in the initial agreement? [§226.5b(d)(4)(i)]	<input type="checkbox"/>	<input type="checkbox"/>	i. A statement that the consumer may receive, on request and as soon as reasonably possible, a good faith itemization of third party fees? [§226.5b(d)(8)]	<input type="checkbox"/>	<input type="checkbox"/>
g. A statement that the consumer may receive, on request, the conditions that might trigger the actions listed under 3.f. above?	<input type="checkbox"/>	<input type="checkbox"/>	m. A statement that negative amortization might occur? [§226.5b(d)(9)]	<input type="checkbox"/>	<input type="checkbox"/>
h. The payment terms (if terms for the draw and repayment period are different, the terms for each must be disclosed) including:			n. Transaction requirements under the plan including limitations on the number of advances that may be obtained during any time period, or on the amount of credit that may be obtained during any time period, and minimum outstanding balance or draw requirements? [§226.5b(d)(10)]	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • The length of the draw and any repayment period? 	<input type="checkbox"/>	<input type="checkbox"/>	o. A statement that the consumer should consult a tax advisor? [§226.5b(d)(11)]	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • An explanation of how the minimum periodic payment will be computed? 	<input type="checkbox"/>	<input type="checkbox"/>	p. For variable-rate HELCs, the following: [§226.5b(d)(12)]		
<ul style="list-style-type: none"> • The timing of periodic payments? 	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • That the APR, payment or term may change? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Whether a balloon payment may or will result? 	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • That the APR excludes costs other than interest? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • A \$10,000 example using a recent APR showing the minimum periodic payment? 	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • Identification and source of the index used? 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> • Any balloon payment and the time to pay off the balance? [§226.5b(d)(5)] 	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • How the rate will be determined? 	<input type="checkbox"/>	<input type="checkbox"/>
i. For fixed-rate HELCs, the recent corresponding APR and a disclosure that the APR does not include costs other than interest? [§226.5b(d)(6)]	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • That the consumer should ask about current index value, margin, discount or premium, and annual percentage rate? 	<input type="checkbox"/>	<input type="checkbox"/>
j. An itemization of fees imposed by the institution (in dollars or percentage) to open, use or maintain the plan and when the fees are payable? [226.5b(d)(7)]	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • That the initial APR is not based on the index and margin used to make later rate adjustments, and the period of time the initial APR will be in effect? 	<input type="checkbox"/>	<input type="checkbox"/>
k. A good faith estimate of any fees that might be imposed by third parties to open the account? [226.5b(d)(8)]	<input type="checkbox"/>	<input type="checkbox"/>	<ul style="list-style-type: none"> • The frequency of APR changes? 	<input type="checkbox"/>	<input type="checkbox"/>
			<ul style="list-style-type: none"> • Rules relating to changes in the index value and APR and resulting changes in the payment amount? 	<input type="checkbox"/>	<input type="checkbox"/>



TRUTH IN LENDING ACT Checklist

		Yes	No			Yes	No
<ul style="list-style-type: none"> • The limitations of APR changes? • Minimum periodic payment requirements? • A 15-year historical table? • That rate information will be provided with the periodic statement? 				<p>b. The payment terms such as the length of the draw and any repayment period, an explanation of how the minimum periodic payment will be computed, the timing of the periodic payments and if a balloon payment may or will result? [§226.6(e)(2)]</p> <p>c. A statement that negative amortization might occur? [§226.6(e)(3)]</p> <p>d. A statement of any transaction requirements under the plan? [§226.6(e)(4)]</p> <p>e. A statement that the consumer should consult a tax advisor? [§226.6(e)(5)]</p> <p>f. A statement that the APR does not include costs other than interest? [§226.6(e)(6)]</p> <p>g. A \$10,000 example (if not already provided to the consumer to keep) using a recent APR showing the minimum periodic payment, any balloon payment, and the time to pay off the balance? [§226.6(e)(7)]</p> <p>h. For variable-rate HELCs, the rules relating to changes in the index, APR, and payment amount including limitations, negative amortizations and carryover; a statement that rate information will be provided on or with each periodic statement and (if not already provided to the consumer to keep) the minimum payment required when the maximum APR is in effect for a \$10,000 balance, when the maximum APR may be imposed and a 15-year historical table? [§226.6(e)(7)]</p>			
4. Does the institution collect only refundable fees from the consumer before the end of the three business days after the consumer receives the disclosures and brochure (or six days from the date of mailing, if mailed)? [§226.5b(h)]							
5. Does the institution refund any fees that it collects from the consumer if the consumer rejects the plan within three business days after receiving the disclosures (even if there is no change in the disclosed items)? [§226.5b(h)]							
6. Does the institution refund all fees when a consumer rejects the plan because a disclosed term changes (other than a change due to fluctuation in the index) before the plan is opened? [§226.5b(g)]							
7. Is the institution providing, with the traditional open-end credit disclosures given before the first transaction, the following written disclosures:							
a. Notification of the conditions which may:							
• Terminate the plan;							
• Require immediate repayment and impose fees for termination;							
• Prohibit additional extensions of credit;							
• Reduce the credit limit; and							
• Implement certain changes in the plan as specified in the initial agreement? [§226.6(e)(1)]							



TRUTH IN LENDING ACT Checklist

		Yes	No			Yes	No
<p>8. Does the institution:</p> <p><i>NOTE: Whether or not the initial agreement requires a repayment, if during the draw period the consumer subsequently enters into an agreement to repay the principal balance, the new agreement is closed-end credit and not subject to the limitations below if the amount of available credit will not be replenished as the principal balance is repaid. Also, if the initial contract does not call for a repayment period, any later closed-end credit contract to pay off the outstanding HELC balance is not subject to these limitations.</i></p> <p>a. Base changes in the APR on an index that is available to the public and not under the institution's control for a variable-rate HELC? [§226.5b(f)(1)]</p> <p>b. Not terminate an account and demand payment, in advance of the original term, for repayment of the balance unless:</p> <ul style="list-style-type: none"> • There is fraud or material misrepresentation Failure to meet the repayment terms of the plan, or • The consumer takes actions or fails to act in a manner that adversely affects the institution's security for the plan or any right in the security? [§226.5b(f)(2)] <p>c. Not change the account terms after the agreement has been entered into, unless: [226.5b(f)(3)(i)-(v)]</p> <ul style="list-style-type: none"> • The institution is permitted to terminate the account? • The change will unequivocally benefit the consumer? • A specified change occurs when a specific event takes place, as provided in the initial agreement? 				<ul style="list-style-type: none"> • The index or margin is changed because the original index is no longer available? • The consumer specifically agrees to a certain change in writing at the time of the change? • The change is insignificant? <p>d. Not reduce the credit limit and not prohibit additional extensions of credit, except temporarily, under any of the following circumstances: [§226.5b(f)(3)(vi)]</p> <ul style="list-style-type: none"> • When the institution is permitted to terminate the account? • When the value of the dwelling securing the plan declines significantly (consumer's unencumbered equity declines by 50% or more)? • When the consumer's financial circumstances change materially? • When the consumer defaults on any material obligation under the agreement? • When government action restricts an APR increase? • When the institution's security interest is adversely affected due to government action and the security value is less than 120% of the credit line? • When the institution is notified by a regulatory agency that continued advances constitute an unsafe and unsound practice? • When the maximum APR is reached? 			
				<p>9. Does the institution mail or deliver written notice of adverse action to the consumer within three business days of reducing the consumer's credit limit or freezing the account? [§226.9(c)(3)]</p>			



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
a. If the adverse action notice requires the consumer to request reinstatement of the line, does the institution respond appropriately when the consumer makes such a request?			2. Has the institution established internal procedures and controls (forms, instructions, etc.) reasonably adapted to assure compliance with applicable requirements?		
b. If the adverse action notice does not require the consumer to request reinstatement of the line, does the institution respond appropriately when the conditions which caused the reduction in the credit limit or freezing of the account no longer exist?			3. Have those responsible for compliance received training that is adequate as to the requirements and proscriptions of Regulation Z procedures and practices (use of forms, computations to be made, etc.) necessary to achieve compliance?		
10. Does the institution's HELC advertising include any:			4. Has the institution established a review mechanism (compliance committee, internal or external auditor review, etc.) designed to monitor the effectiveness of the institution's efforts to comply with Regulation Z?		
a. Triggering terms, and if so, does the ad include information on any loan fee that is: a percentage of the credit limit; any fees for opening the plan (stated as a single dollar amount or range); the annual percentage rate or rates; the highest APR if the plan has a variable rate; any minimum, fixed, activity or transaction charges; and, any membership fee? [§226.16(d)(1)] and [§226.16(b)]			<u>Open-End Credit</u>		
b. Discounted rate, and if so, does the ad state how long the rate will be in effect and state a reasonably current, fully indexed rate with equal prominence? [§226.16(d)(2)]			1. Does the institution make the required open-end credit disclosures clearly and conspicuously in a form the consumer may keep? [§226.5(a)(1)]		
c. Minimum periodic payment, and if so, does the ad disclose that a balloon payment may result, if applicable? [§226.16(d)(3)]			2. Do the terms "financial charge" and "annual percentage rate", when required to be disclosed with a corresponding amount or percentage, appear more conspicuously than any other required disclosure? [§226.5(a)(2)]		
d. Reference to tax deductibility, and if so, is the ad not misleading? [§226.16(d)(4)]			3. Does the institution furnish initial disclosure statements to new account customers before the first transaction is made under the open-end plan? [§226.5(b)(1)]		
11. Does the institution refrain from using misleading terms, such as referring to HELCs as free money in its advertising? [§226.16(d)(5)]			4. Do the initial disclosure statements furnished under each open-end plan contain the following, as applicable:		
			a. An accurate description of when finance charges began to accrue, including an explanation of whether any period exists within which any credit extended may be repaid without incurring a finance charge? [§226.6(a)(1)]		
General					
1. Has the institution assigned clear and definite compliance responsibilities to specific officers and other staff?					



TRUTH IN LENDING ACT Checklist

		Yes	No			Yes	No
b. A disclosure of each periodic rate that may be used to compute the finance charge, the range of balances to which each is applicable, the corresponding annual percentage rate(s), and variable rate features, if applicable? [§226.6(a)(2)]	Yes			d. Each periodic rate used to compute the finance charge, the range of balances to which each is applicable, the corresponding annual percentage rate(s), and that the periodic rate may vary in variable rate contracts? [§226.7(d)]	Yes		
c. If different periodic rates apply to different types of transactions, the types of transactions to which each periodic rate applies? [§226.6(a)(2)]	Yes			e. If different periodic rates apply to different types of transactions, the types of transactions to which each periodic rate applies? [§226.7(d)]	Yes		
d. An explanation of the method used to determine the balance on which the finance charge may be computed? [(226.6(a)(3))]	Yes			f. The balance amount to which each periodic rate was applied and an explanation of how that balance was determined? [§226.7(e)]	Yes		
e. An explanation of how the amount of any finance charge will be determined? [§226.6(a)(4)]	Yes			g. If a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of the credits and payments? [§226.7(e)]	Yes		
f. A statement of the amount of any charge other than a finance charge or how the charge will be determined? [§226.6(b)]	Yes			h. The amount of any finance charge debited or added to the account during the billing cycle using the term "finance charge"? [§226.7(f)]	Yes		
g. A statement that the institution has or will acquire a security interest in property purchased under the plan, or in any other property identified by item or type? [§226.6(c)]	Yes			i. The components of the finance charge individually itemized and identified to show the amount(s) due to the application of a periodic rate and the amount(s) of any other type of finance charge? [§226.7(f)]	Yes		
h. A statement that outlines the consumer's rights and the institution's responsibilities regarding the right of a card holder to assert claims or defenses against a card issuer and the procedure for the resolution of billing errors? [§226.6(d)]	Yes			j. If a finance charge was imposed during the billing cycle, the annual percentage rate(s) using the term "annual percentage rate"? [§226.7(g)]	Yes		
5. Do the periodic statements furnished to consumers under each open-end credit plan disclose the following, as applicable:				k. The amounts, itemized and identified by type, of any charges other than finance charges debited to the account during the billing cycle? [§226.7(h)]	Yes		
a. The balance in the account at the beginning of the billing cycle? [§226.7(a)]	Yes			l. The closing date of the billing cycle and the account balance on that date? [§226.7(i)]	Yes		
b. An identification of each transaction on or with each periodic statement? [§226.7(b) and 226.8]	Yes			m. The date by which or period within which the new balance or any portion of that balance must be paid to avoid additional finance charges? [(226.7(j))]	Yes		
c. The amount and date of any credit to the account? [§226.7(c)]	Yes						



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
n. The address to be used for notice of billing errors? (Alternatively, the address may be provided, as permitted under §226.9(a)(2), on the summary statement billing rights. [§226.7(k)]			15. Does the institution observe requirements which prohibit the offset of any credit card indebtedness against the deposit accounts of card holders? [§226.12(d)(1)]		
6. Does the institution furnish a proper statement of billing rights in a timely fashion? [226.9(a)]			16. Are merchant agreements or arrangements void of any prohibitions or restrictions on the offering of discounts to cash customers or of tie-in arrangements as a condition of participation in a credit card plan? [§226.12(f)(1) and (2)]		
7. If the terms of any open-end credit accounts were changed since the date of the previous examination, did the institution comply with the advance notice requirements? [§226.9(c)]			17. Does the institution follow the billing error resolution procedures, including applicable time limits? [§226.13]		
8. Does the institution credit payments as of the date of receipt (unless a delay in crediting does not result in the imposition of a finance or other charge)? [§226.10(a)]			18. If a security interest is or will be retained or acquired in a consumer's principal dwelling as a result of advances under an open-end credit plan, does the institution follow the applicable rescission procedures, including furnishing the notice of the right to rescind and delaying its performance? [§226.15]		
9. Are statements received from merchants for refunds credited to customers' accounts within three business days of receipt? [§226.12(e)(2)]			<u>Closed-End Credit</u>		
10. If credit balances in excess of \$1 are created in consumer accounts, does the institution credit the balance amounts to those accounts, refund the amounts upon receipt of a written request and make an effort to refund the amounts after six months without receipt of request? [§226.11]			1. Does the institution routinely furnish completed disclosure statements before consummation and, in the case of residential mortgage transactions subject to RESPA, are good faith estimates of the required disclosures furnished within three business days of receipt of a written application but in no even later than consummation? [§226.17(b) and 226.19(a)]		
11. Does the institution issue credit cards only in response to oral or written requests, applications, or as renewals of or substitutes for accepted credit cards? [§226.12(a)]			2. Does the institution group the required disclosures together, segregated from other material, and are the disclosures made clearly and conspicuously in writing in a form the consumer may keep? [§226.17(a)(1)]		
12. Does the institution adhere to the \$50 liability limit for unauthorized use? [§226.12(b)]			3. Is any itemization of the amount financed separated from the segregated disclosures? [§226.17(a)(1)]		
13. Does the institution observe the card holder's right to assert against the institution claims and defenses which the card holder could assert against the merchant in a transaction? [§226.12(c)(1)]			4. Do the terms "finance charge" and "annual percentage rate", when required to be disclosed with a corresponding amount or percentage rate, appear more conspicuously than any other disclosure? [§226.17(a)(2)]		
14. Does the institution avoid reporting any disputed amount as delinquent before the dispute is settled or judgment is rendered? [§226.12(c)(2)]			5. Are the following disclosures made accurately and in the manner prescribed:		



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
a. The identity of the creditor making the disclosures? [§226.18(a)]			j. If the obligation includes a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating whether a penalty may be imposed if the obligation is prepaid in full or alternatively, if the obligation includes any other type of finance charge, a statement indicating whether the consumer is entitled to a rebate of any finance charge if the obligation is prepaid in full? [§226.18(k)]		
b. The "amount financed", using that term, and a brief description, such as "the amount of credit provided to you or on your behalf? [§226.18(b)]			k. Any dollar or percentage charge that may be imposed before maturity due to a late payment? [§226.18(l)]		
c. A separate, written itemization of the amount financed except where there is included a statement that the consumer has the right to receive a written itemization and the consumer has not indicated in a space provided that such itemization is desired? [§226.18(c)]			l. The fact that the creditor has or will acquire a security interest in property purchased as part of the transaction, or in other property identified by item or type? [§226.18(m)]		
d. The "finance charge", using that term, and a brief description, such as "the dollar amount the credit will cost you"? [§226.18(d)]			m. The disclosures required to exclude certain insurance premiums from the finance charge? [§226.18(o)]		
e. The "annual percentage rate", using that term, and a brief description, such as "the cost of your credit as a yearly rate"? [§226.18(e)]			n. A statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties? [§226.18(p)]		
f. The variable rate disclosures if the annual percentage rate may increase after consummation? [§226.18(f)]			o. In a residential mortgage loan transaction, a statement whether a subsequent purchaser of the dwelling may be permitted to assume the remaining obligation on its original terms? [§226.18(q)]		
g. The number, amounts, and timing of payments scheduled to repay the obligation? [§226.18(g)]			p. If the institution requires the consumer to maintain a deposit as a condition of the specific transaction, a statement that the annual percentage rate does not reflect the effect of the required deposit? [§226.18(r)]		
h. The "total of payments", using that term, and a descriptive explanation, such as "the amount you will have paid when you have made all scheduled payments"? [§226.18(h)]			6. Does the institution make the required disclosures for refinancing? [§226.20(a)]		
i. If the obligation has a demand feature, that fact and also that the disclosures are based on an assumed maturity of one year if no alternate maturity date is stated? [§226.18(i)]			7. Does the institution make the required disclosures for assumptions? [§226.20(b)]		



TRUTH IN LENDING ACT Checklist

		Yes	No			Yes	No
8. If credit balances in excess of \$1 are created in consumer accounts, does the institution:				5. For advertisements of closed-end credit, if a simple annual rate or a periodic rate applied to an unpaid balance was stated, did it appear along with (but not more conspicuously than) the annual percentage rate? [§226.24(b)]			
a. Credit the balance amounts to the consumer accounts?							
b. Refund the amounts upon receipt of a written request?				<u>Adjustable Rate Mortgages</u>			
c. Make a good faith effort to refund the amounts after six months without receipt of any request? [§226.21]				1. Does the financial institution utilize the booklet entitled, "Consumer Handbook on Adjustable Rate Mortgages," or a suitable substitute? [§226.19(b)(1)]			
9. For any credit transactions that give rise to the right of rescission, does the institution comply with applicable requirements, including furnishing the notice of the right to rescind to each party having ownership interest in the principal dwelling and delaying its performance? [§226.23(a), (b), (c) and (d)]				2. Does the financial institution provide the booklet or a suitable substitute to consumers when an application is provided or prior to the payment of a non-refundable fee, whichever is earlier? [§ 226.19(b)]			
10. If any consumers waived their right to rescind, do the dated statements describing the personal financial emergencies justify the waivers? [§226.23(e)]				3. Does the financial institution provide all appropriate loan program disclosures to consumers when an application is provided or prior to the payment of a non-refundable fee, whichever is earlier? [§ 226.19(b)]			
11. Were the waivers written, not on a printed form, and signed by each consumer entitled to rescind? [§226.23(e)]				4. Do the loan program disclosures provide for all of the following: [§ 226.19(b)(2)]			
12. Does the institution comply with the terms of variable rate contracts concerning determination and charging of interest? [§226.18(f)]				a. the fact that the interest rate, payment or term may change?			
<u>Advertising (Open-End and Closed-End)</u>				b. the index or formula used in making adjustments, and a source of information about the index or formula?			
1. Do any advertisements placed by the institution state only rates or other terms that were actually being offered at the time? [226.16(a) and 226.24(a)]				c. an explanation of how the interest rate and payment will be determined, including how the index is adjusted?			
2. If "triggering terms" were advertised, were the other prescribed credit terms disclosed? [§226.16(b) and 226.24(c)]				d. a statement indicating how the consumer should inquire about the current margin value and interest rate?			
3. If any annual percentage rate was subject to increase after consummation, was that fact disclosed? [§226.16(b) and 226.24(b)]				e. the fact that the interest rate will be discounted and a statement that the consumer should inquire as to the amount of the discount?			
4. Were all rates of finance charge expressed only as an "annual percentage rate", using that term? [§226.16(b)(2) and 226.24(b)]				f. the frequency of interest rate and payment changes?			



TRUTH IN LENDING ACT Checklist

	Yes	No		Yes	No
g. rules relating to changes in the index, interest rate, payment amount and the outstanding loan balance?	<input type="checkbox"/>	<input type="checkbox"/>	c. the extent to which the creditor has foregone any increase in the interest rate?	<input type="checkbox"/>	<input type="checkbox"/>
h. a 15-year historical example, based on a sample \$10,000 loan amount?	<input type="checkbox"/>	<input type="checkbox"/>	d. the contractual effects of the adjustment, including the payment due after the adjustment is made, and a statement of the loan balance?	<input type="checkbox"/>	<input type="checkbox"/>
i. an explanation of how the consumer may calculate the payments for the loan amount to be borrowed based on the most recent payment shown in the historical example?	<input type="checkbox"/>	<input type="checkbox"/>	e. the amount of the payment required to fully amortize the loan at the new interest rate over the remainder of the loan term if that amount is different from the payment resulting from the adjustment?	<input type="checkbox"/>	<input type="checkbox"/>
j. the maximum interest rate and payment for a sample \$10,000 loan originated at the most recent interest rate shown in the historical example assuming the maximum periodic increases in rates and payments and the initial interest rate and payment for that loan?	<input type="checkbox"/>	<input type="checkbox"/>	3. Does the financial institution's computer system or servicer adequately handle the variable rate products offered by the association?	<input type="checkbox"/>	<input type="checkbox"/>
k. the fact that the loan contains a demand feature?	<input type="checkbox"/>	<input type="checkbox"/>	4. Does the financial institution have adequate operating procedures and internal controls?	<input type="checkbox"/>	<input type="checkbox"/>
l. the type of information that will be provided in notices of adjustments and the timing of such notices?	<input type="checkbox"/>	<input type="checkbox"/>	5. Do internal or external auditors or other financial institution personnel periodically test the accuracy of the association's variable interest rate adjustment system?	<input type="checkbox"/>	<input type="checkbox"/>
m. a statement that disclosure forms are available for the creditor's other variable-rate programs?	<input type="checkbox"/>	<input type="checkbox"/>	6. Do financial institution personnel who implement rate changes receive adequate training?	<input type="checkbox"/>	<input type="checkbox"/>
Adjustment Notices			7. Does the financial institution retain records of index values (e.g. copies of the Federal Reserve Statistical Release)? [§ 226.25(a)]	<input type="checkbox"/>	<input type="checkbox"/>
1. Are adjustment notices provided: [§ 226.20(c)]	<input type="checkbox"/>	<input type="checkbox"/>	8. When accounts are opened or loans consummated, is the appropriate loan data accurately recorded into the financial institution's calculation systems?	<input type="checkbox"/>	<input type="checkbox"/>
a. at least once each year when an interest rate adjustment is implemented without an accompanying payment change?	<input type="checkbox"/>	<input type="checkbox"/>	Maximum Interest Rate Disclosure		
b. at least 25, but not more than 120, calendar days prior to the due date of a payment at a new level?	<input type="checkbox"/>	<input type="checkbox"/>	1. Has the financial institution included the maximum interest rate disclosure provisions in all of its adjustable rate loan contracts, including both open and closed-end credit? [§ 226.30]	<input type="checkbox"/>	<input type="checkbox"/>
2. Do the adjustment notices contain the following required provisions, as applicable: [§ 226.20(c)(1)-(5)]	<input type="checkbox"/>	<input type="checkbox"/>			
a. current and prior interest rates?	<input type="checkbox"/>	<input type="checkbox"/>			
b. index values upon which the current and prior interest rates are based?	<input type="checkbox"/>	<input type="checkbox"/>			



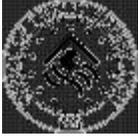
TRUTH IN LENDING ACT Checklist

Yes	No
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Miscellaneous (Open-End and Closed-End)

1. Does the institution retain evidence of compliance for two years after the date disclosures were required to be made or other action was required to be taken? [§226.25(a)]
2. Is the institution making proper oral disclosures in response to consumer inquiries about the cost of open-end and closed-end credit? [§226.26]

Yes	No



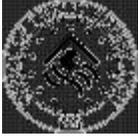
TRUTH IN SAVINGS ACT Checklist

		Yes	No			Yes	No
General Disclosures							
1. a. Does the institution make the required disclosures clearly and conspicuously in writing and in a form the consumer may keep? [§230.3(a)]				<ul style="list-style-type: none"> • state that the rate and yield are accurate as of an identified date? 			
b. If the disclosures required by the regulation are combined with the institution's other accounts, is it clear which disclosures are applicable to the consumer's account? [§230.3(a)]				<ul style="list-style-type: none"> • provide a telephone number consumers may call to obtain current rate information? [§230.4(a)(2)(ii)(A)] • state the maturity of a time account as a term rather than a date [§ 230.4(a)(2)(ii)] 			
2. Do the disclosures reflect the terms of the legal obligation between the consumer and the institution? [§230.3(b)]				7. Do account disclosures include the following rate information (as applicable): [§230.4(b)(1)(i)]			
3. When orally responding to a consumer's inquiry about interest rates, does the institution state the annual percentage yield? [§230.3(e)].				a. The "annual percentage yield" and "interest rate," using those terms?			
4. Are all annual percentage yields accurate to within .05% above or below the annual percentage yield determined in accordance with the rules in Appendix A of the regulation? §230.3(f)(2)]				b. The period of time the interest rate will be in effect for fixed-rate accounts?			
<i>Account Disclosures [§230.4]</i>							
5. a. Does the institution provide initial disclosures before an account is opened or a service is provided, whichever is earlier? [§230.4(a)(1)]				8. Do disclosures for variable-rate accounts include the following: [§230.4(b)(1)(ii)]			
b. If the consumer is not present, does the institution mail or deliver the disclosures no later than 10 business days after the account is opened or a service is provided? [§230.4(a)(1)]				a. The fact that the interest rate and APY may change?			
6. a. Does the institution provide account disclosures to consumers upon request? [§230.4(a)(2)(i)]				b. How the interest rate is determined?			
b. If the consumer's request is not made in person, does the institution mail or deliver the account disclosures within a reasonable time after it receives the request? [§230.4(a)(2)(i)]				c. The frequency with which the interest rate may change? and			
c. In providing disclosures upon request, does the institution:				d. Any limitation on the amount the interest rate may change?			
<ul style="list-style-type: none"> • specify an interest rate and APY that were offered within the most recent seven calendar days? 				9. Do the account disclosures describe the frequency with which interest is compounded and credited? [§230.4(b)(2)(i)]			
				10. Do the account disclosures include a statement that interest will not be paid if consumers close an account before accrued interest is credited? [§230.4(b)(2)(ii)]			
				11. Do the account disclosures describe the minimum balance requirements necessary to open an account, avoid the imposition of a fee, or obtain the APY disclosed?			



TRUTH IN SAVINGS ACT Checklist

	Yes	No		Yes	No
12. Do the account disclosures state how the minimum balance requirement is determined for these purposes (except for the balance to open the account)? [§230.4(b)(3)(i)]			18. Do account disclosures state the amount or type of bonus and the conditions under which the bonus will be paid? [§230.4(b)(7)]		
13. Do the account disclosures include an explanation of the balance computation method used to calculate interest on the account? [§230.4(b)(3)(ii)]			19. Was the notice of availability of disclosures to existing account holders included on or with the first periodic statement sent beginning on or after June 21, 1993 (or first periodic statement for a statement cycle beginning on or after that date)? [§230.4(c)]		
14. Do the account disclosures state when interest begins to accrue on noncash deposits? [§230.4(b)(3)(iii)]			<i>Subsequent Disclosures §230.5</i>		
15. Do the account disclosures disclose the amount of any fee that may be imposed in connection with the account (or how the fee will be determined) and the conditions under which the fee may be imposed? [§230.4(b)(4)]			20. a. Does the institution provide advance notification to depositors of any change in a term required to be disclosed under §230.4(b) if the change may reduce the APY or adversely affect the consumer?		
16. Do the account disclosures include any limitations on the number or dollar amount of withdrawals or deposits? [§230.4(b)(5)]			b. Does the notice include the effective date of the change?		
17. For time accounts, do the account disclosures include the following: [§230.4(b)(6)]			c. Is the notice mailed or delivered at least 30 days before the effective date of the change? [§230.5(a)(1)]		
a. The maturity date? [§230.4(b)(6)(i)]			21. Are exceptions to the notice requirements limited to:		
b. Early withdrawal penalties? [§230.4(b)(6)(ii)]			a. variable-rate changes? [§230.5(a)(2)(i)]		
c. If compounding occurs and interest may be withdrawn during the term, a statement that the APY assumes interest remains on deposit until maturity and that a withdrawal will reduce earnings? [§230.4(b)(6)(iii)]			b. check printing fees? [§230.5(a)(2)(ii)]		
d. Information regarding renewal policies [§230.4(b)(6)(iv)]			c. short-term time accounts (one month or less)? [§230.5(a)(2)(iii)]		
• whether the account will renew automatically?			22. Are the proper subsequent disclosures provided for the following time accounts:		
• if it renews automatically, if a grace period exists and the length?			a. that renew automatically with maturities longer than one year? [§230.5(b)(1)]		
• If not renewed automatically, whether interest will be paid after maturity?			b. that renew automatically with maturities one year or less but longer than one month? [§230.5(b)(2)]		
			c. that renew automatically with maturities one month or less? [§230.5(c)]		



TRUTH IN SAVINGS ACT Checklist

	Yes	No		Yes	No
<p>d. that do not renew automatically with maturities longer than one year? [§230.5(d)]</p>			<p><i>Advertising Requirements [§230.8]</i></p>		
<i>Periodic Statement Disclosures [§230.6]</i>			<p>31. a. Do the advertisements refrain from misleading or inaccurate statements and do they accurately represent the deposit contract?</p>		
<p>23. a. Is the annual percentage yield earned, using that term, disclosed on the periodic statement?</p>			<p>b. Do the advertisements refrain from using the terms "free" or "no cost" if any maintenance or activity fee may be imposed?</p>		
<p>b. Is the APY earned calculated in accordance with Appendix A? [§230.6(a)(1)]</p>			<p>c. Do the advertisements refrain from using the word "profit" when referring to interest paid on an account? [§230.8(a)]</p>		
<p>24. Is the amount of interest earned during the statement period accurately disclosed? [§230.6(a)(2)]</p>			<p>32. a. If the institution advertises rates on accounts, are the rates stated as an "annual percentage yield"?</p>		
<p>25. Are fees required to be disclosed under §230.4(b) (that were debited to the account during the statement period) itemized by dollar and type? [§230.6(a)(3)]</p>			<p>b. If the institution uses the abbreviation "APY", has the term annual percentage yield" been stated at least once in the advertisement?</p>		
<p>26. Is the total number of days in the statement period, or the beginning and ending dates of the period disclosed? [§230.6(a)(4)]</p>			<p>c. If the institution states the interest rate, using that term, in conjunction with the APY, is it not more conspicuous than the APY? [§230.8(b)]</p>		
<i>Payment Of Interest [§230.7]</i>			<p>d. Are the annual percentage yields and interest rates rounded to the nearest one-hundredth of one percentage point (.01%) and expressed to two decimal places? [§230.3(f)(1)]</p>		
<p>27. If the bank uses the average daily balance method, and calculates interest for a period other than the statement period, was the APY earned and the amount of interest earned based on that period rather than the statement period? [§230.6(b)]</p>			<p>33. If the institution advertises "tiered rate" accounts, does the institution state all of the APYs, for each tier, as well as the corresponding minimum balance requirements? [§230.8(b)]</p>		
<p>28. Does the institution calculate interest on the full amount of principal in the account each day by use of either the daily balance method or the average daily balance method? [§230.7(a)(1)]</p>			<p>34. If the institution advertises "stepped rate" accounts, does the institution accurately disclose the APY? [§230.8(b)]</p>		
<p>29. Does the bank use the same method to determine any minimum balance required to earn interest as it uses to determine the balance on which interest is calculated? [§230.7(a)(2)]</p>			<p>35. If the deposit advertisements placed by the institution state the APY, are the following disclosures stated clearly and conspicuously to the extent applicable?</p>		
<p>30. a. Does interest begin to accrue not later than the business day specified for interest bearing accounts in section 606 of the Expedited Funds Availability Act?</p>					
<p>b. Does interest accrue until the day the funds are withdrawn? [§230.7(c)]</p>					



TRUTH IN SAVINGS ACT Checklist

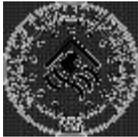
		Yes	No			Yes	No
a. variable rate notice [§230.8(c)(1)]				b. time requirement to obtain the bonus [§230.8(d)(2)]			
b. time APY is offered [§230.8(c)(2)]				c. minimum balance required to obtain the bonus [§230.8(d)(3)]			
c. minimum balance to obtain the APY [§230.8(c)(3)]				d. minimum balance required to open the account (if it is greater than the minimum balance necessary to obtain the bonus) [§230.8(d)(4)]; and			
d. minimum opening deposit [§230.8(c)(4)]				c. when the bonus will be provided. [§230.8(d)(5)]			
e. effect of fees [§230.8(c)(5)]				37. Are exemptions to the advertisement requirements made for those media set forth under §230.8(e)?			
f. the following features of time accounts [§230.8(c)(6)]:				<i>Record Retention Requirements [§230.9]</i>			
• time requirements [§230.8(c)(6)(i)]				37. Has the institution maintained evidence of compliance for a minimum of 2 years after the date disclosures are required to be made or action is required to be taken? [§230.9(c)]			
• notice of early withdrawal penalties [§230.8(c)(6)(ii)]							
36. If a bonus is stated in an advertisement, does the advertisement state the following information, as applicable:							
a. the "annual percentage yield," using that term? [§230.8(d)(1)]							



UNFAIR OR DECEPTIVE ACTS Checklist

		Yes	No			Yes	No
1. Do the consumer contracts originated by the institution contain any of the following prohibited provisions:				d. Blanket security interests in household goods? [§ 535.2(a)(4)]			
	a. Confession of Judgment? [§ 535.2(a)(1)]			3. Does the institution take a nonpossessory security interest in household goods (as defined in § 535.1(g)), not purchased with the loan proceeds? (Review blank security agreement forms)			
	b. Waiver of statutory property exemption (unless the waiver applies solely to the property which will serve as security for the loan)? [§ 535.2(a)(2)]			4. Has the institution attempted to enforce any prohibited practices with respect to the consumer credit contracts it has originated? [§ 535.2(a)]			
	c. Assignment of wages or other earnings (except where permitted)? [§ 535.2(a)(3)]			5. Does the institution collect or attempt to collect late charges on a timely payment because of the consumer's failure to pay a late charge attributable to a prior delinquent payment? [§ 535.4(a)]			
	d. Blanket security interests in household goods? [§ 535.2(a)(4)]			6. Has the institution engaged in any prohibited cosigner practices (e.g., misrepresenting the cosigner's liability or obligating cosigners prior to providing the required notification)? [§ 535.3(a)(1)]			
2. If the institution acquires loans originated by other creditors, does it attempt to enforce any of the following prohibited practices?				7. Does the institution fail to provide each cosigner, prior to becoming contractually obligated, the required notice or one that is substantially similar (whether separate or contained in the credit documents)? [§ 535.3(b)]			
	a. Confession of Judgment? [§ 535.2(a)(1)]						
	b. Waiver of statutory property exemption (unless the waiver applies solely to the property which will serve as security for the loan)? [§ 535.2(a)(2)]						
c. Assignment of wages or other earnings (except where permitted)? [§ 535.2(a)(3)]							

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INSURANCE CONSUMER PROTECTION Checklist

	Yes	No		Yes	No
<u>Policies and Procedures</u>			<u>Complaint Monitoring</u>		
1. Has the board of directors consistent with its duties and responsibilities, adopted formal written policy and procedures addressing insurance and annuity sales activities that:			<ul style="list-style-type: none"> • Provides a consumer complaint monitoring and resolution process? 		
<ul style="list-style-type: none"> • Address program risks and ensures compliance with applicable laws, regulations, and institutional standards? • Address program risks and ensures compliance with applicable laws, regulations, and institutional standards? • Defines acceptable types of insurance products or annuities offered, solicited, advertised, or sold? • Establishes operating standards for product delivery in accordance with applicable laws, regulations, and institutional standards? • Assigns responsibilities for directly overseeing insurance and annuities sales activities, however conducted? • Establishes and defines reporting relationships, frequency and standards used to achieve and maintain accountability for execution of insurance and annuity sales program? • Defines the scope of any subsidiary, affiliate, or third party provider sales operations? • Ensure regular oversight and monitoring of any subsidiary, affiliates, or third party insurance or annuity sales operation? • Establishes regular monitoring (including periodic reviews) supported by detailed reports? • Ensures training programs or other means used by management to communicate and re-enforce procedures to appropriate levels of staff? • Establish consumer referral practices and fee arrangements? 			<u>Sales Practices</u>		
			1. Does the institution provide training and monitoring of sales representatives ensuring sales practices do not:		
			<ul style="list-style-type: none"> • Mislead a consumer to believe an extension of credit is conditional upon the purchase of an insurance product from the institution or any covered person. [§.30(a)(1)] • Mislead a consumer to believe they cannot purchase insurance from an unaffiliated entity; • Mislead any person concerning lack of FDIC insurance associated with insurance or annuities; or • Discriminate against victims of domestic violence. [§.30 (c)] 		
			<u>Disclosures</u>		
			1. Does the institution or covered person provide a consumer, before the completion of the initial sale of an insurance product or annuity, the following insurance disclosures:		
			<ul style="list-style-type: none"> • Insurance product or annuity is not a deposit of or obligation of the institution or its affiliates. [§.40(a) (1)] • Insurance product or annuity is not insured by FDIC, or other agency of the United States, a savings association, or affiliate of a savings association. [§.40 (a)(2)] • Insurance product or annuity is subject to investment risk, including loss of value (when this disclosure is accurate). [§.40 (a)(3)] 		
			2. If insurance or annuity sales are conducted by mail or telephone, does the institution provide insurance disclosures in the appropriate manner and within the appropriate period prescribed in the regulation? [§.40 (c) (2)(3) and (4)]		



INSURANCE CONSUMER PROTECTION Checklist

		Yes	No			Yes	No
3. If insurance is offered or sold in connection with an application for credit, does the institution disclose to the consumer, orally and in writing, that it may not condition approval of the credit application on either:				<u>Advertising</u>			
<ul style="list-style-type: none"> • The consumer's purchase of an insurance product or annuity; [§.40 (b)(1)] or • The Consumer's agreement not to obtain or a prohibition on the consumer from obtaining, an insurance product, or annuity from an unaffiliated entity. [§.40 (b)(2)] 				1. Does the institution ensure that advertisements and/or promotional materials for marketing insurance products or annuities refrain from using misleading or inaccurate statements?			
4. If applications for credit are conducted by mail or telephone, does the institution or covered person provide credit disclosures (a) in the appropriate manner and (b) within the appropriate period prescribed in the regulation? [§.40 (c) (2)(3) and (4)]				2. If advertisements or promotional materials for insurance products or annuities are not of a general nature [§. 40 (d)], are the following disclosures stated in a readily understandable format:			
5. When disclosures are delivered in electronic format (a), does the consumer affirmatively consent to receiving them electronically and (b) are they provided in a format the consumer can retain or obtain later? [§. 40 (c) (4)]				<ul style="list-style-type: none"> • NOT A DEPOSIT • NOT FDIC INSURED • NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY • NOT GUARANTEED BY THE SAVINGS ASSOCIATION • MAY GO DOWN IN VALUE 			
6. Does the institution or covered person provide disclosures to consumers that are readily understandable, simple, conspicuous, direct and designed to call attention to the significance of the information provided? [§ .40 (c)(5) and (6)]				3. Does the institution or covered person use the short-form model language for insurance disclosures in advertising or promotional materials?			
<u>Consumer Acknowledgment</u>				4. Are the contents of advertising copy, promotional materials, and signage reviewed for accuracy, completeness, and compliance with laws and regulations before publication?			
1. When insurance and credit disclosures are given to a consumer, does the institution or covered person obtain a written acknowledgment of receipt from the consumer?				<u>Location of Sales Activities</u>			
2. If insurance or credit disclosures provided orally in telephone transaction, does the institution ensure the consumer's oral acknowledgment of receipt is documented and reasonable attempts are made to obtain a written acknowledgment? [§ .40 (c)(7)]				1. Are insurance or annuity sales activities conducted in an area of a branch or office, physically distinct and segregated from routine deposit taking areas (typically teller windows and teller lines)? [§ .50 (a)]			
				<u>Licensing and Referral Requirements</u>			
				1. Are sales representatives appropriately qualified and licensed to sell specific insurance products or annuities?			



INSURANCE CONSUMER PROTECTION Checklist

	Yes	No
2. When the institution compensates employees (for referring customers seeking to purchase insurance or annuities to a qualified, licensed sales representative), is the employee paid compensation ONLY when the following conditions occur:		
• Compensation paid for making the referral is no more than a one-time, nominal fee of a fixed-dollar amount; and		
• Compensation is paid regardless of whether a sale results.		
3. Does the institution's training program ensure that deposit-taking employees (typically tellers) understand the strict limitations of making consumer referrals?		

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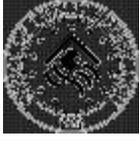
PRIVACY Checklist

Yes	No	
		SUBPART A
		Initial Privacy Notice
		<p><i>(Note: no notice is required if nonpublic personal information is disclosed to nonaffiliated third parties only under an exception in Sections 14 and 15, and there is no customer relationship. [§4(b)] With respect to credit relationships, an institution establishes a customer relationship when it originates a consumer loan. If the institution subsequently sells the servicing rights to the loan to another financial institution, the customer relationship transfers with the servicing rights. [§4(c)]</i></p>
		1. Does the institution provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to <u>all customers</u> not later than when the customer relationship is established, other than as allowed in paragraph (e) of section four (4) of the regulation? [§4(a)(1)]
		2. Does the institution provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to <u>all consumers</u> , who are not customers, before any nonpublic personal information about the consumer is disclosed to a nonaffiliated third party, other than under an exception in §§14 or 15? [§4(a)(2)]
		3. Does the institution provide to <u>existing customers</u> , who obtain a new financial product or service, an initial privacy notice that covers the customer's new financial product or service, if the most recent notice provided to the customer was not accurate with respect to the new financial product or service? [§4(d)(1)]
		4. Does the institution provide initial notice <u>after establishing a customer relationship</u> only if:
		a. the customer relationship is not established at the customer's election; [§4(e)(1)(i)] or
		b. to do otherwise would substantially delay the customer's transaction (e.g. in the case of a telephone application), and the customer agrees to the subsequent delivery? [§4(e)(1)(ii)]
		5. When the subsequent delivery of a privacy notice is permitted, does the institution provide notice after establishing a customer relationship within a reasonable time? [§4(e)]
		Annual Privacy Notice
		6. Does the institution provide a clear and conspicuous notice that accurately reflects its privacy policies and practices at least annually (that is, at least once in any period of 12 consecutive months) to all customers, throughout the customer relationship? [§5(a)(1)and (2)]
		<i>(Note: annual notices are not required for former customers. [§5(b)(1)and (2)])</i>
		7. Does the institution provide an annual privacy notice to each customer whose loan the institution owns the right to service? [§§5(c), 4(c)(2)]



PRIVACY Checklist

Yes	No	
		Content of Privacy Notices
		8. Do the initial, annual, and revised privacy notices include each of the following, as applicable:
		a. the categories of nonpublic personal information that the institution collects; [§6(a)(1)]
		b. the categories of nonpublic personal information that the institution discloses; [§6(a)(2)]
		c. the categories of affiliates and nonaffiliated third parties to whom the institution discloses nonpublic personal information, other than parties to whom information is disclosed under an exception in §14 or §15; [§6(a)(3)]
		d. the categories of nonpublic personal information disclosed about former customers, and the categories of affiliates and nonaffiliated third parties to whom the institution discloses that information, other than those parties to whom the institution discloses information under an exception in §14 or §15; [§6(a)(4)]
		e. if the institution discloses nonpublic personal information to a nonaffiliated third party under §13, and no exception under §14 or §15 applies, a separate statement of the categories of information the institution discloses and the categories of third parties with whom the institution has contracted; [§6(a)(5)]
		f. an explanation of the opt out right, including the method(s) of opt out that the consumer can use at the time of the notice; [§6(a)(6)]
		g. any disclosures that the institution makes under §603(d)(2)(A)(iii) of the Fair Credit Reporting Act (FCRA); [§6(a)(7)]
		h. the institution's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; [§6(a)(8)] and
		i. a general statement--with no specific reference to the exceptions or to the third parties--that the institution makes disclosures to other nonaffiliated third parties as permitted by law? [§6(a)(9), (b)]
		<i>(Note: sample clauses for these items appear in Appendix A of the Regulation.)</i>
		9. Does the institution list the following categories of nonpublic personal information that it collects, as applicable:
		a. information from the consumer; [§6(c)(1)(i)]
		b. information about the consumer's transactions with the institution or its affiliates; [§6(c)(1)(ii)]
		c. information about the consumer's transactions with nonaffiliated third parties; [§6(c)(1)(iii)] and
		d. information from a consumer reporting agency? [§6(c)(1)(iv)]



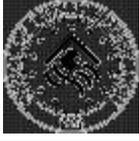
PRIVACY Checklist

Yes	No	
		10. Does the institution list the following categories of nonpublic personal information that it discloses, as applicable, and a few examples of each, or alternatively state that it reserves the right to disclose all the nonpublic personal information that it collects:
		a. information from the consumer;
		b. information about the consumer's transactions with the institution or its affiliates;
		c. information about the consumer's transactions with nonaffiliated third parties; and
		d. information from a consumer reporting agency? [§6(c)(2)]
		11. Does the institution list the following categories of affiliates and nonaffiliated third parties to whom it discloses information, as applicable, and a few examples to illustrate the types of the third parties in each category:
		a. financial service providers; [§6(c)(3)(i)]
		b. non-financial companies; [§6(c)(3)(ii)] and
		c. others? [§6(c)(3)(iii)]
		12. Does the institution make the following disclosures regarding service providers and joint marketers to whom it discloses nonpublic personal information under §13:
		a. as applicable, the same categories and examples of nonpublic personal information disclosed as described in paragraphs (a)(2) and (c)(2) of section six (6) (see questions 8b and 10); and [§6(c)(4)(i)]
		b. that the third party is a service provider that performs marketing on the institution's behalf or on behalf of the institution and another financial institution; [§6(c)(4)(ii)(A)] or
		c. that the third party is a financial institution with which the institution has a joint marketing agreement? [§6(c)(4)(ii)(B)]
		13. If the institution does not disclose nonpublic personal information, and does not reserve the right to do so, other than under exceptions in §14 and §15, does the institution provide a simplified privacy notice that contains at a minimum:
		a. a statement to this effect;
		b. the categories of nonpublic personal information it collects;
		c. the policies and practices the institution uses to protect the confidentiality and security of nonpublic personal information; and
		d. a general statement that the institution makes disclosures to other nonaffiliated third parties as permitted by law? [§6(c)(5)]
		<i>(Note: use of this type of simplified notice is optional; an institution may always use a full notice.)</i>



PRIVACY Checklist

Yes	No	
		14. Does the institution describe the following about its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information:
		a. who is authorized to have access to the information; and [§6(c)(6)(i)]
		b. whether security practices and policies are in place to ensure the confidentiality of the information in accordance with the institution's policy? [§6(c)(6)(ii)]
		<i>(Note: the institution is not required to describe technical information about the safeguards used in this respect.)</i>
		15. If the institution provides a short-form initial privacy notice with the opt out notice, does the institution do so only to consumers with whom the institution does not have a customer relationship? [§6(d)(1)]
		16. If the institution provides a short-form initial privacy notice according to §6(d)(1), does the short-form initial notice:
		a. conform to the definition of "clear and conspicuous"; [§6(d)(2)(i)]
		b. state that the institution's full privacy notice is available upon request; [§6(d)(2)(ii)] and
		c. explain a reasonable means by which the consumer may obtain the notice? [§6(d)(2)(iii)]
		<i>(Note: the institution is not required to deliver the full privacy notice with the short-form initial notice. [§6(d)(3)])</i>
		17. Does the institution provide consumers who receive the short-form initial notice with a reasonable means of obtaining the longer initial notice, such as:
		a. a toll-free telephone number that the consumer may call to request the notice; [§6(d)(4)(i)] or
		b. for the consumer who conducts business in person at the institution's office, having copies available to provide immediately by hand-delivery? [§6(d)(4)(ii)]
		18. If the institution, in its privacy policies, reserves the right to disclose nonpublic personal information to nonaffiliated third parties in the future, does the privacy notice include, as applicable, the:
		a. categories of nonpublic personal information that the financial institution reserves the right to disclose in the future, but does not currently disclose; [§6(e)(1)] and
		b. categories of affiliates or nonaffiliated third parties to whom the financial institution reserves the right in the future to disclose, but to whom it does not currently disclose, nonpublic personal information? [§6(e)(2)]
		Opt Out Notice
		19. If the institution discloses nonpublic personal information about a consumer to a nonaffiliated third party, and the exceptions under §§13-15 do not apply, does the institution provide the consumer with a clear and conspicuous opt out notice that accurately explains the right to opt out? [§7(a)(1)]



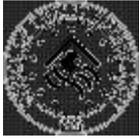
PRIVACY Checklist

Yes	No	
		20. Does the opt out notice state:
		a. that the institution discloses or reserves the right to disclose nonpublic personal information about the consumer to a nonaffiliated third party; [§7(a)(1)(i)]
		b. that the consumer has the right to opt out of that disclosure; [§7(a)(1)(ii)] and
		c. a reasonable means by which the consumer may opt out? [§7(a)(1)(iii)]
		21. Does the institution provide the consumer with the following information about the right to opt out:
		a. all the categories of nonpublic personal information that the institution discloses or reserves the right to disclose; [§7(a)(2)(i)(A)]
		b. all the categories of nonaffiliated third parties to whom the information is disclosed; [§7(a)(2)(i)(A)];
		c. that the consumer has the right to opt out of the disclosure of that information; [§7(a)(2)(i)(A)] and
		d. the financial products or services that the consumer obtains to which the opt out direction would apply? [§7(a)(2)(i)(B)]
		22. Does the institution provide the consumer with at least one of the following reasonable means of opting out, or with another reasonable means:
		a. check-off boxes prominently displayed on the relevant forms with the opt out notice; [§7(a)(2)(ii)(A)]
		b. a reply form included with the opt out notice; [§7(a)(2)(ii)(B)]
		c. an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the institution's web site, if the consumer agrees to the electronic delivery of information; [§7(a)(2)(ii)(C)] or
		d. a toll-free telephone number? [§7(a)(2)(ii)(D)]
		<i>(Note: the institution may require the consumer to use one specific means, as long as that means is reasonable for that consumer. [§7(a)(iv)])</i>
		23. If the institution delivers the opt out notice after the initial notice, does the institution provide the initial notice once again with the opt out notice? [§7(c)]
		24. Does the institution provide an opt out notice, explaining how the institution will treat opt out directions by the joint consumers, to at least one party in a joint consumer relationship? [§7(d)(1)]
		25. Does the institution permit each of the joint consumers in a joint relationship to opt out? [§7(d)(2)]
		26. Does the opt out notice to joint consumers state that either:
		a. the institution will consider an opt out by a joint consumer as applying to all associated joint consumers; [§7(d)(2)(i)] or



PRIVACY Checklist

Yes	No	
		b. each joint consumer is permitted to opt out separately? [§7(d)(2)(ii)]
		27. If each joint consumer may opt out separately, does the institution permit:
		a. one joint consumer to opt out on behalf of all of the joint consumers; [§7(d)(3)]
		b. the joint consumers to notify the institution in a single response; [§7(d)(5)] and
		c. each joint consumer to opt out either for himself or herself, and/or for another joint consumer? [§7(d)(5)]
		28. Does the institution refrain from requiring all joint consumers to opt out before implementing any opt out direction with respect to the joint account? [§7(d)(4)]
		29. Does the institution comply with a consumer's direction to opt out as soon as is reasonably practicable after receiving it? [§7(e)]
		30. Does the institution allow the consumer to opt out at any time? [§7(f)]
		31. Does the institution continue to honor the consumer's opt out direction until revoked by the consumer in writing, or, if the consumer agrees, electronically? [§7(g)(1)]
		32. When a customer relationship ends, does the institution continue to apply the customer's opt out direction to the nonpublic personal information collected during, or related to, that specific customer relationship (but not to new relationships, if any, subsequently established by that customer)? [§7(g)(2)]
Revised Notices		
		33. Except as permitted by §§13-15, does the institution refrain from disclosing any nonpublic personal information about a consumer to a nonaffiliated third party, other than as described in the initial privacy notice provided to the consumer, unless:
		a. the institution has provided the consumer with a clear and conspicuous revised notice that accurately describes the institution's privacy policies and practices; [§8(a)(1)]
		b. the institution has provided the consumer with a new opt out notice; [§8(a)(2)]
		c. the institution has given the consumer a reasonable opportunity to opt out of the disclosure, before disclosing any information; [§8(a)(3)] and
		d. the consumer has not opted out? [§8(a)(4)]
		34. Does the institution deliver a revised privacy notice when it:
		a. discloses a new category of nonpublic personal information to a nonaffiliated third party; [§8(b)(1)(i)]
		b. discloses nonpublic personal information to a new category of nonaffiliated third party; [§8(b)(1)(ii)] or
		c. discloses nonpublic personal information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt out right regarding that disclosure? [§8(b)(1)(iii)]



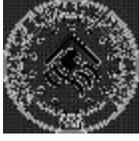
PRIVACY Checklist

Yes	No	
		<p><i>(Note: a revised notice is not required if the institution adequately described the nonaffiliated third party or information to be disclosed in the prior privacy notice. [§8(b)(2)])</i></p>
		<p>Delivery Methods</p>
		<p>35. Does the institution deliver the privacy and opt out notices, including the short-form notice, so that the consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically? [§9(a)]</p>
		<p>36. Does the institution use a reasonable means for delivering the notices, such as:</p>
		<p>a. hand-delivery of a printed copy; [§9(b)(1)(i)]</p>
		<p>b. mailing a printed copy to the last known address of the consumer; [§9(b)(1)(ii)]</p>
		<p>c. for the consumer who conducts transactions electronically, clearly and conspicuously posting the notice on the institution’s electronic site and requiring the consumer to acknowledge receipt as a necessary step to obtaining a financial product or service; [§9(b)(1)(iii)] or</p>
		<p>d. for isolated transactions, such as ATM transactions, posting the notice on the screen and requiring the consumer to acknowledge receipt as a necessary step to obtaining the financial product or service? [§9(b)(1)(iv)]</p>
		<p><i>(Note: insufficient or unreasonable means of delivery include: exclusively oral notice, in person or by telephone; branch or office signs or generally published advertisements; and electronic mail to a customer who does not obtain products or services electronically. [§9(b)(2)(i) and (ii), and (d)])</i></p>
		<p>37. For annual notices only, if the institution does not employ one of the methods described in question 36, does the institution employ one of the following reasonable means of delivering the notice such as:</p>
		<p>a. for the customer who uses the institution’s web site to access products and services electronically and who agrees to receive notices at the web site, continuously posting the current privacy notice on the web site in a clear and conspicuous manner; [§9(c)(1)] or</p>
		<p>b. for the customer who has requested the institution refrain from sending any information about the customer relationship, making copies of the current privacy notice available upon customer request? [§9(c)(2)]</p>
		<p>38. For customers only, does the institution ensure that the initial, annual, and revised notices may be retained or obtained later by the customer in writing, or if the customer agrees, electronically? [§9(e)(1)]</p>
		<p>39. Does the institution use an appropriate means to ensure that notices may be retained or obtained later, such as:</p>
		<p>a. hand-delivery of a printed copy of the notice; [§9(e)(2)(i)]</p>
		<p>b. mailing a printed copy to the last known address of the customer; [§9(e)(2)(ii)] or</p>



PRIVACY Checklist

Yes	No	
		c. making the current privacy notice available on the institution's web site (or via a link to the notice at another site) for the customer who agrees to receive the notice at the web site? [§9(e)(2)(iii)]
		40. Does the institution provide at least one initial, annual, and revised notice, as applicable, to joint consumers? [§9(g)]
SUBPART B		
Limits on Disclosure to Nonaffiliated Third Parties		
		41. Does the institution refrain from disclosing any nonpublic personal information about a consumer to a nonaffiliated third party, other than as permitted under §§13-15, unless:
		a. it has provided the consumer with an initial notice; [§10(a)(1)(i)]
		b. it has provided the consumer with an opt out notice; [§10(a)(1)(ii)]
		c. it has given the consumer a reasonable opportunity to opt out before the disclosure; [§10(a)(1)(iii)] and
		d. the consumer has not opted out? [§10(a)(1)(iv)]
<i>(Note: this disclosure limitation applies to consumers as well as to customers [§10(b)(1)], and to all nonpublic personal information regardless of whether collected before or after receiving an opt out direction. [§10(b)(2)])</i>		
		42. Does the institution provide the consumer with a reasonable opportunity to opt out such as by:
		a. mailing the notices required by §10 and allowing the consumer to respond by toll-free telephone number, return mail, or other reasonable means (see question 22) within 30 days from the date mailed; [§10(a)(3)(i)]
		b. where the consumer opens an on-line account with the institution and agrees to receive the notices required by §10 electronically, allowing the consumer to opt out by any reasonable means (see question 22) within 30 days from consumer acknowledgement of receipt of the notice in conjunction with opening the account; [§10(a)(3)(ii)] or
		c. for isolated transactions, providing the notices required by §10 at the time of the transaction and requesting that the consumer decide, as a necessary part of the transaction, whether to opt out before the completion of the transaction? [§10(a)(3)(iii)]
		43. Does the institution allow the consumer to select certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out? [§10(c)]
<i>(Note: an institution may allow partial opt outs in addition to, but may not allow them instead of, a comprehensive opt out.)</i>		



Yes	No
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Limits on Redisdisclosure and Reuse of Information

44. If the institution receives information from a nonaffiliated financial institution under an exception in §14 or §15, does the institution refrain from using or disclosing the information except:

- a. to disclose the information to the affiliates of the financial institution from which it received the information; [§11(a)(1)(i)]
- b. to disclose the information to its own affiliates, which are in turn limited by the same disclosure and use restrictions as the recipient institution; [§11(a)(1)(ii)] and
- c. to disclose and use the information pursuant to an exception in §14 or §15 in the ordinary course of business to carry out the activity covered by the exception under which the information was received? [§11(a)(1)(iii)]

(Note: the disclosure or use described in section c of this question need not be directly related to the activity covered by the applicable exception. For instance, an institution receiving information for fraud-prevention purposes could provide the information to its auditors. But “in the ordinary course of business” does not include marketing. [§11(a)(2)])

45. If the institution receives information from a nonaffiliated financial institution other than under an exception in §14 or §15, does the institution refrain from disclosing the information except:

- a. to the affiliates of the financial institution from which it received the information; [§11(b)(1)(i)]
- b. to its own affiliates, which are in turn limited by the same disclosure restrictions as the recipient institution; [§11(b)(1)(ii)] and
- c. to any other person, if the disclosure would be lawful if made directly to that person by the institution from which the recipient institution received the information? [§11(b)(1)(iii)]

Limits on Sharing Account Number Information for Marketing Purposes

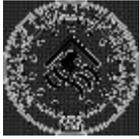
46. Does the institution refrain from disclosing, directly or through affiliates, account numbers or similar forms of access numbers or access codes for a consumer's credit card account, deposit account, or transaction account to any nonaffiliated third party (other than to a consumer reporting agency) for telemarketing, direct mail or electronic mail marketing to the consumer, except:

- a. to the institution's agents or service providers solely to market the institution's own products or services, as long as the agent or service provider is not authorized to directly initiate charges to the account; [§12(b)(1)] or
- b. to a participant in a private label credit card program or an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program? [§12(b)(2)]



PRIVACY Checklist

Yes	No	
		<p><i>(Note: an “account number or similar form of access number or access code” does not include numbers in encrypted form, so long as the institution does not provide the recipient with a means of decryption. [§12(c)(1)] A transaction account does not include an account to which third parties <u>cannot</u> initiate charges. [§12(c)(2)])</i></p>
		<p>SUBPART C</p>
		<p>Exception to Opt Out Requirements for Service Providers and Joint Marketing</p>
		<p>47. If the institution discloses nonpublic personal information to a nonaffiliated third party without permitting the consumer to opt out, do the opt out requirements of §7 and §10, and the revised notice requirements in §8, not apply because:</p>
		<p>a. the institution disclosed the information to a nonaffiliated third party who performs services for or functions on behalf of the institution (including joint marketing of financial products and services offered pursuant to a joint agreement as defined in paragraph (b) of §13); [§13(a)(1)]</p>
		<p>b. the institution has provided consumers with the initial notice; [§13(a)(1)(i)] and</p>
		<p>c. the institution has entered into a contract with that party prohibiting the party from disclosing or using the information except to carry out the purposes for which the information was disclosed, including use under an exception in §14 or §15 in the ordinary course of business? [§13(a)(1)(ii)]</p>
		<p>Exceptions to Notice and Opt Out Requirements for Processing and Servicing Transactions</p>
		<p>48. If the institution discloses nonpublic personal information to nonaffiliated third parties, do the requirements for initial notice in §4(a)(2), opt out in §§7 and 10, revised notice in §8, and for service providers and joint marketing in §13, not apply because the information is disclosed as necessary to effect, administer, or enforce a transaction that the consumer requests or authorizes, or in connection with:</p>
		<p>a. servicing or processing a financial product or service requested or authorized by the consumer; [§14(a)(1)]</p>
		<p>b. maintaining or servicing the consumer's account with the institution or with another entity as part of a private label credit card program or other credit extension on behalf of the entity; or [§14(a)(2)]</p>
		<p>c. a proposed or actual securitization, secondary market sale (including sale of servicing rights) or other similar transaction related to a transaction of the consumer? [§14(a)(3)]</p>
		<p>49. If the institution uses a Section 14 exception as necessary to effect, administer, or enforce a transaction, is it :</p>
		<p>a. required, or is one of the lawful or appropriate methods to enforce the rights of the institution or other persons engaged in carrying out the transaction or providing the product or service; [§14(b)(1)] or</p>
		<p>b. required, or is a usual, appropriate, or acceptable method to:[§14(b)(2)]</p>



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Yes	No	
		i. carry out the transaction or the product or service of which the transaction is a part, including recording, servicing, or maintaining the consumer's account in the ordinary course of business; [§14(b)(2)(i)]
		ii. administer or service benefits or claims; [§14(b)(2)(ii)]
		iii. confirm or provide a statement or other record of the transaction or information on the status or value of the financial service or financial product to the consumer or the consumer's agent or broker; [§14(b)(2)(iii)]
		iv. accrue or recognize incentives or bonuses; [§14(b)(2)(iv)]
		v. underwrite insurance or for reinsurance or for certain other purposes related to a consumer's insurance; [§14(b)(2)(v)] or
		vi. in connection with:
		(1) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid by using a debit, credit, or other payment card, check, or account number, or by other payment means; [§14(b)(2)(vi)(A)]
		(2) the transfer of receivables, accounts or interests therein; [§14(b)(2)(vi)(B)] or
		(3) the audit of debit, credit, or other payment information? [§14(b)(2)(vi)(C)]
Other Exceptions to Notice and Opt Out Requirements		
50. If the institution discloses nonpublic personal information to nonaffiliated third parties, do the requirements for initial notice in §4(a)(2), opt out in §§7 and 10, revised notice in §8, and for service providers and joint marketers in §13, not apply because the institution makes the disclosure:		
		a. with the consent or at the direction of the consumer; [§15(a)(1)]
		i. to protect the confidentiality or security of records; [§15(a)(2)(i)]
		ii. to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability; [§15(a)(2)(ii)]
		iii. for required institutional risk control or for resolving consumer disputes or inquiries; [§15(a)(2)(iii)]
		iv. to persons holding a legal or beneficial interest relating to the consumer; [§15(a)(2)(iv)] or
		v. to persons acting in a fiduciary or representative capacity on behalf of the consumer; [§15(a)(2)(v)]
		b. to insurance rate advisory organizations, guaranty funds or agencies, agencies rating the institution, persons assessing compliance, and the institution's attorneys, accountants, and auditors; [§15(a)(3)]



PRIVACY Checklist

Yes	No	
		c. in compliance with the Right to Financial Privacy Act, or to law enforcement agencies; [§15(a)(4)]
		d. to a consumer reporting agency in accordance with the FCRA or from a consumer report reported by a consumer reporting agency; [§15(a)(5)]
		e. in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit, if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; [§15(a)(6)]
		f. to comply with Federal, state, or local laws, rules, or legal requirements; [§15(a)(7)(i)]
		g. to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, state, or local authorities; [§15(a)(7)(ii)] or
		h. to respond to judicial process or government regulatory authorities having jurisdiction over the institution for examination, compliance, or other purposes as authorized by law? [§15(a)(7)(iii)]
		<p><i>(Note: the regulation gives the following as an example of the exception described in section a of this question: “A consumer may specifically consent to [an institution’s] disclosure to a nonaffiliated insurance company of the fact that the consumer has applied to [the institution] for a mortgage so that the insurance company can offer homeowner’s insurance to the consumer.”)</i></p>