



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

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<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>	

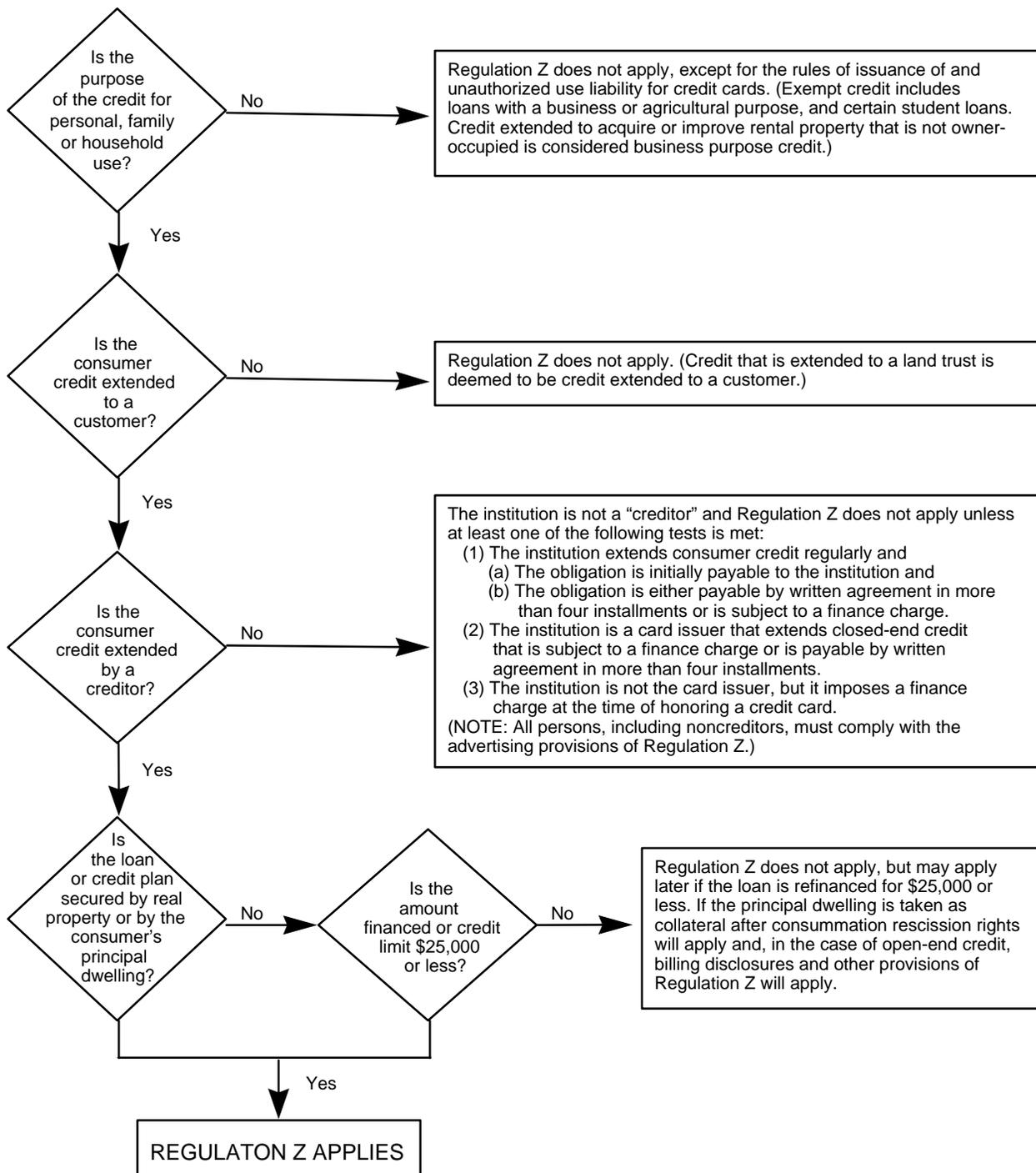
REQUIREMENTS THAT APPLY TO CLOSED-END CREDIT

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

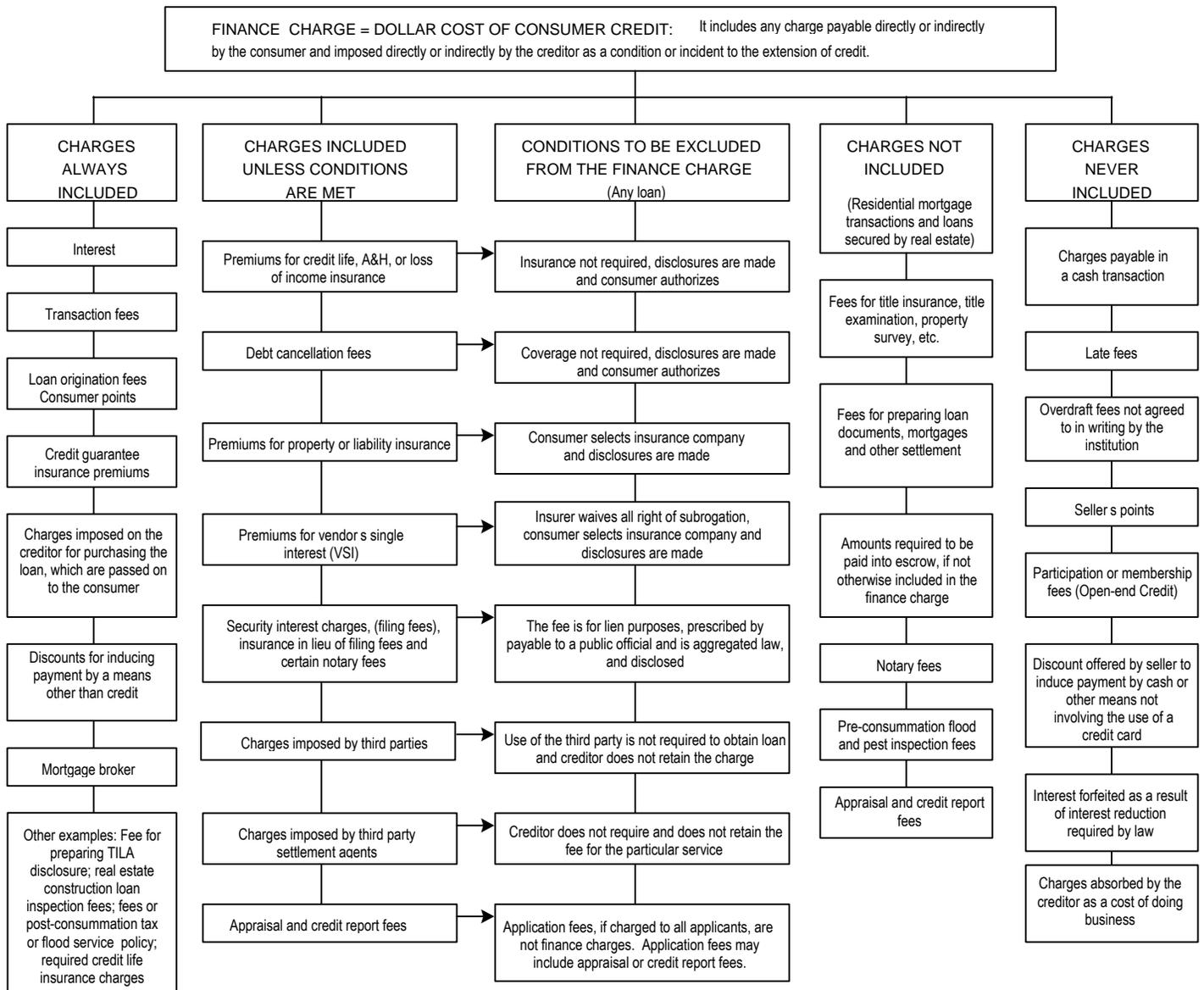
REQUIREMENTS/RECOMMENDATIONS	TIME FRAME	DOCUMENT, RECORD OR REPORT
<ul style="list-style-type: none"> • The penalty can be exercised only for the first five years following consummation; • The source of the prepayment funds is not a refinancing by the creditor or an affiliate of the creditor; and • At 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

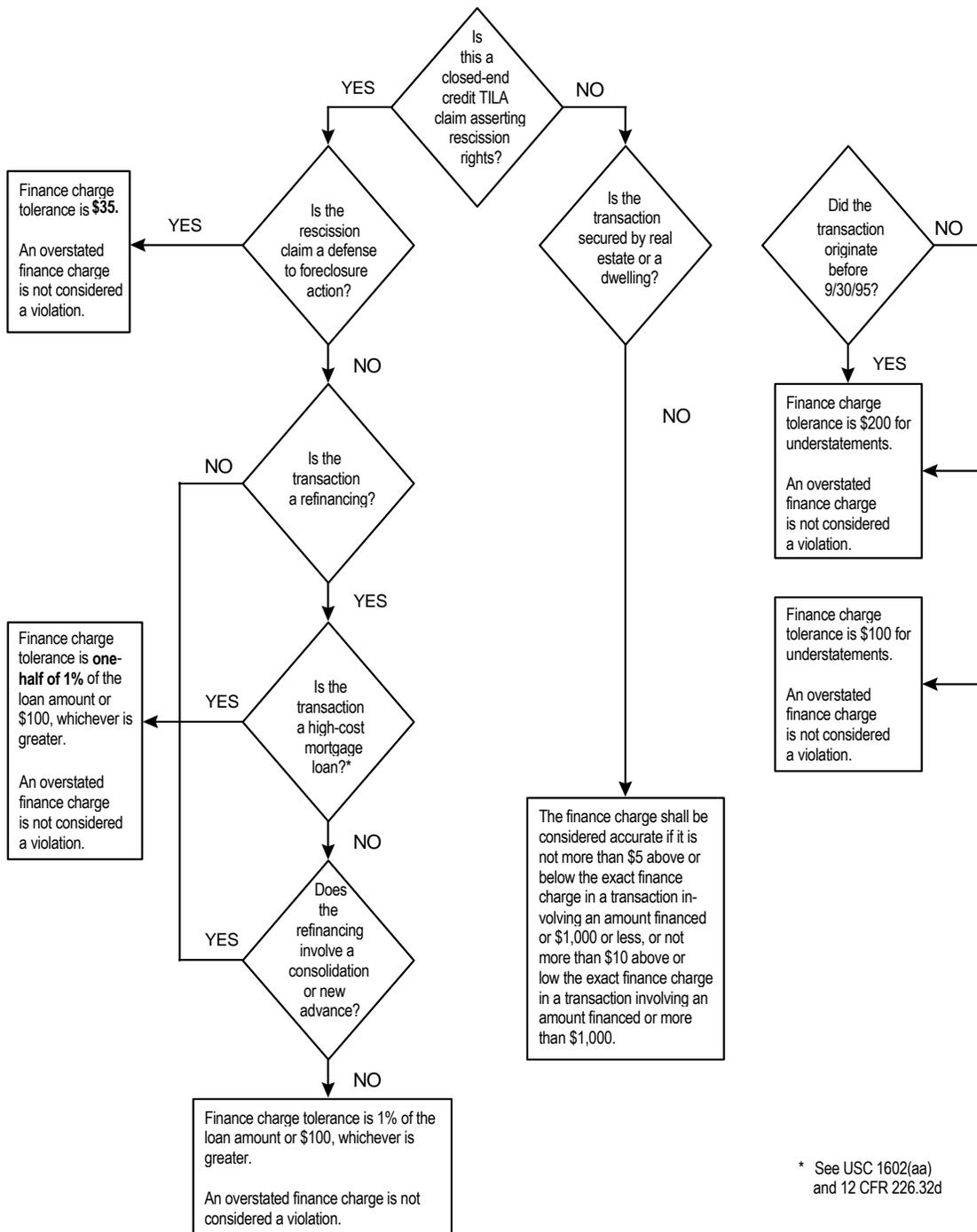


Truth in Lending Act

Exhibit Z-2

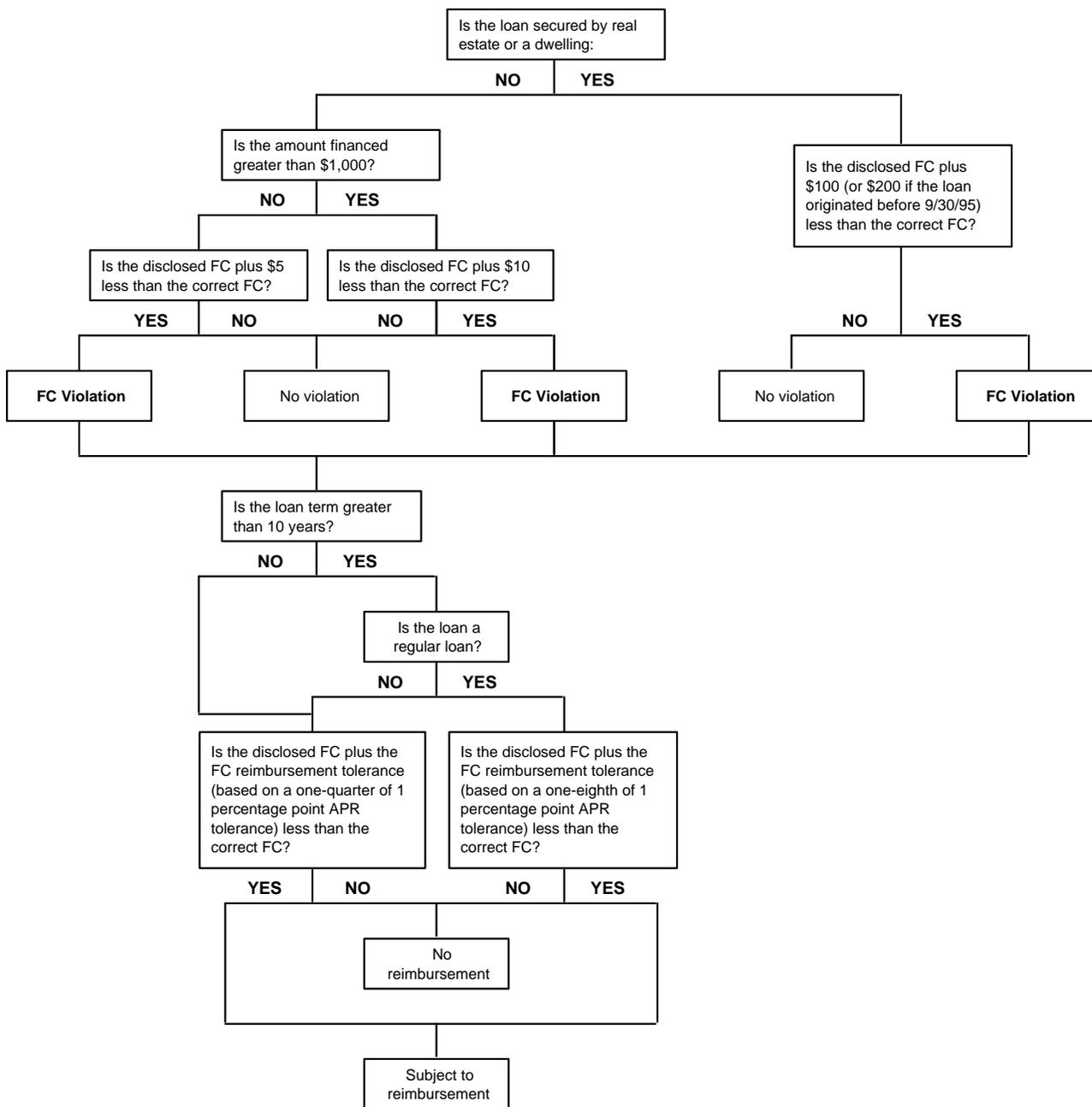


Closed-End Credit: Finance Charge Accuracy Tolerances

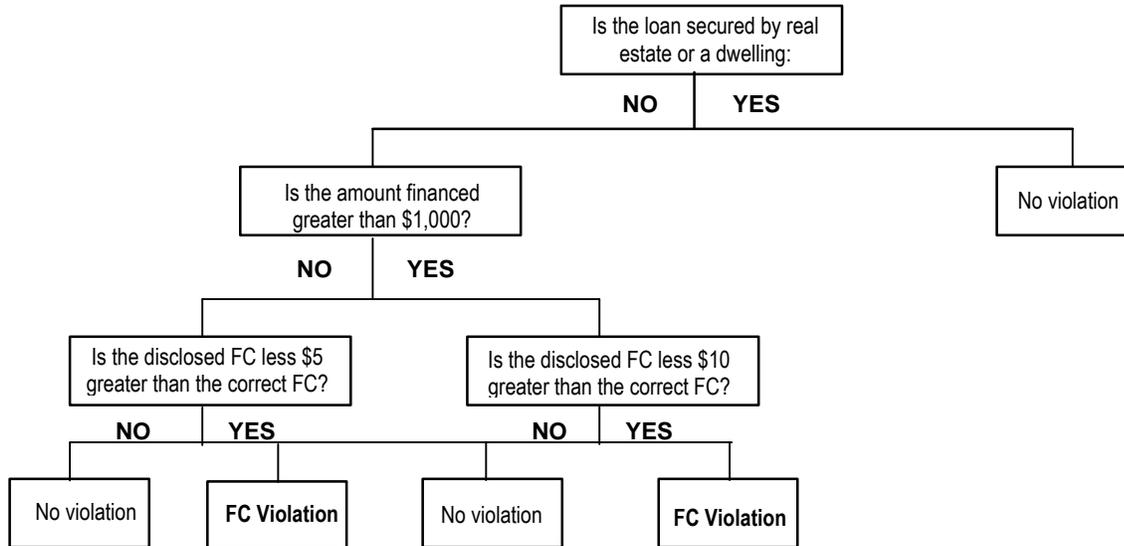


* See USC 1602(aa) and 12 CFR 226.32d

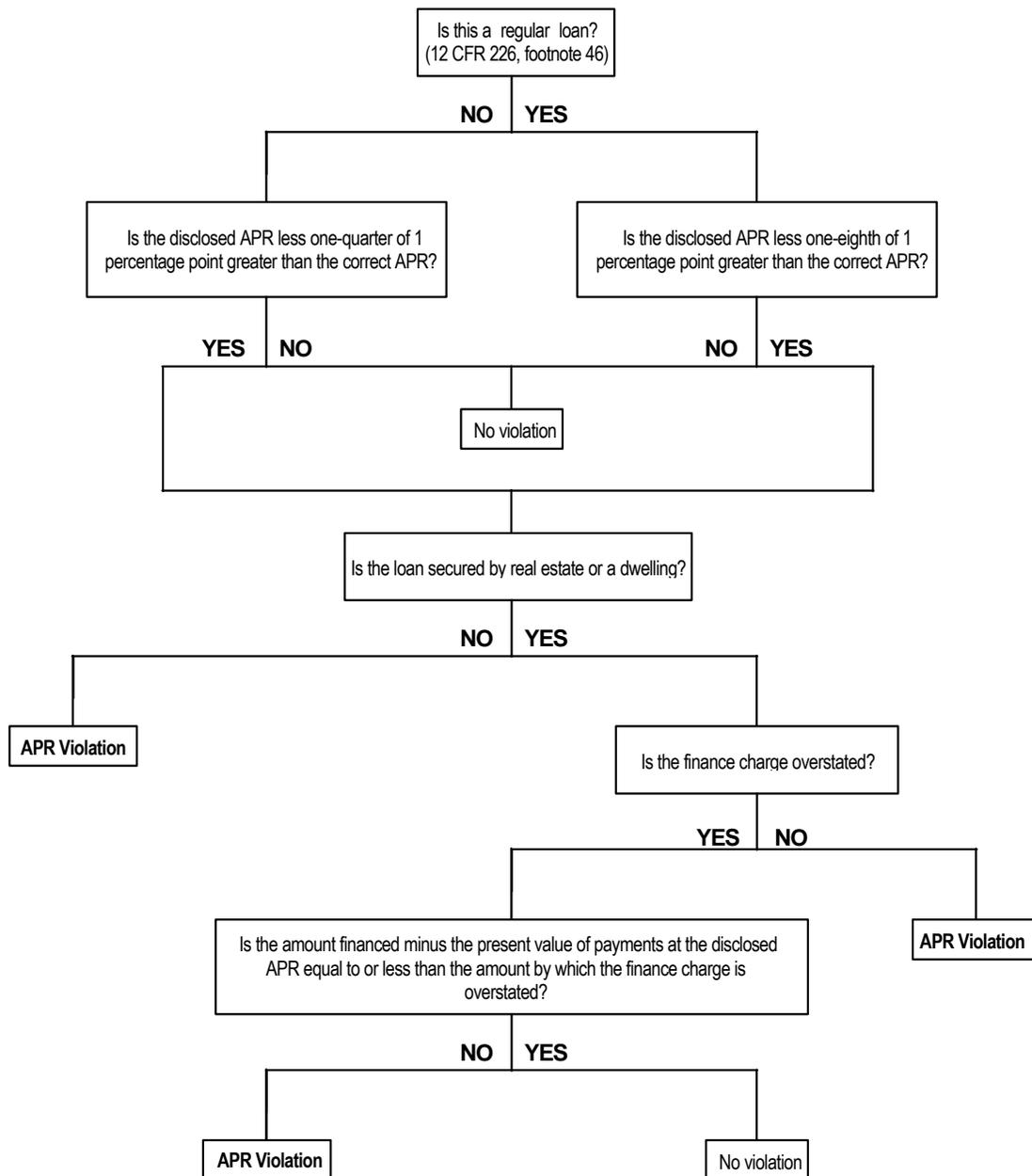
Closed-End Credit: Accuracy and Reimbursement Tolerances for **Understated** Finance Charges



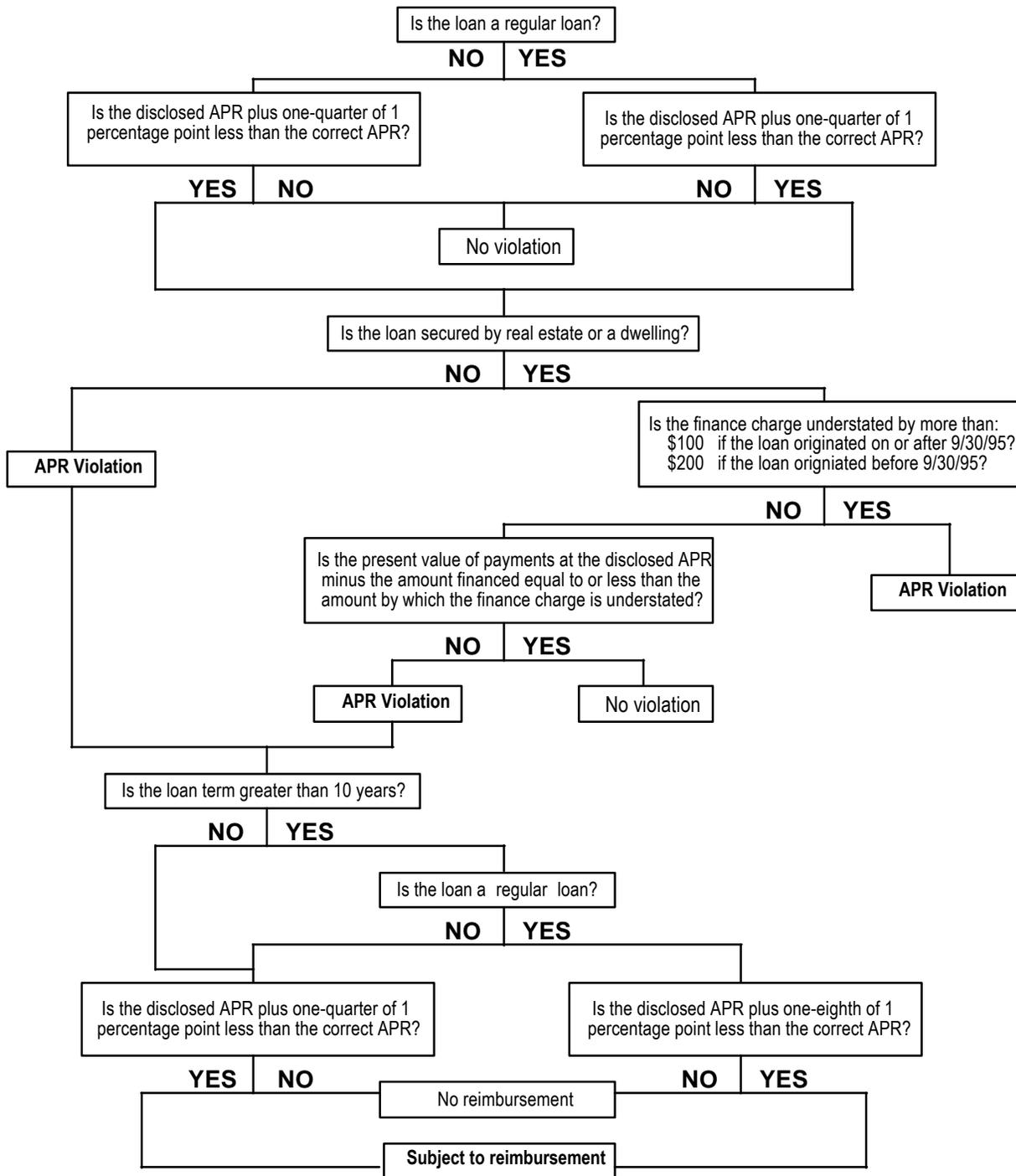
Closed-End Credit: Accuracy Tolerances
for **Overstated** Finance Charges



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 <ol 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>	<p>Continuing</p>	<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>



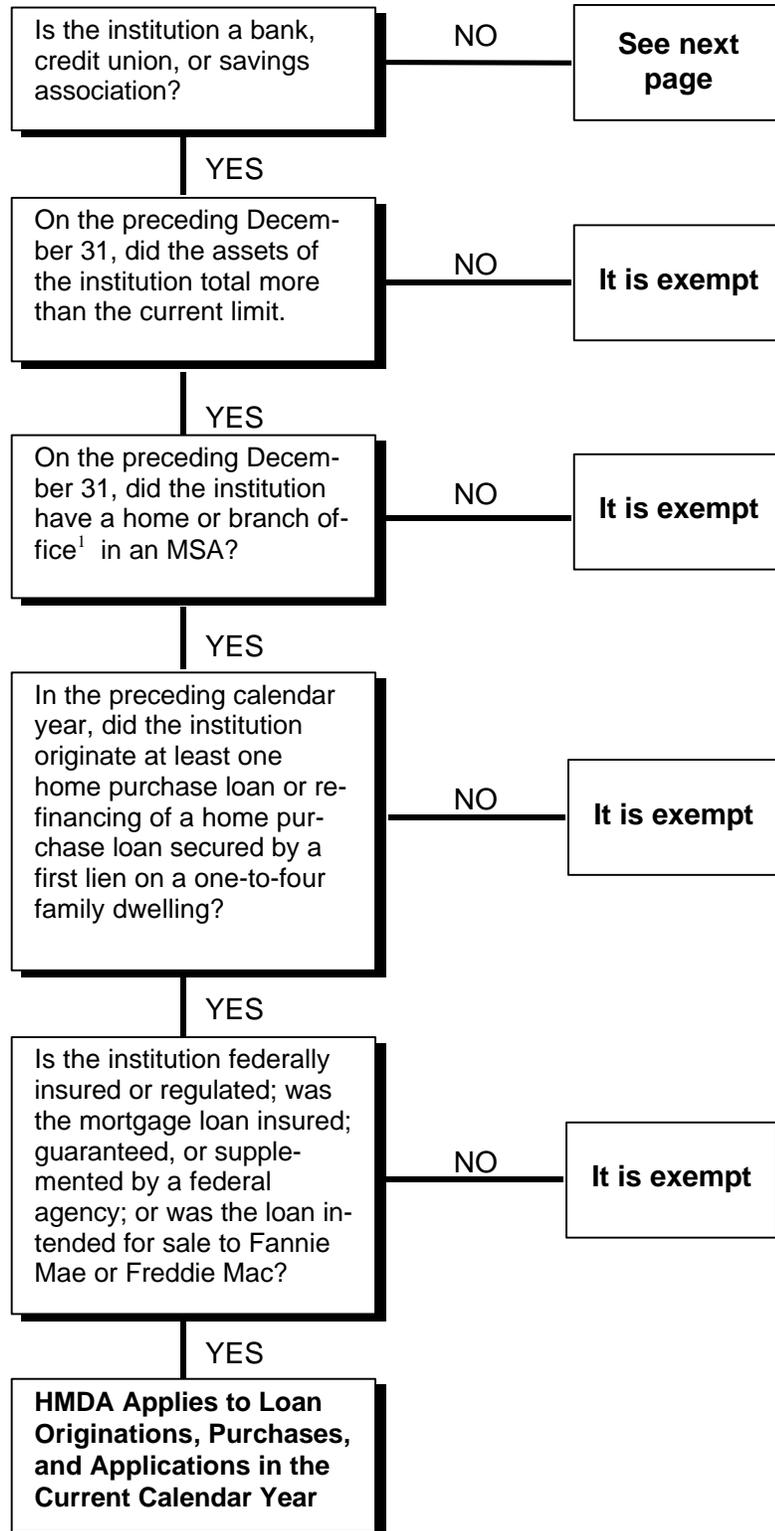
Home Mortgage Disclosure Act

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

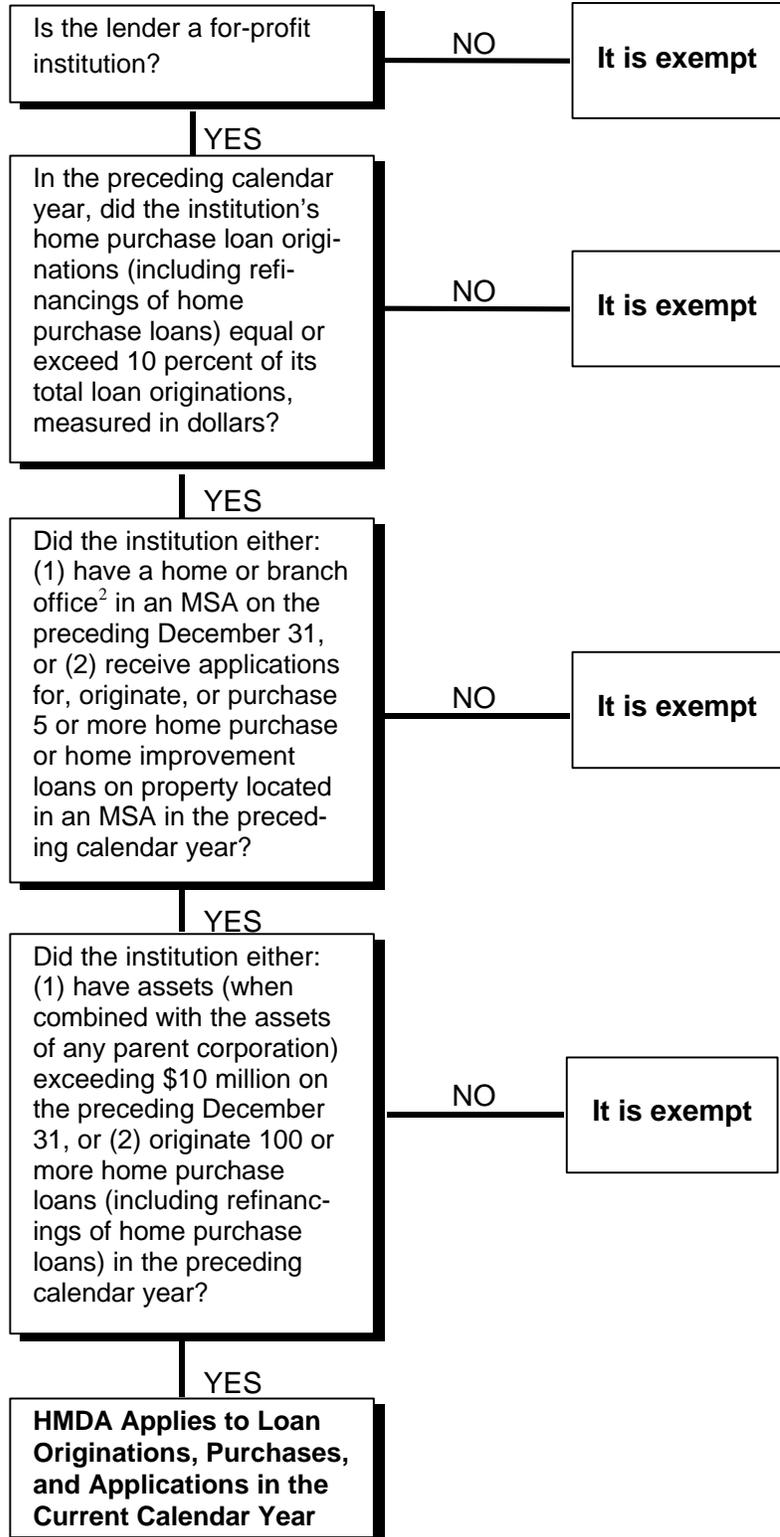


¹ For depository institutions, a branch office is an office approved as a branch by a supervisory agency (except that a branch office of a credit union is any office where member accounts are established or loans are made, whether or not the office has been approved as a branch by a federal or state 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

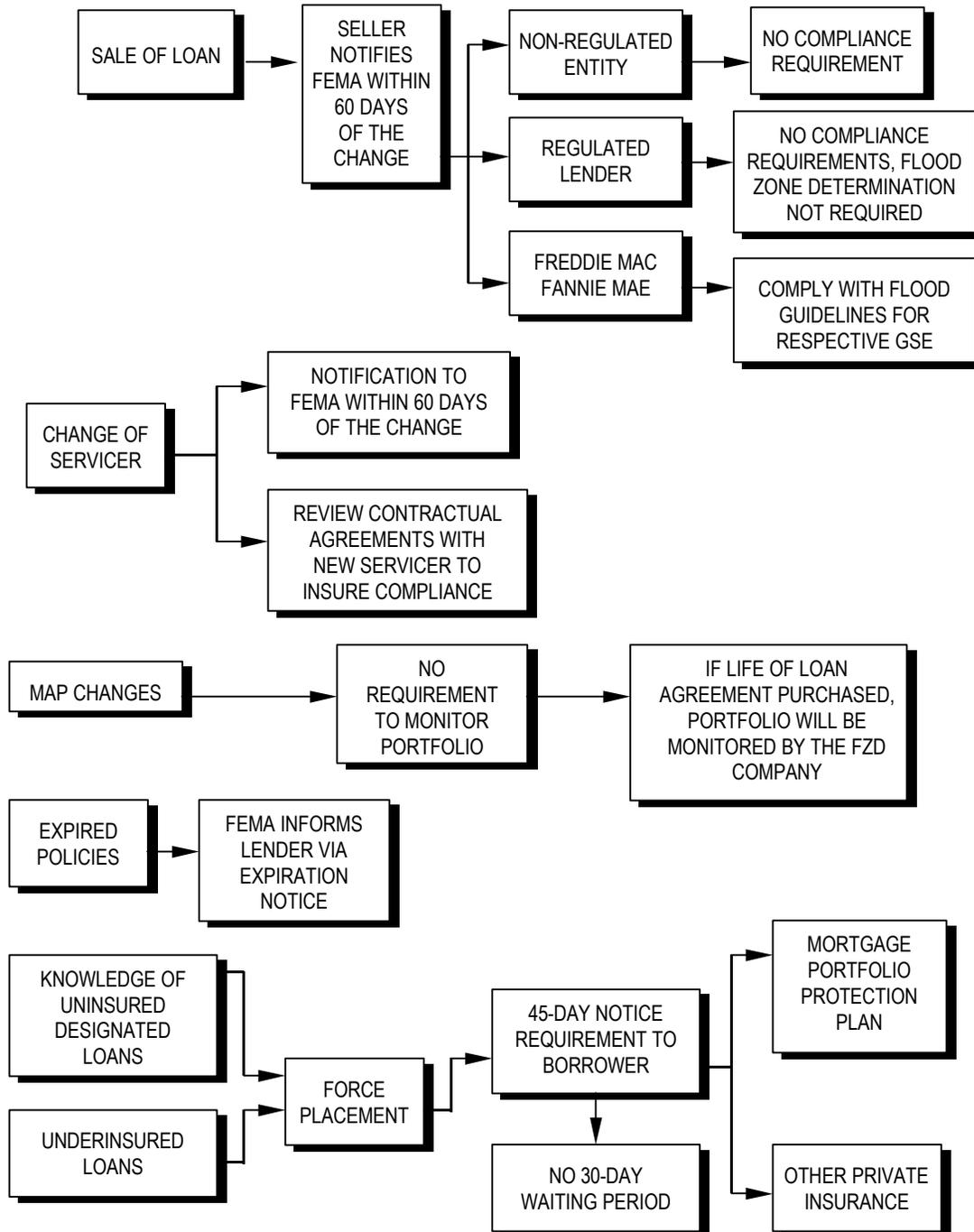
The National Flood Insurance Reform Act of 1994 increased the maximum amounts of flood insurance available under the NFIP. The current amounts are shown below. Most communities participate in the regular program. A few communities are in the emergency program. Refer to FEMA's Flood Hazard Boundary Maps 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



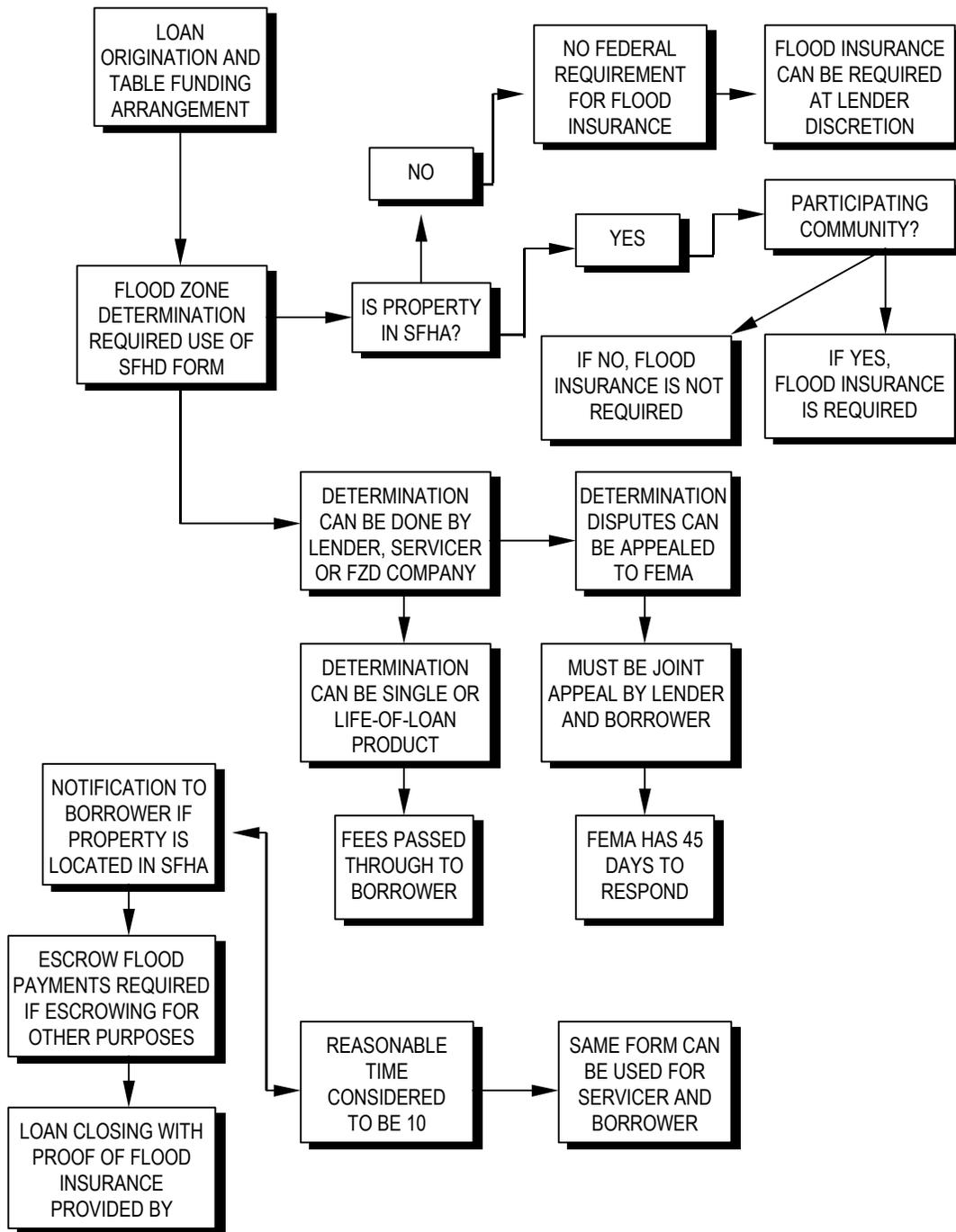
National Flood Insurance Act

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>	Continuing	<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>	Continuing	<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>	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>



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.	Appropriate documentation which demonstrates compliance. Record Retention Guidelines
<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	<p>\$100 on the first business day after the day of your deposit.</p> <p>Remaining funds on the second business day after the day of your deposit.</p>	<p>Tuesday</p> <p>Wednesday</p>
All other numbers	<p>\$100 on the first business day after the day of your deposit.</p> <p>Remaining funds on the fifth business day after the day of your deposit.</p>	<p>Tuesday</p> <p>Monday of the following week</p>

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)]

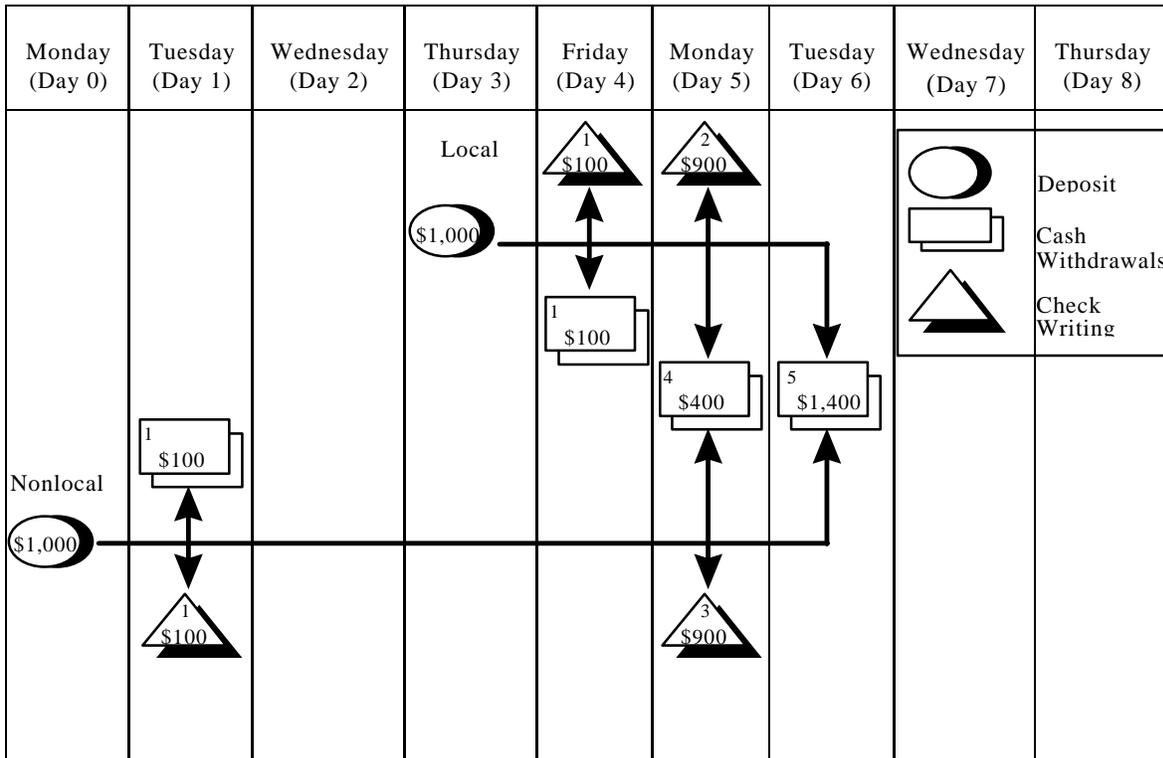
Funds deposited in an account at a nonproprietary ATM by cash or check must be available for withdrawal not later than the fifth business day following the banking day on which the funds are deposited. [Section 229.12(f)]



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>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 (see 563e.22 for details)</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
<p>5. Applying the Community Development Test for Wholesale and Limited Purpose Institutions</p> <p>Scope of Review</p> <p><i>Designation</i></p> <p>Performance Criteria (see 563e.25)</p>	<p>The OTS reviews a wholesale or limited purpose institution s:</p> <ul style="list-style-type: none"> • community development lending; • qualified investments; and • community development services. <p>To receive a designation as a wholesale or limited purpose savings association, the institution must file a written request with the OTS at least three months prior to the proposed effective date of the designation. The designation is effective until:</p> <ul style="list-style-type: none"> • the institution requests revocation, or • one year after the OTS notifies the institution that it has revoked the designation. <p>The OTS evaluates the community development performance of a wholesale or limited purpose savings association based on the following criteria:</p> <ol style="list-style-type: none"> 1. Number and amount of community development loans, qualified investments, or community development services; 2. Use of innovative or complex community development loans, qualified investments, or community development services (and the extent to which any qualified investments are not routinely provided by private investors); and 3. Responsiveness to credit and community development needs.



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

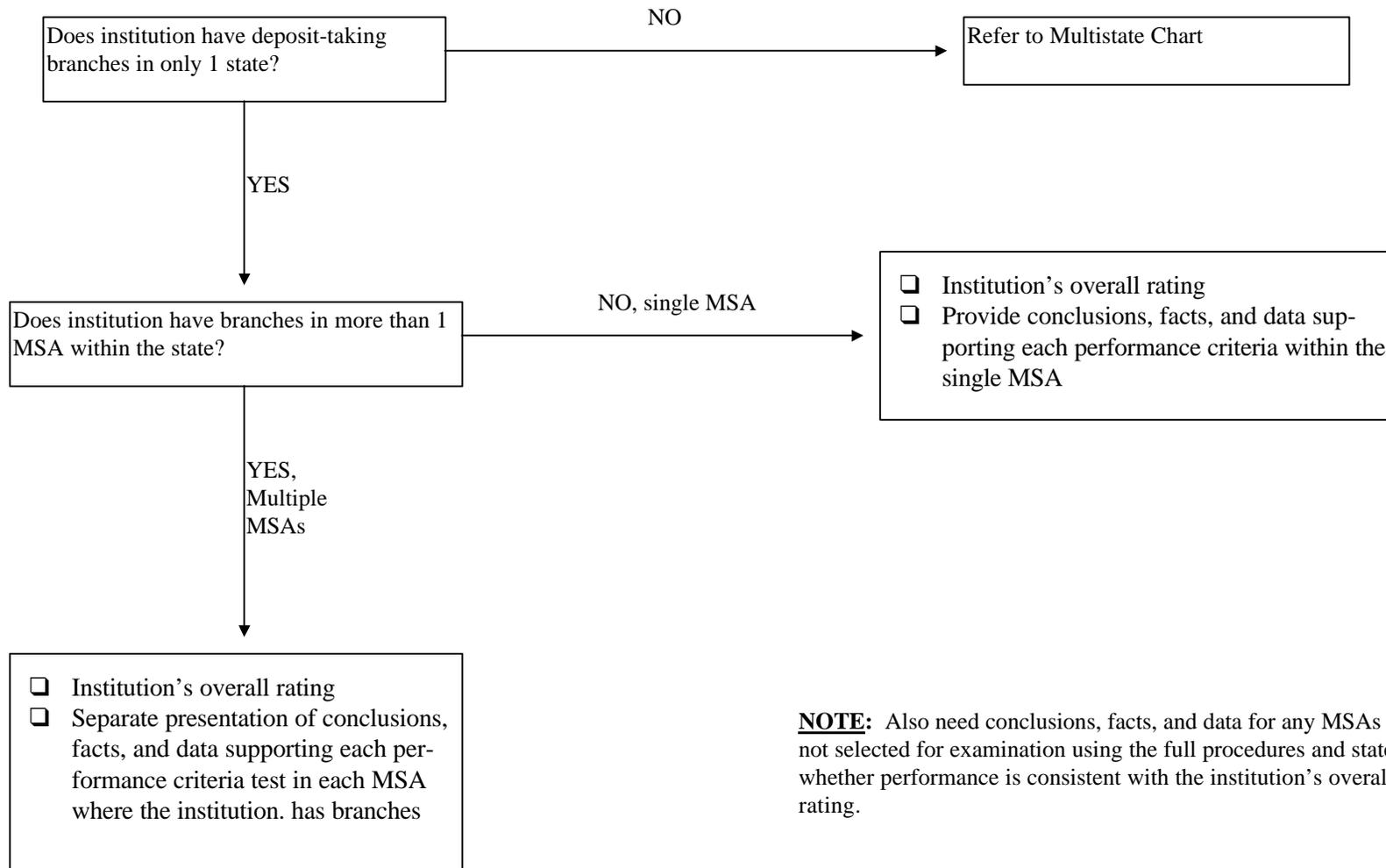
Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Accessibility of Delivery Systems	Delivery systems are readily accessible to all portions of the institution's assessment area(s).	Delivery systems are accessible to essentially all portions of the 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).



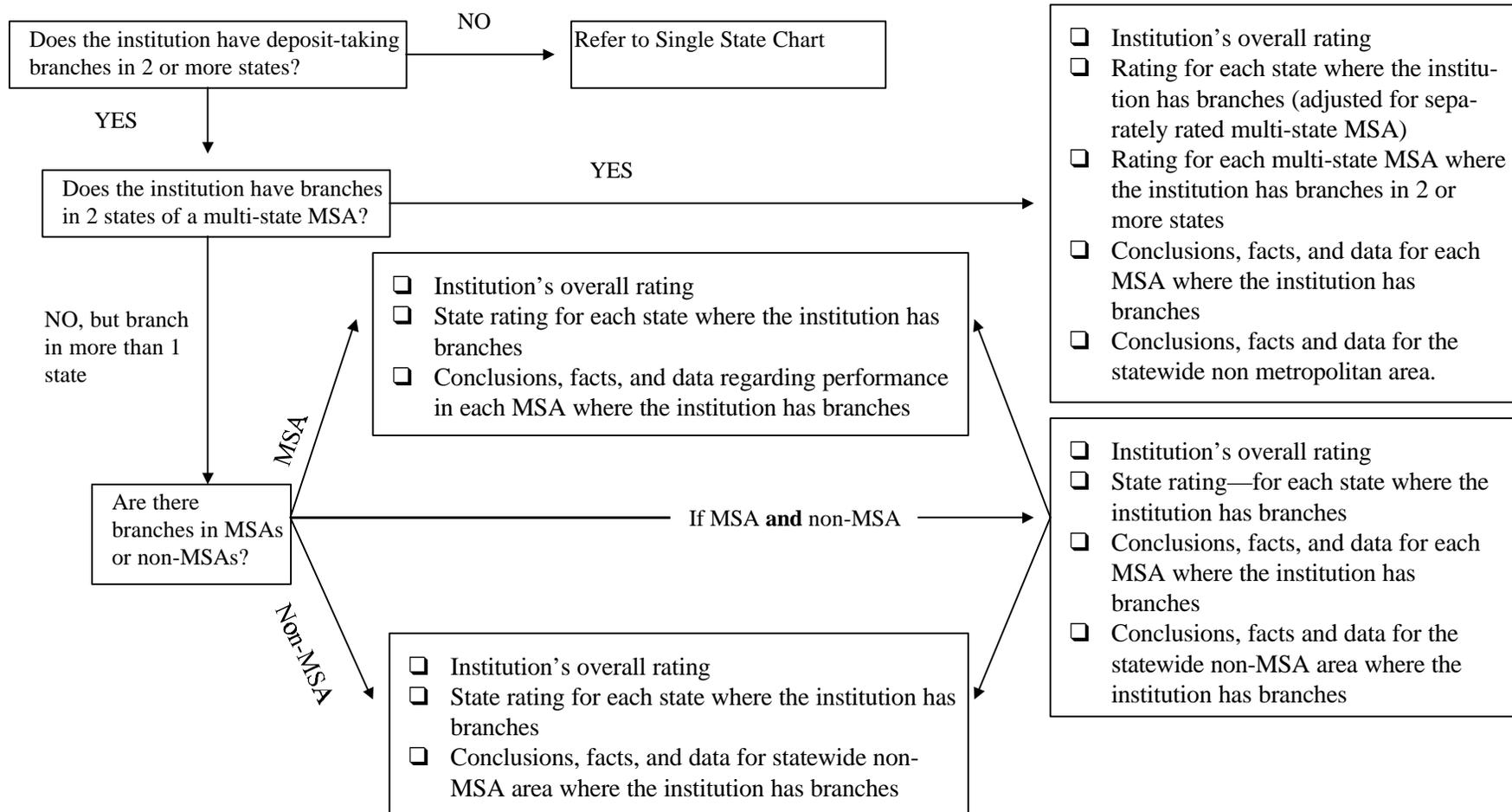
NOTE: Also need conclusions, facts, and data for any MSAs not selected for examination using the full procedures and state whether performance is consistent with the institution's overall rating.

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	Written agreements with individuals or entities engaged in insurance or annuity sales “on behalf” of the institution.
<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>



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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



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<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>



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<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>



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<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>



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<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>



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<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>



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<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



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<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>