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Regulation B and Flexibility in Collecting Monitoring Information

The Consumer Financial Protection Bureau (CFPB) has issued a new final rule amending Regulation B. The amendment provides flexibility to mortgage lenders in collecting applicant monitoring information and will help facilitate compliance with HMDA and Regulation C. Other changes include the addition and removal of certain model forms.

Alert Date: October 16, 2017

Status: Effective January 1, 2018; except for the URLA adjustment to Appendix B, which is effective January 1, 2022

Link: [Final Rule - 10/02/17](#)

What changes are being made to provisions for requesting monitoring information?

The CFPB has issued a final rule that amends Regulation B and affects when and how a creditor may collect demographic information on certain applicants. As the collection of ethnicity, sex, and race of certain mortgage applicants is addressed in Regulation B, as well as Regulation C, the impact of this change can be summarized as follows:

- **Regulation B Creditors** – in complying with monitoring information provisions in Reg. B (1002.13), the new rule permits such creditors to collect either the aggregated ethnicity and race categories or the disaggregated ethnicity and race categories as set forth in the amended Reg. C's Appendix B. Such creditors that are not HMDA reporters are not required to change their Reg. B practices, but are permitted to voluntarily adopt new practices, that will facilitate transition to the 2016 Uniform Residential Loan Application (URLA).
- **Regulation C HMDA Reporters** – as many HMDA reporters are subject to the Reg. B (1002.13) requirements, this rule provides clarity that compliance with applicant information collection under Reg. C generally satisfies similar requirements under Reg. B.

What should I know about the effective date?

In the rule's preamble, it was noted that a comment of concern was received with regard to the effective date of these changes. More specifically, these Reg. B changes generally take effect January 1, 2018; and a concern was noted that it could potentially create confusion considering an earlier CFPB Approval Notice that addresses collection of ethnicity and race information on applications in 2017.

To help provide clarification, the earlier Bureau Approval Notice provides that, at any time from January 1, 2017, through December 31, 2017, a creditor may, at its option, permit applicants to self-identify using disaggregated ethnic and racial categories as instructed in revised Reg. C. During this time, such collection is not deemed to violate Reg. B. As creditors are already permitted to collect such information during 2017, it is not necessary to readdress it in this rule. As noted therein, "Regulation B-only creditors or HMDA reporters" are already permitted in 2017 to collect such information.

What changes are being made to model forms?

The CFPB's new final rule includes amendments to model forms contained in Reg. B, Appendix B – Model Application Forms. Changes include the following:

- a model form for collecting aggregate applicant race and ethnicity information; and
- a cross-reference to the Reg. C model form for collecting disaggregated race and ethnicity information.

This rule also removes as outdated, the existing version (as of the date of this rule) of the URLA contained therein, effective January 1, 2022. Of note, this rule does not add the 2016 URLA as that particular form is subject to separate Federal Register issuances.

What else should I know?

Record retention requirements have been amended to ensure preservation of monitoring information collected pursuant to a creditor's request. This amendment was made to ensure coverage of information collected under voluntarily-adopted new practices and not just information required under Reg. B.

Recommendations for Next Steps

By January 1, 2018:

1. Review Reg. B monitoring information collection practices and determine whether any particular changes will be made. If changes will be made, proceed with additional steps:
2. Update applicable policies (which may, for example, include Regulation B and Record Retention).
3. Update applicable procedures and forms.
4. Provide training to staff on any updates.