



McGlinchey Stafford and
Youngblood & Associates PLLC

CLIENT ALERT

CFPB Proposes Amendments to ECOA

FHA Announces Launch Date for Loan Review System

ECOA Amendments, URLA Update

This portion of the Client Alert is a follow-up to our Alert dated September 14, 2016, regarding the Federal Housing Finance Agency (FHFA) proposal to redesign the Uniform Residential Loan Application (URLA), commonly referred to as Fannie Mae form 1003/Freddie Mac form 65, and our Alert dated November 16, 2015, regarding the Consumer Financial Protection Bureau (CFPB) final Home Mortgage Disclosure Act (HMDA) rule under Regulation C (Reg C).

On March 24, 2017, the CFPB announced a proposal to amend the Equal Credit Opportunity Act (ECOA) and its implementing Regulation B (Reg B). The press release of the announcement, which also contains an embedded link to the proposal text, is available here:

<https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-proposal-provide-flexibility-certain-mortgage-lenders-collecting-information/>

The goal of the amendment appears to be meshing the requirements of ECOA with the revised requirements of the HMDA rule, which takes effect on January 1, 2018, and with the redesigned URLA, for which the FHFA has not announced an effective date.

ECOA

ECOA currently requires lenders subject to ECOA and taking an application for credit to purchase or refinance an applicant's principal dwelling to gather and retain certain 'monitoring' information on loan applicants, in order to demonstrate that the lender has not discriminated against credit applicants on a basis prohibited by ECOA, such as race, color, religion, national origin, sex, marital status, age, or receipt of income from a public assistance program. ECOA does not currently authorize a lender's collection of different or additional data, and does not require routine reporting of that data.

HMDA, on the other hand, requires a lender to report a variation of this data (generally, race, ethnicity and sex of applicants, along with other transaction term data) if the lender meets certain backward-looking threshold asset size and loan volume requirements. The proposal adds to Reg B a specific authorization for a lender to collect information as required by HMDA and Reg C. As a result, a lender not currently subject to HMDA reporting requirements, but that has reported HMDA data in any of the five previous years, may gather applicant data under ECOA as required by HMDA. If the lender later determines that it should be reporting under HMDA in the current year, it will have the data available. The proposal also allows a lender to begin collecting HMDA data under the 2018 requirements during 2017 if it wishes to do so.

URLA

Reg B currently includes in an appendix the current URLA form, which is dated January, 2004. The new URLA form proposed by FHFA includes a Demographic Information section designed to meet the HMDA reporting requirements that take effect on January 1, 2018. FHFA has not set the date for when lenders may begin to use the new URLA form or the date when the new form will be required for the resulting loan to be saleable to Fannie Mae and Freddie Mae. The CFPB proposes to adopt the 'cutover' date set by FHFA for removing the current URLA form as an exhibit to Reg B and replacing it with the new URLA form.

FHA Loan Review System (LRS)

This portion of the Client Alert is an update to our Alert dated January 20, 2017, which described the new FHA LRS, designed to be a single online quality control system that brings together post-endorsement loan reviews, lender monitoring reports, lender self-reporting functions, and the Delegated Endorsement Test Case process into a single system. On March 23, 2017, FHA announced Mortgagee Letter 2017-8, available here:

<https://portal.hud.gov/hudportal/documents/huddoc?id=17-08ml.pdf>

The main purpose of the Mortgagee Letter is to change the effective date for the use of various elements of the DE Test Case process in the new LRS from April 1, 2017 to May 15, 2017.

If you have any questions or comments concerning this Client Alert, please do not hesitate to contact:



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*Not Certified by the Texas Board of Legal Specialization

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