

September 20, 2017

Executive Summary of the Equal Credit Opportunity Act (Regulation B) Final Rule

The Consumer Financial Protection Bureau (Bureau) has issued a final rule to amend Regulation B to provide creditors flexibility in complying with Regulation B in order to facilitate compliance with Regulation C. The Equal Credit Opportunity Act (ECOA) is a federal civil rights law that protects against discrimination based on a prohibited basis, including race, color, religion, national origin, sex, marital status, age, receipt of public assistance income, and exercising rights under the Consumer Credit Protection Act. Regulation B implements ECOA. The final rule will provide creditors flexibility in complying with Regulation B in order to facilitate compliance with Regulation C and transition to the 2016 URLA. The rule is effective on January 1, 2018, except that the amendment to Appendix B removing a 2004 version of the “Uniform Residential Loan Application” form is effective January 1, 2022.

Although this executive summary provides a high-level overview of the Regulation B Final Rule, it is not a substitute for reviewing the Rule. The Rule is the definitive source regarding its requirements.

Institutional and Transactional Coverage

Financial institutions affected by the Regulation B final rule are primarily creditors making mortgage loans subject to § 1002.13. Generally, Regulation B creditors who extend mortgage financing to consumers to purchase or refinance an applicant’s primary residence are covered by the rule. Financial institutions that report under Regulation C, have reported in the prior five years, or may report in the near future may also be affected by this rule. Creditors that utilize model forms from appendix B to Regulation B (the Regulation B appendix) for mortgage loans are also affected by the rule.

Flexibility in Regulation B Collection Requirements

The final rule provides Regulation B creditors flexibility in collecting the applicant information required under § 1002.13. Under the final rule, Regulation B creditors making mortgage loans subject to § 1002.13 are allowed to collect the applicant's information using either the aggregate ethnicity and race categories, or disaggregated ethnicity and race categories and subcategories, as set forth in appendix B to Regulation C (the Regulation C appendix), as amended by the 2015 and 2017 HMDA Final Rules. The final rule will not require Regulation B creditors that are not HMDA reporters to change their § 1002.13 compliance practices, but would allow them to adopt voluntarily new practices for collecting applicant information, including practices that would permit such creditors to transition to the newly updated 2016 Uniform Residential Loan Application (2016 URLA).

Many HMDA reporters are also subject to the collection requirements of § 1002.13. For those HMDA reporters, the rule provides clarity that compliance with applicant information collection under Regulation C generally satisfies similar requirements under Regulation B.

The final rule also provides lenders additional flexibility regarding the collection of applicant ethnicity, race, and sex information in certain circumstances, when it is not otherwise required to do so by law. HMDA reporters who at some point no longer are required to comply with HMDA can continue to collect certain applicant information as provided for in § 1002.5(a)(4). These scenarios generally involve types of loans subject to Regulation C where a creditor voluntarily reports information under Regulation C, reported such information in the past five years, or may report such information in the near future.

Form Changes

The final rule makes certain changes to the Regulation B appendix. The rule amends the Regulation B appendix to provide two alternative forms to collect applicant ethnicity, race, and sex information. The use of these forms to comply with section 1002.13, is optional and is effective January 1, 2018. The final rule also removes an outdated version of the URLA (Universal Residential Loan Application), effective January 1, 2022.

1. A model form for collecting aggregate applicant race, ethnicity, and sex information
2. A cross reference to the Regulation C appendix model form, as revised by the 2015 and 2017 HMDA Final Rules, for collecting disaggregated applicant race, ethnicity, and sex information

The rule does not add the 2016 URLA to the Regulation B appendix. That form is subject to a separate *Federal Register* notice issued by the Bureau acknowledging its compliance with certain provisions of Regulation B.