Required Compliance for Commercial Loans Secured by Real Estate

SUPPLEMENT
Take-Away Tools

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JOINT INTENT

A simple form can be developed to show the evidence of joint intent AT THE TIME OF APPLICATION.

<table>
<thead>
<tr>
<th>Individual or Joint Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>I/We are applying for $___________ on _____________ (date) with ABC Bank.</td>
</tr>
</tbody>
</table>

( ) I am applying for individual credit in my own name and I am relying on my own income and assets and not on the income or assets of another person

( ) I am applying for individual credit and I am relying on my income and assets, as well as income or assets from other sources

( ) We are applying for joint credit

Signature(s)

________________________________________

________________________________________

________________________________________

________________________________________
BUSINESS APPLICATION TEMPLATE

These questions can be used to format a Business Application. There is no “model form” in the Appendix to Regulation B for this type of application.

<p>| 1. Date and | 20. (Financial information continued) Credit Relationships include Name of Creditor, loan purpose, original loan amount, balance outstanding, repayment terms, maturity date |
| 2. Branch location | 21. Loan Request includes |
| 3. New Relationship or | 22. Amount of loan requested $ ______ |
| 4. Existing Relationship | 23. Term of loan requested ______ |
| 5. Business Information includes: | 24. Loan type – select one ___ Line of Credit ___ Term Loan ___ Commercial Real Estate (residential property or other) |
| 6. Business Name | 25. Specific loan purpose – check all that apply ___ Working Capital ___ Finance purchase of inventory ___ Finance purchase of equipment ___ Finance purchase of Real Estate ___ Refinance Existing Loan or Debts |
| 10. Individual Names(s) | 29. Personal Business Experience if less than 5 years, describe previous experience. |
| 11. Individual Address | 30. Miscellaneous Information includes |
| 12. Individual Phone | 31. Current tax liabilities |
| 13. Individual Social Security Number | 32. Does the business endorse, guarantee or is a co-maker for an obligation not listed on the financial statement? Contingent liabilities? |
| 14. Individual Date of Birth | 33. Has the business or principal declared bankruptcy? Provide details if yes |
| 15. TYPE OF BUSINESS, Check one: ___ Sole Proprietorship ___ Partnership ___ Sub-Chapter S ___ Corporation ___ Non-Profit ___ LLC | 34. Are any of the business assets encumbered by liens or attachments of any type? Explain the liens, list the parties, and provide the amounts. Are there any unfunded pension liabilities? |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Ownership Distribution (Attach separate sheet if required. List stockholders, partners, owner names; number of years, % of ownership, social security numbers</td>
<td>35. Certification statement to authorize that credit reports or other information can be requested. Certification that the information is true, complete, and accurate. Certification that the applicant will inform the Bank immediately of any material changes, will retain the application and that the applicant will provide appropriate financial information as requested. Certification that the applicant will pay or reimburse the Bank for appropriate expenses for appraisals, surveys, title or mortgage examinations. Authorization to contact creditors is given.</td>
</tr>
<tr>
<td>17. Nature of Business includes: year established, number of employees, years at present location, own or lease premises; references and contact information for the accountant, insurance agent, attorney</td>
<td>36. Business Name is printed</td>
</tr>
<tr>
<td>18. Financial Information includes:</td>
<td>37. Applicant Signature Line &amp; Date</td>
</tr>
<tr>
<td>19. Name of financial institution and account number</td>
<td>38. Guarantor Signature Line &amp; Date</td>
</tr>
</tbody>
</table>

**BUSINESS LOAN APPLICATION CHECKLIST**

Please be sure that all the following documentation has been included in order for your business loan application to be processed.

- Business Loan Application
- Current Personal Financial Statement for each of the principal owners listed in the first section of the Business Loan Application
- Three (3) most recent Federal Tax returns, signed and dated, for each of the principal owners listed in the first section of the Business Loan Application
- Three (3) most recent years of financial statements for the business, preferably prepared by an accountant or audited financial statements
- Interim Financial Statements for the business, if available
- Organizational Papers (Articles of Organization, Certificate of Incorporation, d/b/a papers, Partnership Agreement, By-Laws, Certificate of Good Standing, Non-Profit proof of status, other state license information
- CIP Worksheet
BUSINESS LOAN AND COLLATERAL CHECKLIST

BUSINESS LOAN

USE THIS CHECKLIST IF LOAN PROCEEDS WILL BE USED FOR BUSINESS OR AGRICULTURAL PURPOSES.
LOOK AT PURPOSE OF LOAN . . . COLLATERAL IS IRRELEVANT.

NEVER APPLICABLE
RESPA
Early TIL Disclosures
ARM Disclosures
Right of Rescission
HOEPA / HPML
Waiting Periods
Federal Insurance Disclosures
Risk-Based Pricing
Disclosures
Privacy Notice
Non-HMDA Monitoring
Risk-Based Pricing
Disclosures

APPLICABLE AS USUAL
No Discrimination
Joint-Credit Statement
Adverse Action Notices
ECOA Copy-of-Appraisal Rules
Flood Insurance
Appraisals and Evaluations
Environmental Rules
HMDA
Article 9 Collateral Rules

HMDA WILL APPLY IN ANY OF THE FOLLOWING SITUATIONS:
• Loan is to purchase a dwelling and is secured by a dwelling;
• Loan is to improve a dwelling and is either (i) secured by a dwelling or (ii) classified as a home improvement loan or;
• Loan is a refinancing (any purpose) and both old/new loan is secured by a dwelling.

DOES HMDA APPLY?  Yes  No

NOTE:  HMDA will not apply to a loan to purchase farm property, even if there is a dwelling on that property.

APPLICANT
_________________________________________
_________________________________________

APPLICATION DATE

APPLICATION DATE

LOAN TYPE

☐ New loan
☐ Refinancing

BORROWING ENTITY
☐ Sole Proprietorship
☐ Individuals Acting Jointly
☐ General Partnership
☐ Limited Liability Company (LLC)
☐ Corporation
☐ Limited Partnership
☐ Limited Liability Partnership

DURING APPLICATION PROCESS

☐ If joint credit, applicants sign/initital a joint-credit statement.

☐ If existing customer, resolve existing exceptions.

☐ If HMDA and applicant is a natural person, get monitoring data.

☐ Obtain authorization to get information.

☐ If loan will purchase real estate, get copy of purchase contract.

If loan secured by already-owned real estate, get copies of:

☐ Deed
☐ Title work
☐ Appraisal
☐ Existing mortgage

☐ If loan secured by real estate, order a survey.

☐ If zoning will affect business, determine if appropriate.

☐ If secured by first lien on a dwelling, provide the ECOA copy-of-appraisal notice within 3 business days after application.

☐ If applicant/owner is a trust, obtain (i) trust copy/certification.

☐ Check for lending limit and.

CIP – NEW APPLICANTS ONLY

☐ Obtain CIP information before making the loan.

☐ Verify customer identity within reasonable time.

ENVIRONMENTAL RISK ANALYSIS – IF REAL PROPERTY

Past and present uses of the property:

Government agency contacts?

Other relevant information?

ENTITY DOCUMENTATION

CORPORATION

☐ Articles of Incorporation
☐ Bylaws
☐ Corporate Resolution
☐ Certificate of Good Standing

LIMITED LIABILITY COMPANY (LLC)

☐ Articles of Organization
☐ Operating Agreement
☐ Resolution
☐ Certificate of Good Standing

GENERAL PARTNERSHIP

☐ Partnership Agreement
☐ Resolution

LIMITED LIABILITY PARTNERSHIP

☐ Statement of Qualification
☐ Partnership Agreement
☐ Resolution
☐ Certificate of Good Standing

SOLE PROPRIETORSHIP

☐ Identification of sole proprietor
☐ Tax returns
☐ Other financial data

FINANCIAL INFORMATION

☐ Financial statements
☐ Tax returns
☐ Other
### GUARANTORS
- If a new customer, identify (CIP procedures would work)
- If non-individual, obtain entity documentation.
- If non-individual, check on authorization to guarantee the loan.
- Obtain financial information showing ability to repay.

### APPRAISAL/EVALUATION - IF REAL PROPERTY
- Order new appraisal
- Conduct new evaluation (use county tax data as basis)
- Select one
- Use existing appraisal or evaluation (must verify validity)
- Review appraisal or evaluation

### COPY OF VALUATION
- If first mortgage, deliver copy of valuation (appraisal or evaluation) promptly upon completion . . . at least 3 business days before closing (or obtain waiver and provide by closing).

### ADVERSE ACTION (IF APPLICABLE)
- SMALL BUSINESS – Notice of Adverse Action within 30 days
- BIG BUSINESS - Notify within reasonable time

### FLOOD INSURANCE – IF SECURED BY BUILDING
- Obtain flood hazard determination (or recertification)
- If in SFHA, give Notice and get acknowledgement
- If in SFHA and participating community, require flood insurance
- If insurance is required, have in place before closing

### KEY MAN INSURANCE
- If an individual is indispensible, consider key man insurance

### LOAN-TO-VALUE LIMITS
- Ensure that the Bank complies with the loan-to-value limits

### MORTGAGE
- Obtain completed mortgage (or deed of trust).
- If real estate has improvements, verify insurance coverage.

### OBTAIN SECURITY INTEREST
- LIFE INSURANCE - Assignment of Life Insurance
- CERTIFICATE OF DEPOSIT OR DEPOSIT ACCOUNT - Assignment
- INVESTMENT PROPERTY (STOCKS, BONDS) – Assignment
- OTHER COLLATERAL - Commercial Security Agreement

### PERFECT SECURITY INTEREST
- FARM PRODUCTS
  - List of potential buyers
  - Pre-notification to buyers
  - UCC-1 filed centrally
- TITLED VEHICLES
  - Note lien on title
- FIXTURES
  - UCC-1 filed locally
- CERTIFICATE OF DEPOSIT
  - Possession
- BEARER STOCK CERTIFICATE
  - Possession
- REGIST STOCK CERTIFICATE
  - Possession + Endorse/Re-registration
- UNCERTIFICATED SECURITY
  - Written agreement
- MOST OTHER COLLATERAL
  - UCC-1 filed centrally

### ADDITIONAL STEPS TO PROTECT COLLATERAL
- If secured by equipment/vehicles, verify insurance coverage.
- If collateral on leased property, obtain landlord’s lien waiver.
- If PMSI in inventory or livestock, notification to lienholder.
- If perfected by filing, UCC lien search to determine priority.

### PREPARE FOR CLOSING
- Promissory note / Guarantee
- Mortgage / Security Agreement
- Assignment of insurance / stock / deposit account / rents and leases
- Landlord’s lien waiver
- List of potential buyers
- If HMDA applies, obtain LAR data
- Schedule closing date, time, signers
- If loan is secured by real estate, coordinate with closing agent
- Prepare and mail instruction letter to closing agent

### AT CLOSING
- Ensure that documents are signed, dated and initialed
- Collect any funds due from borrower

### AFTER CLOSING
- Record or file the following documents, as appropriate:
  - Mortgage or deed of trust (must be notarized)
  - Assignment of leases and rents
  - UCC financing statement
  - Conduct a UCC lien search to verify Bank’s filing
  - Review documents; organize/assemble files; book loan
  - Document and record exceptions
  - Verify accuracy of “uploaded” information

### NOTES AND INSTRUCTIONS
FREE DOWNLOADS FOR REAL ESTATE SECURED CHECKLISTS

You can go DIRECTLY to this website to download loan checklists for real estate secured loans.

http://www.bankerscompliance.com/compliance-resources/free-downloads.htm

The individual checklists are not provided in this supplement because of format issues. Go directly to the website to download Loan Checklists for application taken on or after October 3, 2015

You will find these checklists in WORD; they can be modified for your use:

1. Consumer-Purpose Closed-End Secured by REAL PROPERTY
2. Home Equity Line of Credit
3. Agricultural/Commercial Purpose Real Estate Loan

A sample of the Agricultural/Commercial Purpose Real Estate Loan is shown on the next page as a pdf and can NOT be modified; however the LEGAL size Word Version can be downloaded and MODIFIED for your bank’s use.
AGRICULTURAL/COMMERCIAL-PURPOSE REAL ESTATE LOAN
This checklist is intended to comply with the general requirements. It may not fit every scenario.

BORROWER: ____________________________________________  LOAN OFFICER: _______________________

CLOSING DATE: _____________________________

PURPOSE/COMMENTS: ____________________________________________________________

_________________________________________________________________________________

_________________________________________________________________________________

At application:

1. Application _____________________________ Date Received: ___________________________
   (name, physical address, SSN or EIN, date of birth-if applicable)

2. CIP information obtained _____________________________

3. Joint Intent – Reg B _____________________________

4. HMDA Banks: Government Monitoring Information (race, sex, ethnicity)
   Collect for home purchase loans (unless the loan is primarily for agricultural purposes), home improvement loans, and refinance loans

Within 3 business days of application:

1. Appraisal Disclosure _____________________________
   If secured by 1st lien on a 1-4 family dwelling

Prior to closing:

1. Flood Hazard Determination Form _____________________________
   SFHA? ___ Yes ___ No  Multiple Buildings? ___ Yes ___ No

2. Flood Notice (if in flood zone) _____________________________
   Provide a reasonable time prior to closing or no later than commitment

   signed by borrowers

3. Verify CIP information _____________________________

4. Copy of Appraisal _____________________________
   If secured by 1st lien on a dwelling – Provide promptly and at least 3 business days prior to closing

Closing:

1. Note signed _____________________________

2. Insurance _____________________________
   Hazard insurance

3. Flood insurance _____________________________
   Verify address; flood zone; adequate coverage; effective date; mortgagee

Final Loan File Review: __________________________________________________________

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# New Business Account Checklist

<table>
<thead>
<tr>
<th>Type of Business</th>
<th>Corporation</th>
<th>LLC</th>
<th>Partnership</th>
<th>Non-Profit</th>
</tr>
</thead>
</table>

**Business Application:**
- Completed [ ]
  - Sections A-C

**Signature Card:**
- Completed [ ]
  - Section D

**Business Resolution:**
- Completed [ ]
  (attached to Bus. App – make sure that member signs for correct business type.

**Business Documentation Copied** (See Business Matrix for requirements):
- Completed [ ]

**Copies of two forms of ID’s:** Must follow CIP Guidelines
1. Drivers License
2. Passport
3. Military ID
4. Arizona I.D.
5. Any other Federally or State issued ID with a picture
6. Social Security Card
7. Birth Certificate
8. Work ID

**Authentication on business entity:**
- Completed [ ]

**Authentication on each signer, owner and/or managing agent or partner:**
- Completed [ ]

**Account set up in Juice**
- Completed [ ]

**Business check order taken**
- Completed [ ]

**Debit Card Order Submitted to Accounting Department:**
- Completed [ ]

**Business Checking Approval:**
- Loan Officer ____________________________ Approved [ ] Denied [ ]

**File Completed** [ ]

**Audited By:** ________________________ Date: _____________
<table>
<thead>
<tr>
<th>Type of Business</th>
<th>Example Name of Business</th>
<th>Acceptable Documentation</th>
<th>CIP Information Requirement</th>
<th>CIP ID requirements – two forms of ID</th>
</tr>
</thead>
</table>
| Sole Proprietorship   | Jane Doe DBA Jane's Crafts and Things (1 Owner – in Arizona a husband and wife can operate a Sole Proprietorship) | State Business License OR EIN Identifying Business and Owner Resolution and Signature card | Name, Address, Date of birth, social security number on business owner                    | Drivers License  
|                       |                                                                                           |                                                                                       |                                                                                             | Passport  
|                       |                                                                                           |                                                                                       |                                                                                             | Military ID  
|                       |                                                                                           |                                                                                       |                                                                                             | Arizona I.D.  
|                       |                                                                                           |                                                                                       |                                                                                             | Any other Federally or State issued ID with a picture  
|                       |                                                                                           |                                                                                       |                                                                                             | Social Security Card  
|                       |                                                                                           |                                                                                       |                                                                                             | Birth Certificate |
| Partnerships          | Smith and Smith (ALL PARTNERS MUST BE SIGNERS ON THE ACCOUNT; NO EXCEPTIONS)               | Statement of Partnership Authority (if filed with Secretary of State) and/or Partnership Agreement Resolution and Signature card | Name, Address, EIN on Business And Name, Address, Date of birth, social security number on each partner/business owner | Drivers License  
|                       |                                                                                           |                                                                                       |                                                                                             | Passport  
|                       |                                                                                           |                                                                                       |                                                                                             | Military ID  
|                       |                                                                                           |                                                                                       |                                                                                             | Arizona I.D.  
|                       |                                                                                           |                                                                                       |                                                                                             | Any other Federally or State issued ID with a picture  
|                       |                                                                                           |                                                                                       |                                                                                             | Social Security Card  
|                       |                                                                                           |                                                                                       |                                                                                             | Birth Certificate |
| Limited Partnership   | Smith and Smith, LTD General Partners/Limited Partners                                     | Statement of Partnership Authority (if filed with Secretary of State) and/or Certificate of Limited Partnership (stamped filed by Secretary of State) Partnership Agreement Resolution and Signature card | Name, Address, EIN on Business And Name, Address, Date of birth, social security number on each partner/business owner | Drivers License  
|                       |                                                                                           |                                                                                       |                                                                                             | Passport  
|                       |                                                                                           |                                                                                       |                                                                                             | Military ID  
|                       |                                                                                           |                                                                                       |                                                                                             | Arizona I.D.  
|                       |                                                                                           |                                                                                       |                                                                                             | Any other Federally or State issued ID with a picture  
|                       |                                                                                           |                                                                                       |                                                                                             | Social Security Card  
|                       |                                                                                           |                                                                                       |                                                                                             | Birth Certificate |
| Corporations          | Smith, Incorporated Corporation owns – Secretary must sign the account resolution          | Articles of Incorporation (filed with the Arizona Corporation Commission) Identification of Corporate Secretary (Minutes) Resolution and Signature card | Name, Address, EIN on Business/Corporation And Name, Address, Date of birth, social security number on each owner/signer | Drivers License  
|                       |                                                                                           |                                                                                       |                                                                                             | Passport  
|                       |                                                                                           |                                                                                       |                                                                                             | Military ID  
|                       |                                                                                           |                                                                                       |                                                                                             | Arizona I.D.  
|                       |                                                                                           |                                                                                       |                                                                                             | Any other Federally or State issued ID with a picture  
|                       |                                                                                           |                                                                                       |                                                                                             | Social Security Card  
|                       |                                                                                           |                                                                                       |                                                                                             | Birth Certificate |
REQUIRING SIGNATURES FOR AN APPLICATION & GUARANTORS

Regulation B prohibits a lender from requiring the signature of non-applicant parties to become liable for debts (i.e. spouses)

Regulation B 1002.7 says: (d) **Signature of spouse or other person**—(1) **Rule for qualified applicant.** Except as provided in this paragraph, a creditor shall not require the signature of an applicant’s spouse or other person, other than a joint applicant, on any credit instrument if the applicant qualifies under the creditor’s standards of creditworthiness for the amount and terms of the credit requested. A creditor shall not deem the submission of a joint financial statement or other evidence of jointly held assets as an application for joint credit.

However, a creditor can require non-applying parties to sign any security document that is needed to perfect an interest in pledged collateral.

So…Mrs. Smith applies (as the sole applicant) for a loan secured by an interest in her primary dwelling. The primary dwelling in jointly owned with Mr. Smith. This is how the application, note, and security agreement (mortgage) would be signed:

- Mrs. Smith signs the application, note, and security agreement (mortgage)
- Mr. Smith only signs the security agreement (mortgage)

When can additional parties be requested to apply?

Here’s what it says in Regulation B 1002.7(d)(5) about additional parties:

(5) **Additional parties.** If, under a creditor’s standards of creditworthiness, the personal liability of an additional party is necessary to support the credit requested, a creditor may request a cosigner, guarantor, endorser, or similar party. The applicant’s spouse may serve as an additional party, but the creditor shall not require that the spouse be the additional party.

The commentary to this section says:

Paragraph 7(d)(5)

1. Qualifications of additional parties. In establishing guidelines for eligibility of guarantors, cosigners, or similar additional parties, a creditor may restrict the applicant’s choice of additional parties but may not discriminate on the basis of sex, marital status, or any other prohibited basis. For example, the creditor could require that the additional party live in the creditor’s market area.
1. If the applicant lacks sufficient separate property, a creditor must value applicant's interest in jointly owned property.

2. The requirement for the guarantee must be based on the guarantor's relationship with the business. A creditor must evaluate the financial circumstances of the partners, etc. before determining if the joint property owner's signature would be required.

3. Follow the chart regarding individual unsecured or secured credit.

4. For example, an instrument to create a valid lien, pass clear title, waive inchoate rights or assign earnings. A creditor may require both property owners to sign the credit and security agreements, if required under state law.


**NOTE:** - This is NOT information provided by other bank regulators, but it does represent analysis of the Equal Credit Opportunity Regulation, which does apply to all banks.
GUARANTORS

Regulation B addresses the question of guarantors and spousal guarantees in the commentary to 1002.7 (rules concerning the extension of credit)

Paragraph 7(d)(6)

1. Guarantees. A guarantee on an extension of credit is part of a credit transaction and therefore subject to the regulation. A creditor may require the personal guarantee of the partners, directors, or officers of a business, and the shareholders of a closely held corporation, even if the business or corporation is creditworthy. The requirement must be based on the guarantor’s relationship with the business or corporation, however, and not on a prohibited basis. For example, a creditor may not require guarantees only for women-owned or minority-owned businesses. Similarly, a creditor may not require guarantees only of the married officers of a business or the married shareholders of a closely held corporation.

2. Spousal guarantees. The rules in § 1002.7(d) bar a creditor from requiring the signature of a guarantor’s spouse just as they bar the creditor from requiring the signature of an applicant’s spouse. For example, although a creditor may require all officers of a closely held corporation to personally guarantee a corporate loan, the creditor may not automatically require that spouses of married officers also sign the guarantee. If an evaluation of the financial circumstances of an officer indicates that an additional signature is necessary, however, the creditor may require the signature of another person in appropriate circumstances in accordance with § 1002.7(d)(2).

Some additional guidance is available on signature requirements from these sources:


NOTE: This is NOT information provided by the OCC or Federal Reserve, but it does represent analysis of the Equal Credit Opportunity Regulation, which does apply to all Banks.
REGULATION B – TO DO AND NOT TO DO

DO:
1. Document WHEN the application was first received by the bank.
2. SUGGESTION: GET A DATE STAMP AND USE IT!!
3. Document WHEN the information was fully completed for the type of credit requested.
4. SUGGESTION: Use a “comment log” that documents the application process
5. If the information was incomplete, document the efforts made to obtain the required information.
6. Document HOW the application was received (in-person, phone, by mail, e-mail, internet)
7. Document WHO applied. Was it a joint application? Were both applicants physically present? If it was a phone application, did you ASK if it was a joint application? A person’s intent to be a joint applicant must be evidenced at the time of application. (Per commentary to Reg B 1002.7(d)(1)#3 AND “signatures on a joint financial statement affirming the veracity of information are not sufficient to establish intent to apply for joint credit.” Translation – have them initial at the top of the model applications that they wish to jointly apply for credit!!
8. Document WHAT the application was for – was it a secured or unsecured request?
9. Document the lien position for dwelling secured loans. If it is a first-lien, regardless of consumer or business purpose, follow the appraisal copy requirements. Provide the appraisal notice, provide the copy of the appraisal, follow the timing rules before closing the loan or opening the account, as applicable follow the waiver options.
10. Do use the model application forms from Regulation B.
11. If REAL ESTATE is involved, determine what other regulations may apply. IF THIS IS A CONSUMER PURPOSE REQUEST it IS subject to HMDA, RESPA, Reg Z early disclosures, new ABILITY TO REPAY rules, appraisal copy rules, provide Home Ownership Counseling list for consumer purpose loans. Remember to complete Flood determination and provide notice if the collateral is in a SFHDA, credit score disclosures, and the SAFE Act MLO identification information?
12. Collect the monitoring information, if required. Document if the applicant(s) declined to provide the information for an in-person application and that the lender noted it based on visual observation or surname.
13. Document any CHANGES to the original credit request (amount, collateral, etc.)
14. Notify the applicant(s) of the credit decision within 30 days of a completed application.

DON’T:
1. Don’t give the applicant a “decision” about their chances of qualifying for a loan during a loan inquiry. Simply state the general qualifications for that type of loan and encourage them to submit an application for full consideration.
2. Don’t require non-applicant parties to become liable for the debt (i.e. spouses)
3. Don’t forget to REQUEST monitoring information (when required) in a phone application. Don’t forget to document joint intent at the TIME of application.
## REG B CHEAT SHEET APPRAISAL COPY RULES

<table>
<thead>
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<th><strong>REG B APRAISAL COPY RULE</strong></th>
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<td><strong>Changes to Reg B</strong></td>
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<tr>
<td><strong>When?</strong></td>
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<td><strong>What’s new?</strong></td>
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<tr>
<td><strong>Timing</strong></td>
</tr>
<tr>
<td><strong>Waiver</strong></td>
</tr>
<tr>
<td><strong>Loan doesn’t close</strong></td>
</tr>
<tr>
<td><strong>Consumer only</strong></td>
</tr>
</tbody>
</table>
| **What definitions are new?** | Dwelling still means a residential structure of one to four units, whether or not attached to real property. Dwelling does not include a “motor vehicle” (i.e. cars, trucks, motorcycles, recreational boats & marine equipment, motor homes, campers) 
**Valuation** – means any estimate of the value of a dwelling developed in connection with an application for credit. |
| **Timing and disclosures** | ✓ The disclosure of “Right to Receive a Copy of Appraisals” must be provided 3 business days from the application date 
✓ A copy of each appraisal or written valuation must be given promptly on completion or 3 business days before closing for a closed-end request or account opening for open-end credit; whichever is earlier unless there is a waiver. |
| **What is the new disclosure form?** | C-9 has been revised; it’s “Sample Disclosure of Right to Receive a Copy of Appraisals.” The “Integrated Disclosures” will have an appraisal notice for covered CONSUMER LOANS. Continue to use the C-9 Disclosure for FIRST LIEN DWELLING SECURED BUSINESS APPLICATIONS! |
| **What can go wrong?** | ✓ Copy is required even if the application is incomplete, denied, withdrawn, offered but not accepted. This is not just for closed loans. 
✓ Can’t charge the applicant for the cost of the copy; you CAN charge for the appraisal 
✓ Can be provided electronically, but only if E-SIGN is followed (unless application was electronic) 
✓ This applies to business loans if there is a first-lien on a dwelling 
✓ Be careful with waiver documentation for the 3 business day timing; the commentary says the waiver can be done orally or in writing. There are restrictions for Non-QM HPML appraisals; they have their own set of rules |
| ✔ Get the waiver at least 3 business days before closing unless is only for a copy of an appraisal/valuation that was changed for clerical reasons from a previous version that was given within the timing requirements. |
| ✔ At the time of application the loan was going to be a subordinate lien and it’s later determined that it WILL be a first lien, the notice must be mailed or delivered no later than 3 business days after determining the first lien position |

**Who knew?**

This change actually REDUCES the scope of appraisal coverage to first lien applications secured by a dwelling. Copies MUST be provided under this new rule; the “old” rule gave the applicant a right to request a copy or the lender routinely provided copies.

**Bottom line**

Provide a notice and provide a copy within the time frames

### Form C-9—Sample Disclosure of Right to Receive a Copy of Appraisals.

We may order an appraisal to determine the property’s value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close.

You can pay for an additional appraisal for your own use at your own cost.
STEP BY STEP HMDA CONTROLS

There are twenty-six data fields on the HMDA LAR. The only way to avoid compliance headaches with this complicated regulation is to have adequate internal control procedures to collect and verify the data.

HMDA LAR DATA FIELDS AND CONTROL METHODS

**BEST PRACTICES FOR FILE DOCUMENTATION**

1. Create a **HMDA file folder** for each LAR entry that can be verified by a person or team that is knowledgeable in HMDA procedures. Make these files available to the regulator during a compliance exam so the HMDA integrity review for accuracy will be limited to HMDA information.
2. Label EACH data field in this file with the numbers that correspond to the HMDA LAR (1-26)
3. Highlight each data field on the source document next to the number of the data field.
4. Perform a second review of the data; this can be done by an outside party or audit staff. Depending on the risk factors (past HMDA violations, rapid growth, decentralized processing, etc) the second file review may be a percentage of the LAR entries or it may require 100% coverage.
5. Sign-up for the FFIEC e-mail alerts for HMDA; maintain a current copy of the “HMDA Getting it Right Guide”
6. Revised written procedures as needed when changes are made to HMDA or deficiencies are noted in audits and exams.
7. Train new employees; provide refresher training for all lending employees. Annual training is not required but should be done in accordance with exam and audit findings.

<table>
<thead>
<tr>
<th>DATA FIELD</th>
<th>CONTROL METHOD</th>
<th>COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Application or Loan Number</td>
<td>Loan number if originated; unique code number if denied, withdrawn, or approved and not accepted – this may be date of application with a “D”, “W” or “A”.</td>
<td>Do not use social security number or other personally identified information</td>
</tr>
<tr>
<td>2. Date Received</td>
<td>Date indicated on Consumer or Commercial Approval Worksheet for originated loans; date that the application received on denied/withdrawn loan worksheet.</td>
<td>Common error if the applications are not date-stamped or systematically created in loan application software. Often a problem with business purpose loans and there may not be a commercial loan application</td>
</tr>
<tr>
<td>3. Loan Type</td>
<td>Usually conventional loans</td>
<td>Can be a problem if there is a great deal of secondary market activity. Use software to populate this data field if possible</td>
</tr>
<tr>
<td>4. Property Type</td>
<td>Real Estate collateral codes on Boarding Data sheet and collateral description on Approval worksheet; also indicated on HMDA reporting information worksheet.</td>
<td>These are the property types to verify: 1. One to four-family (other than manufactured housing) 2. Manufactured housing 3. Multi-family</td>
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<tr>
<td></td>
<td>Property type for denied or withdrawn or approved but not accepted loans is indicated on Denied-Withdrawn Worksheet</td>
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</tbody>
</table>
| 5. Purpose of Loan | Purchase (must be secured by a dwelling) Collateral & purpose driven  
Home improvement – can be secured or unsecured (purpose driven)  
Refinance – purpose doesn’t matter, collateral driven |
|   | Problems for multi-purpose loans. Remember that purchase trumps all, home improvement trumps refinance.  
Another problem area is a construction loan that is being converted to a permanent loan – typically reported as a purchase loan |
| 6. Occupancy | Use codes on boarding data if originated; require this information in the application process |
|   | Use not owner-occupied (Code 2) for second or vacation homes and rental properties. Use not applicable (Code 3) for multi-family loans or if the property is not in an MSA or is in an MSA where your bank doesn’t have a branch. |
| 7. Loan Amount | Use the amount of the note if originated; use the application amount if denied, withdrawn, or approved but not accepted |
|   | Highlight loan amount on note for originated loans, highlight loan amount on application or adverse action notice.  
Loan amounts are ROUNDED to the nearest $1,000; example: a loan for $167,300 would be 167 and $15,500 would be 16. |
| 8. Pre-approval Code | Always 3 if there is no pre-approval program. |
|   | Can be a high error field when beginning a pre-approval program |
| 9. Action Taken Type | 1. Loan originated  
2. Application approved, not accepted.  
3. Application denied  
4. Application withdrawn by applicant  
5. File closed for incompleteness  
6. Loan purchased by financial institution  
7. Preapproval request denied  
8. Preapproval request approved by not accepted (optional) |
|   | 1. Have copy of the note in file  
2. Documentation should be clear.  
3. Copy of adverse action notice  
4. Document date of withdrawal, only use if it was prior to the credit decision  
5. Copy of adverse action notice  
7. Documentation should be clear and copy of letter.  
8. Documentation should be clear and support the preapproval program guidelines. |
<p>| 10. Action Taken Date | Date of loan if originated, denial date, withdrawal date, date that customer declined loan approval |
|   | Copy of note, highlight date; copy of denial; file documentation of withdrawal notice or note to file that customer did not accept approval. |</p>
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<tbody>
<tr>
<td>11. MSA/MD</td>
<td>FFIEC website</td>
<td>Make sure you have geo-coded the correct property and used the CORRECT geo-code year; don’t use appraisal or flood determination information unless verified to FFIEC.</td>
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<tr>
<td>12. State</td>
<td>“”</td>
<td>“”</td>
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<td>13. County (Parish)</td>
<td>“”</td>
<td>“”</td>
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<tr>
<td>14. Census Tract</td>
<td>“”</td>
<td>“”</td>
</tr>
<tr>
<td>15. Ethnicity (Applicant)</td>
<td>Request for in-person applications (must make visual observation or surname if the applicant declines to provide it) Read during phone applications; request for mailed applications.</td>
<td>If the borrower is not a natural person (corporation or partnership) use the code for “not applicable”. The FDIC requires monitoring info for a sole proprietor.</td>
</tr>
<tr>
<td>16. Ethnicity (Co-Applicant)</td>
<td>“”</td>
<td>If there is more than one co-applicant, provide monitoring info for the first co-applicant listed.</td>
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<tr>
<td>17. Race (Applicant)</td>
<td>Applicants can select more than one race, enter all codes they designate.</td>
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<tr>
<td>18. Race (Co-Applicant)</td>
<td>If there is more than one co-applicant, provide monitoring info for the first co-applicant listed.</td>
<td></td>
</tr>
<tr>
<td>19. Sex (Applicant)</td>
<td>If the borrower is not a natural person (corporation or partnership) use the code for “not applicable”. The FDIC requires monitoring info for a sole proprietor.</td>
<td></td>
</tr>
<tr>
<td>20. Sex (Co-Applicant)</td>
<td>If there is more than one co-applicant, provide monitoring info for the first co-applicant listed.</td>
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</tr>
<tr>
<td>21. Income</td>
<td>The gross income your institution used to make the credit decision. If no income was asked or relied on enter NA.</td>
<td>Round to the nearest thousand. Report $35,500 as 36. If the borrower is not a natural person (corporation or partnership) use the code for “not applicable”. Loans for multi-family should use NA for income.</td>
</tr>
<tr>
<td>22. Purchase Type</td>
<td>See codes in the Guide</td>
<td>Enter the code sold to the secondary market within the same calendar year.</td>
</tr>
<tr>
<td>23. Reasons for denial</td>
<td>Optional; see codes</td>
<td><strong>REQUIRED for OCC banks</strong></td>
</tr>
<tr>
<td>24. Rate Spread</td>
<td>Report for purchase, refinancing, or dwelling secured home improvement loans that are made for a consumer purpose that are originated. CRITICAL to document the <strong>date the interest rate was set for the final time before closing.</strong></td>
<td>Do NOT report rate spreads for loans that aren’t subject to Reg Z or unsecured home improvement loans. The format is 03.29 (leading zero and two decimal places; rounded if more than two decimals). Make sure that the lien status is accurate.</td>
</tr>
<tr>
<td>25. HOEPA status</td>
<td>Report as code 1 for loans subject to HOEPA that were originated</td>
<td></td>
</tr>
<tr>
<td>26. Lien Status</td>
<td>Use the collateral codes on the boarding data as documentation</td>
<td>The accuracy of lien status is critical for determining rate spreads correctly.</td>
</tr>
</tbody>
</table>
FLOOD INSURANCE RESOURCES
NFIP & H2O Resources

NFIP uses H2O Partners for training resources. These are NOT government employees, but are contract employees.

These are listed as resources for Outreach & Training

- FEMA: www.fema.gov
- ASFPM: www.floods.org
- NFIP: www.fema.gov/national-flood-insurance-program-training-workshops-and-conferences
- NFIP: www.floodsmart.gov

You can sign-up for e-mail alerts for FREE training


NFIP Lender Training Options
See this link:

Training for Lenders is available in several modes: Instructor-Led Webinars, Recorded Webinars that can be viewed at your convenience, and live seminars scheduled as part of the programming at national lender conferences.

Please write to us at nfiptraininginfo@h2opartnersusa.com or call (888) 318-5112 with your National Flood Insurance Program training-related questions. We are happy to assist you

FDIC


The FDIC posted several training videos on their website:

http://www.fdic.gov/regulations/resources/director/technical/flood.html

I. Overview and Key Requirements
II. Building an Effective Compliance Management System
III. Common Violations and Consequences of Noncompliance
IV. Frequently Asked Questions
V. Review and Additional Resources
SAMPLE FAIR LENDING POLICY

A bank cannot discriminate on a prohibited basis regarding any aspect of a credit transaction. You “discriminate” whenever you treat any person less favorably than others. This prohibition applies to all dealings between customers and loan applicants and the bank, including the following:

- Application procedures
- Information requirements
- Investigation procedures
- Standards of creditworthiness, including criteria to evaluate creditworthiness
- Terms of credit
- Furnishing of credit information
- Revocation
- Alteration
- Administration of credit accounts
- Treatment of delinquent or slow accounts
- Termination of credit
- Collection procedure

Sample Fair Lending Policy for ABC Bank

ABC Bank is committed to serving the credit needs of our entire service market. It is our policy to respond to all applicants for credit without regard to any of the factors enumerated below. We believe that doing so is basic to good business practice and to our own long-term vitality.

A. Disparate treatment

ABC Bank will not tolerate illegal discrimination by any of our officers, employees, or agents against any current or potential customer on the basis of the following characteristics (“prohibited bases”)

- Race
- Color
- National origin
- Sex
- Marital status
- Age (provided that the applicant has the capacity to enter into a binding contract)
- The fact that all or part of the applicant’s income derives from any public assistance program.
- The fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act or any similar state law designated by the Federal Reserve Board.
- Discrimination is also prohibited on the following two bases regarding any aspect of housing credit:
  - Handicap
  - Familial status (having children under the age of 18)
Discrimination is prohibited if it is based on any of the enumerated factors in relation to any customer, to an officer of a business, or to any individuals with whom a customer is affiliated or with whom he or she associates. This means, for example, that no discrimination is permitted against a customer because of that person’s personal or business dealings with members of a certain religion.

B. Disparate Impact
ABC Bank is committed to assuring that its policies and practices do not have an adverse effect on customers or applicants on a prohibited basis. Such a result is not only unfair to the applicants involved, but can deprive the bank of valuable business it might otherwise obtain. All lending-related policies and procedures (credit and appraisal standards, loan underwriting, processing, and servicing procedures, and so forth) will be reviewed on a regular basis. The goal of this review is to assure that there are no standards and practices present that amount to arbitrary or unreasonable measures of creditworthiness or treatment, and that may have an unintentional discriminatory effect.

C. Prevention and detection
ABC Bank will strive to prevent illegal discrimination from happening and will endeavor to detect it if it should occur. We will follow a strategy that will consist of training for all loan and customer-service personnel, a second review program for applications slated for denial, and a self-assessment mechanism.

1. Training. All loan and customer-service personnel will be provided with training appropriate to their job description and responsibilities in fair lending issues. This will include information regarding both technical requirements that come into play, as well as the more substantive and often subtle issues related to unintentional discrimination and quality of assistance.

2. Second Review. A program of taking a second look at all or a random statistically representative sample of applications from low- to moderate-income individuals that are slated for denial by the front-line loan officer or underwriter will be established. A loan officer(s) will conduct the second review or others experienced in credit underwriting who have no involvement with the original application and underlying transaction.

The purpose of the second review will not be to conclude if a denial is justified, but to determine if there is some way that the loan can be made. The second review ultimately will be applied for all types of consumer and small business/farm credit.

3. Self-Assessment. The fair lending self-assessment program will include traditional monitoring and audit processes.

D. Technical compliance
The compliance officer, working with the bank’s loan personnel and management, and legal counsel, will assure that we meet the procedural requirements of the fair lending laws and regulations, including:
1. Written Applications/Monitoring Information. Any application taken by ABC Bank must be in writing if it is for credit that is primarily to finance or refinance the purchase of a dwelling that is, or will be the applicant’s primary residence and is secured by the dwelling.

In addition, we must collect the following information about each applicant for such a loan: race or national origin; sex; marital status; age; and any additional data required by our regulator’s fair housing regulation.

2. Proper Notification. Applicants for credit must be notified of the action being taken on their applications within 30 calendar days after we receive an application. Any written notice of adverse action (denial or counteroffer) must include: our name and address; a statement of the action taken; a statement of the specific reasons for the action (or of the applicant’s right to request the reasons); and the standard Equal Credit Opportunity Act (ECOA) notice found in Regulation B (including the name and address of the federal agency that administers our compliance with the ECOA).

Any written notice of incompleteness must include statements requesting the information needed from the customer; specifying a reasonable period of time or the date by which we must receive the missing information; and noting that failure to provide the requested information will result in no further consideration being given to the application.

3. Lobby Notice. The current Equal Housing Lender poster must be posted prominently in all of our offices as required by 12 CFR §701.31.

E. Responsibilities

1. Board of Directors. The Board of Directors will formally adopt our fair lending policy statement. In addition, the Board will remain informed of our fair lending performance through periodic evaluation of internal and agency examination reports. The Board will hold ABC Bank personnel accountable for our fair lending performance.

2. Senior Management. The chief executive officer and other senior managers of ABC Bank will assure that an appropriate fair lending program is established to comply with the policy stated above. Senior management will also assure that a positive fair lending culture exists in ABC Bank, beginning with their example and behavior. Senior management will hold ABC Bank personnel accountable for fair lending performance.

3. Compliance Officer. ABC Bank’s compliance officer will monitor our fair lending performance through the regular compliance review process. The compliance officer will report to the Board on a regular basis regarding our fair lending performance.

4. Other Staff. All personnel are expected to cooperate with and support our fair lending compliance efforts. Staff will be held accountable for any lack of cooperation that weakens our fair lending performance, as reflected in internal audits, agency examinations, and/or customer complaints.
F. Compliance management

The compliance officer will assure the following steps are taken:

1. **Training.** The compliance officer will establish and conduct the training necessary to assure our compliance with this policy and the underlying laws and regulations. Such training will emphasize the role of every employee in serving all customers and potential customers with fairness, courtesy, friendliness, and responsiveness. It will assure that all personnel understand their obligation with respect to posting the Equal Housing Lender poster.

   Training will also assure that all loan and other personnel understand our fair lending obligations and how to fulfill them, including encouraging applications from anyone inquiring about a loan.

2. **Advertising/Promotional Materials.** All credit advertisements, lobby notices, brochures, signs and other promotional materials will be reviewed prior to printing, to assure their compliance with fair lending. All obsolete, noncompliant promotional materials are promptly destroyed or altered, to assure that only correct ones are used. No advertisements or promotional materials will imply or express any preference for, or exclusion of, any applicants on a prohibited basis.

3. **Complaints.** The compliance officer will regularly review complaints received by ABC Bank for any indication of problems that could lead to examiner criticism of, or civil liability for, our fair lending performance. The compliance officer will recommend to management action to address any significant complaints.

4. **Fair Lending Audits.** ABC Bank’s auditors (or another third party not responsible for the compliance program) will conduct an annual audit of our fair lending performance. The audit will evaluate ABC Bank’s performance with respect to this policy and to the fair lending laws and regulations. An integral part of this audit will be testing for substantive illegal discrimination.

   The audit report will be submitted to management and the Board. In addition, the compliance officer will make recommendations based on the audit results for changes in our program or its execution.
REAL ESTATE LOAN MATRIX

The Real Estate Matrix was created by Bankers Compliance Consulting in Nebraska. The author wishes to acknowledge and thank Bankers Compliance Consulting for providing this information and other valuable tools to the financial services industry. The basic format is available in a free download from their website at:

http://www.bankerscompliance.com/compliance-resources/free-downloads.htm

PLEASE GO DIRECTLY TO THE WEBSITE TO DOWNLOAD THE MATRIX.

THIS WILL ALLOW OPTIONS TO FORMAT. YOU CAN USE ADOBE FEATURES TO CREATE A LARGER IMAGE THAT IS EASIER TO READ

NOTE: This is version 10.0; this version was updated to include the INTEGRATED DISCLOSURE REQUIREMENTS AND WILL APPLY TO APPLICATIONS TAKEN ON OR AFTER 10/3/15. It has been divided into sections to make it easier to read
## Characteristics of Loan Request

<table>
<thead>
<tr>
<th>Type of Security</th>
<th>Use of Security</th>
<th>Use of Loan Proceeds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Purchase</td>
<td>X</td>
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<td></td>
<td>Refinance</td>
<td>X</td>
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<td></td>
<td>Home Improvement</td>
<td>X</td>
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<td></td>
<td>Home Equity (Closed End)</td>
<td>X</td>
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<tr>
<td></td>
<td>Home Equity Line of Credit (Open End)</td>
<td>X</td>
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<td></td>
<td>Business or Agricultural Purpose</td>
<td>X</td>
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<td></td>
<td>Rental House</td>
<td>X</td>
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<td>Secondary or Other Residence</td>
<td>X</td>
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<tr>
<td></td>
<td>Bare Land</td>
<td>X</td>
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<td></td>
<td>Residence OVER 4 Units</td>
<td>X</td>
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<td></td>
<td>Business or Farm (No House)</td>
<td>X</td>
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<td></td>
<td>Mobile Home (No Land Taken As Collateral)</td>
<td>X</td>
</tr>
</tbody>
</table>

### Applicable Regulations

<table>
<thead>
<tr>
<th>(1) Written Application</th>
<th>(2) ECOA / Fair Housing</th>
<th>(3) RESPA Counseling List</th>
<th>(4) Early TILA Ability To Repay / TILA Disclosure</th>
<th>(5) R of R / HCM</th>
<th>(6) HPML</th>
<th>(7) HMDA</th>
<th>(8) Flood Insurance</th>
<th>(9) ECOA Appraisal (1st Lien Only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
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Version 10.1 Effective 10/3/15

Phone: 800-847-1653
E-mail: consultants@bankerscompliance.com
Website: www.bankerscompliance.com
**TIMETABLE**

<table>
<thead>
<tr>
<th>AT APPLICATION</th>
<th>3 BUSINESS DAYS AFTER RECEIVING APPLICATION</th>
<th>BEFORE CLOSING</th>
<th>AT LOAN CLOSING</th>
<th>4th BUSINESS DAY AFTER LOAN IS CLOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Written Application (1)</td>
<td>RESPA Homeownership Counseling List (3)</td>
<td>Ability To Repay (5)</td>
<td>Closing Disclosure/Final Truth in Lending Disclosure (5)</td>
<td></td>
</tr>
<tr>
<td>CHARM Booklet &amp; ARM Program Disclosure (4*)</td>
<td>Loan Estimate (4)</td>
<td>HCM Test (6)</td>
<td>HPML Escrow Account (7)</td>
<td></td>
</tr>
<tr>
<td>HELOC Booklet &amp; HELOC Program Disclosure (4**)</td>
<td>HPML (7) &amp; ECOA (10) Appraisal Notice</td>
<td>HCM Notice • 3 Business Days Prior to Closing (6)</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>HCM Counseling Certification (6)</td>
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<td>HPML Test (7)</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>HPML (7) &amp; ECOA (10) Appraisals • No Later Than 3 Business Days Prior to Closing</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Flood Determination / Flood Notice • Zones A &amp; V Only • Approximately 10 Days Prior to Closing / Flood Insurance In Place (9)</td>
<td></td>
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</tr>
</tbody>
</table>

X, * or ** = See Back
REAL ESTATE MATRIX

1. A written application is required on loans secured by and made primarily for the purpose of purchasing or refinancing a 1-4 family principal residence.

2. Request and retain Government Monitoring Information (ethnicity, race, sex, age, marital status) on loans that are secured by and made primarily for the purpose of purchasing, refinancing, or constructing (if converted to permanent financing) the borrower's 1-4 family principal residence (including a mobile home). National banks must request and retain 20 monitoring items (all of which are contained in the standard FHLMC/FNMA residential loan application form).

*Do not collect Government Monitoring Information for construction only loans.

3. Provide the Homeownership Counseling List (including HELOCs) within 3 business days of receiving an application. Provide an Affiliated Business Arrangement Disclosure (including HELOCs), as applicable. Temporary financing (e.g., construction, bridge) is exempt.

*Provide if there will be a land transfer or if you anticipate providing permanent financing at the time the construction application is taken.

4. Provide a Home Loan Toolkit (closed end purchases/construction only) within 3 business days after receiving an application. Provide the Loan Estimate disclosure within 3 business days (general) after receiving an application and wait 7 business days (precise) to close the loan.

*If the loan has a variable interest rate (and term greater than one year), provide a CHARM booklet and variable rate program disclosure with application.

**If a Home Equity Line of Credit, provide a HELOC program disclosure and brochure with application.

5. Provide a Closing Disclosure if secured by land (if more than 50% of the loan proceeds are for business purposes, TIL does not apply). The Closing Disclosure must be "in hand" 3 business days (precise) prior to loan closing. If the APR becomes inaccurate, the loan product changes, or a prepayment penalty is added, a new waiting period is required. Refer to §1026.19(f)(2) for re-disclosure requirements.

Document the borrower's ability to repay (ATR) the mortgage loan. Lenders must make a good faith, reasonable determination, consider specific underwriting factors and use reasonably reliable third-party records to verify the information used to evaluate the factors.

*The ATR requirements only apply to closed-end loans secured by a dwelling. Construction/bridge loans (or other temporary financing) of 12 months or less; HELOCs, and reverse mortgages are exempt.

**Provide a Truth in Lending Disclosure. A Closing Disclosure is not required if the loan is not secured by land.

6. The right to rescind applies only when the applicant has an ownership interest in the dwelling being pledged as collateral. Purchase and construction loans are exempt unless secured by the borrower's current dwelling (bridge loans). Renewals, refinances, and future advances are subject to rescission but only for the amount of the "new" money extended (closed-end loans). The renewal of a land sales contract is subject to the right of rescission. Advances cannot be extended until the 4th business day (precise) after the later of: (1) the right of rescission notice is provided, (2) the note is signed, and (3) all disclosures are provided. High Cost Mortgage rules apply if the APR exceeds the applicable Average Prime Offer Rate spread; the loan exceeds the applicable points and fees test or includes a prepayment penalty.

*Bridge loans require the right to rescind. Construction loans are exempt from the HCM requirements

**Purchase loans are also subject to the HCM testing and requirements (restrictions, notice and certified counseling).
7. Higher Priced Mortgage Loan rules apply if the APR ≥ the Average Prime Offer Rate by 1.5% (first lien) or 3.5% (subordinate lien). An appraisal disclosure is required within three business days (general) of application and a copy of the appraisal must be provided three business days (general) prior to closing (cannot be waived). A certified/licensed written appraisal (with interior inspection) is required. Non-exempt banks must escrow for HPMLs (5 year minimum).

*HPML escrow rules do not apply to construction loans; bridge loans/other temporary financing with a term of 12 months or less; HELOCs, or reverse mortgages. HPML appraisal requirements do not apply to construction loans; bridge loans with a term of 12 months or less (if in connection with the purchase of a primary dwelling); Qualified Mortgages; streamlined 1st lien refinancings meeting certain conditions; smaller dollar loans; loans secured by mobile homes, boats, or trailers; or reverse mortgages. Loans secured by a new manufactured home and land do not require a physical interior visit. Loans secured by a manufactured home but not land may be exempt from the appraisal requirements if one of the following is provided three business days prior to closing: 1) Manufacturer’s Invoice (”New” homes only); 2) An independent cost estimate of the home; or 3) An independent valuation. Flipped transactions may require a second appraisal.

8. HMDA Information must be compiled by banks who are (1) located in a Metropolitan Statistical Area (or have a branch in a MSA) and (2) have assets exceeding the minimum threshold. Banks shall collect data on home purchase, home improvement and refinancings. The regulation defines “home purchase loan” as a loan secured by and made for the purpose of purchasing a dwelling. A “home improvement loan” is unsecured or secured in which the proceeds are used to repair, rehabilitate or remodel the property.

*If this loan is a “Refinancing”, it is reportable. A “Refinancing” is any new obligation that satisfies and replaces an existing obligation by the same borrower where both the existing obligation and the new obligation are secured by liens on a dwelling regardless of the purpose of the existing obligation.

**Banks shall not report: (1) loans on unimproved land; (2) temporary financing (bridge or construction loans); (3) the purchase of an interest in a pool of loans; or (4) the purchase solely of the right to service loans.

9. The Flood Disaster Protection Act applies to any improved real estate loan or mobile home loan (regardless of where the mobile home will be located). Complete a Standard Flood Hazard Determination Form for each property before the loan is closed. If the improved real estate or mobile home securing the loan is located or is to be located in an area identified as having special flood hazards, a Flood Hazard Notice must be delivered to the customer within a “reasonable period of time” before closing (not less than 10 days) & must be signed. The requirements of this Act apply to increases, extensions, and renewals as well as commercial and agricultural loans secured by improved real estate.

10. For any first lien loan (consumer or commercial) secured by a 1-4 family dwelling, the bank must: (1) provide a Notice of Free Appraisal Copy to the primary applicant within 3 business days of receiving a covered application; and (2) provide a copy of the appraisal to the primary applicant (whether credit is granted or denied or the application is withdrawn) promptly, at least 3 business days prior to closing. The applicant may provide a waiver (generally must be provided at least three business days prior to closing), but a copy must still be provided at closing; if a loan will not be made a copy must be provided within 30 days after that determination.