

Introduction

Laws Affecting Mortgage Loan Originations

OVERVIEW

As a mortgage professional involved in originating mortgage loans, you should be familiar with the most important laws and regulations affecting this business. This manual will help you become familiar with, remind you of requirements you've learned about, and help keep you apprised of changes in the numerous mortgage loan compliance requirements.

Each of the following sections of this manual deals with a different compliance topic. Before you get started, however, this introduction briefly summarizes the various laws and regulations.

- The **Equal Credit Opportunity Act (ECOA)**, **Federal Reserve Regulation B**, and the **Fair Housing Act** prohibit us from discriminating against individuals on the basis of race, color, sex, national origin, marital status, age, religion, the receipt of public assistance, familial status (sharing a home with a child or children under the age of 18), handicap, or their assertion of rights under the Federal Consumer Credit Protection Act. See Part 3, Section 1 (ECOA), Part 3, Section 3 (Fair Housing Act), and the umbrella topic of Fair Lending (in Part 3, Section 5).
- The **Home Mortgage Disclosure Act (HMDA)** and **Federal Reserve Regulation C** require us to report information about our loan applications to the federal banking regulators and to the public. (See Part 1, Section 2.)
- [Include if applicable to your organization.] The **Community Reinvestment Act (CRA)** and **Federal Reserve Regulation BB** require us to serve the needs of our local communities. The law was passed because of concern with lenders who used deposits to make loans in areas outside their communities rather than for local lending. The law requires regulators to examine how well we meet our local needs. (See Part 3, Section 4.)
- The **Truth-in-Lending Act (TILA)** and **Federal Reserve Regulation Z** require us to provide standardized information about products and loan programs. They also give

borrowers a three-day right to cancel certain loans secured by their homes. (See Part 1, Section 1.)

- The **Real Estate Settlement Procedures Act (RESPA)** and **HUD Regulation X** require us to disclose the fees payable in connection with mortgage loans. They prohibit certain payments among the persons who participate in a loan transaction (e.g., credit bureaus, title companies, real estate agents, brokers, attorneys, lenders, sellers, appraisers, and escrow companies). RESPA also requires us to disclose information about the servicing of our loans. (See Part 1, Section 3.)
- State and federal laws require us to follow certain rules when we **advertise** our products and services. (See Part 4, Section 1.)
- The federal **bankruptcy** laws restrict our relationships with persons who have filed for protection or who are subject to bankruptcy procedures because one or more of their creditors have asked for them to enter bankruptcy proceedings involuntarily. (See Part 6, Section 3.)
- The **Electronic Fund Transfer Act (EFTA)** and **Federal Reserve Regulation E** limit our ability to require customers to set up automatic electronic payments of their loan payments. (See Part 7, Section 1.)
- Several **environmental** laws, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund law), warrant close attention to or impose liability for environmental challenges that relate to property we finance. (See Part 6, Section 2.)
- The **Fair Credit Reporting Act (FCRA)** limits the purposes for which we may obtain credit reports, requires us to provide reasons for taking actions adverse to applicants and borrowers, and restricts our dissemination of information about our customers. (See Part 3, Section 2.)
- The **Fair Debt Collection Practices Act (FDCPA)** specifies rules governing our behavior if we collect debts for others and sets reasonable standards for our collection of our own debts. (See Part 5, Section 1.)
- The **Federal Trade Commission Act (FTC Act)** and rules adopted by government agencies to implement the FTC Act define unfair or deceptive business practices. (See Part 5, Section 3.)

- The **flood insurance** requirements of the banking agencies, government-sponsored enterprises (such as Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), and Government National Mortgage Association (GNMA)), and HUD prompt us to require flood insurance when the properties securing our loans are located in flood hazard areas. (See Part 1, Section 4.)
- [Include if applicable to your firm.] The **insider lending** restrictions limit loans made to certain of the officers of our firm and our affiliates. (See Part 1, Section 5.)
- The **Homeowners Protection Act (HPA)** and other laws affect our policies regarding private mortgage insurance. (See Part 2, Section 1.)
- Court decisions and laws relating to fair credit practices impose the risk of **lender liability**. (See Part 6, Section 1.)
- Federal and state laws prescribe rules to follow regarding **telemarketing activities**. (See Part 4, Section 2.)
- [Include if applicable to your firm.] The **Bank Holding Company Act** restricts our ability to tie the making of a loan to a customer's obtaining certain other services from us or our affiliates. (See Part 4, Section 3.)
- Many other laws, regulations and centuries of court decisions also affect the business of making mortgage loans. See Part 6, Section 4 (Court Process — Subpoenas and Other Legal Process), Part 1, Section 6 (Examinations and Dealing with Regulators), Part 7, Section 2 (Internet Services), and Part 5, Section 2 (Privacy Issues).
- **State laws** can affect many different aspects of mortgage loan originations. (See Part 8, Section 1.)

DOCUMENT AND INFORMATION REQUESTS

As discussed in Part 6, Section 4 (Court Process — Subpoenas and Other Legal Process) and Part 1, Section 6 (Examinations and Dealing with Regulators), it is important for all [insert as appropriate — staff/associates/employees/or other terminology] to notify [insert name of person, title of officer, or name of department] as soon as possible whenever we receive a subpoena, civil investigative demand, or other legal document asking for information, or an inquiry from a regulator. Prompt notice is necessary so we can give the request careful and responsive attention.

[Insert if applicable.] *Direct all inquiries about the Home Mortgage Disclosure Act to [name of person, title or officer, or name of department].*

[Insert if applicable.] *Direct all inquiries about the Community Reinvestment Act to [name of person, title or officer, or name of department].*

DETERMINING REGULATIONS THAT APPLY TO YOUR INSTITUTION

The regulatory applicability checklist that follows indicates which regulations apply to different types of mortgage professionals. You can use this checklist to determine which regulations apply to your institution.