



COMPLIANCE UPDATE

NACHA Announces Third-Party Sender Registration Rule

In September NACHA announced that a new rule that will require Originating Depository Financial Institutions (ODFIs) to identify and register their Third-Party Sender customers. A Third-Party Sender is a processing intermediary between a financial institution and an end-user of ACH payments. Third Party Senders can generally be identified as follows:

- If the Originator has the ACH Origination Agreement with the ODFI, there is no Third-Party Sender involved in the transaction and the intermediary is only a Third-Party Service Provider.
- If the intermediary has the ACH Origination Agreement with the ODFI, the intermediary acts as a Third-Party Sender.

The Third-Party Sender Registration Rule, which becomes effective September 29, 2017, will require ODFIs to provide a limited set of initial, basic registration information, such as name of business and contact information, for each Third-Party Sender with which it maintains a relationship. ODFIs that do not maintain any Third-Party Sender relationships will be required to provide a statement to that effect.

NACHA has developed a number of tools and resources, including a Third-Party Sender

Identification Tool and an Operations Bulletin that provides examples to help ACH participants properly categorize the parties in payment scenarios involving payment intermediaries, many of which are Third-Party Sender relationships. The Identification Tool and Operations Bulletin can be found at <https://www.nacha.org/third-party-sender-identification-tool> and <https://www.nacha.org/news/ach-operations-bulletin-2-2014-ach-transactions-involving-third-party-senders-and-other-payment>.

Advisory on Email Compromise Fraud

FinCEN advisory FIN-2016-A003 offers help for financial institutions in guarding against a growing number of email fraud schemes in which criminals misappropriate funds by deceiving financial institutions and their customers into conducting wire transfers. This advisory also provides red flags, developed in consultation with the Federal Bureau of Investigation and the U.S. Secret Service, which financial institutions may use to identify and prevent such email fraud schemes.

Department of Defense (DoD) Publishes Frequently Asked Questions (FAQs) on Military Lending Act (MLA) Regulation

The DoD published at [81 FR 58840](#) in the August 26, 2016, Federal Register an "interpretive rule" in the form of FAQs on its MLA regulation at 32 CFR Part 232. The series of 19 questions and answers

"provides guidance on certain questions the Department has received regarding compliance with the July 2015 final rule."

As a reminder, the MLA is effective October 3, 2016. Summarized from our last newsletter, institutions will need to do the following for all consumer purpose loans and lines of credit, other than residential mortgages and vehicle purchase loans:

- Verify military status via the DoD MLA website or credit report for all applicants.
- Provide the model statement describing the MAPR orally and in writing.
- Avoid charging a MAPR exceeding 36 percent.

Consumer Financial Protection Bureau (CFPB) Adds TRID Resource for Settlement Professionals

The CFPB has created a new web page, "Know Before You Owe: The settlement professional's guide," to help settlement professionals navigate through the changes that are a part of the Know Before You Owe (a/k/a "TRID") mortgage initiative. The new page includes links leading to explanations of the following:

- How the "pre-TRID" four disclosures (early Truth-in Lending [TIL], Good Faith Estimate [GFE], Truth-in-Lending [TIL] and HUD-1) were consolidated into the Loan Estimate and Closing Disclosure
- What has and has not changed about settlement agent and creditor responsibilities, consumer privacy, and electronic delivery
- Key areas to focus on when selected as the settlement agent for a transaction

Attorneys and title insurance companies closing loans may find this page useful. The web page is at the CFPB website www.consumerfinance.gov.

FNMA and FHLMC Publish Redesigned Uniform Residential Loan Application Form and Dataset

Both agencies announced the publication of the redesigned Uniform Residential Loan Application (URLA) standardized form used to apply for a mortgage loan. The redesigned URLA form includes a reorganized layout, simplified terminology, and new data fields that capture necessary information in an easy-to-read format. Additionally, the GSEs worked together to create a common corresponding dataset, called the Uniform Loan Application Dataset (ULAD) to ensure consistency of data delivery.

The documents are being published now, in an effort to provide the industry with ample time to become familiarized with the URLA and ULAD updates and plan necessary changes to their systems. Lenders may begin using the redesigned URLA on January 1, 2018. A timeline for required use of the redesigned URLA and ULAD will be established at a later date.

Revisions made to the URLA form and corresponding ULAD include the following:

- Redesigned format: improved navigation and organization that will support accurate data collection and better efficiency for a more consumer-friendly experience.
- New and updated fields: capture loan application details that reflect today's mortgage lending business and support both the GSEs' and government requirements.
- Clearer instructions: simplified terminology that enables borrowers to complete the loan application with less help from the lender.
- Revised government monitoring information: incorporates the revised Home Mortgage Disclosure Act (HMDA) demographic questions.

- Spanish informational version: will be available soon.

To learn more about the redesigned, consumer-friendly URLA and corresponding dataset ULAD, visit <https://fanniemae.com/singlefamily/uniform-residential-loan-application>.

Pennsylvania Act 6 and Act 91 Notices Revised

PHFA has published amendments to the policy statement for the Homeowner's Emergency Mortgage Assistance Program (HEMAP), which contains the program guidelines and describes the procedures used by PHFA to determine the eligibility of homeowners for assistance under the program. The revisions also make material changes to the uniform Act 91 Notice.

Lenders will see multiple changes to the Act 91 Notice, including the revision that the notice must be sent in English with a Spanish translation on the reverse side. In addition to English and Spanish, the Act 91 Notice is now available in other languages on PHFA's website as well.

The new uniform Act 91 Notice form should be used now and can be located at the PHFA website <http://www.phfa.org/forms/hemap/appendixa.pdf>.

CFPB Issues Final Servicing Rule Changes

The CFPB issued a final rule to require residential mortgage loan servicers to provide certain borrowers with foreclosure protections more than once over the life of the loan, clarify borrower protections when the servicing of a loan is transferred, and provide important loan information to borrowers in bankruptcy. The changes also help ensure that surviving family members and others who inherit or receive property generally have the same protections under the CFPB's mortgage servicing rules as the original borrower. The rule will:

- Require servicers to provide certain borrowers with foreclosure protections more than once over the life of their loan
- Expand consumer protections to surviving family members and other homeowners (successors in interest) when a borrower dies
- Require servicers to notify borrowers when loss mitigation applications are complete
- Protect struggling borrowers during servicing transfers
- Clarify servicers' obligations to avoid dual-tracking and prevent wrongful foreclosures
- Clarify when a borrower becomes delinquent

The rule also provides servicers some flexibility to comply with certain force-placed insurance and periodic statement disclosure requirements and clarifies several requirements regarding early intervention, loss mitigation, information requests, and prompt crediting of payments, as well as the small servicer exemption. The rules can be accessed at <http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/amendments-2013-mortgage-rules-under-real-estate-settlement-procedures-act-regulation-x-and-truth-lending-act-regulation-z/>.

Additionally, the bureau issued an interpretive rule under the Fair Debt Collection Practices Act relating to servicers' compliance with certain mortgage servicing provisions as amended by the final rule.

Most of the provisions of the final rule will take effect in August 2017. The provisions relating to successors in interest and the provisions relating to periodic statements for borrowers in bankruptcy will take effect in February 2019.

CFPB Issues “Principles” for Future Foreclosure Prevention

The CFPB outlined consumer protection principles to guide mortgage servicers, investors, government housing agencies, and policymakers as they develop new foreclosure relief solutions. The bureau’s action comes as the Department of Treasury’s Home Affordable Modification Program, a foreclosure relief program put in place in response to the financial crisis, is nearing its expiration date. The CFPB’s proposed principles are meant to inform the discussion of potential options to help prevent avoidable foreclosures.

The principles promote the following:

- **Accessibility:** Consumers should easily be able to obtain and use information about loss mitigation options and how to apply for those options.
- **Affordability:** Repayment plans and mortgage loan modifications should generally be designed to produce a payment and loan structure that is affordable for consumers.
- **Sustainability:** Loss mitigation options used for home retention should be designed to provide affordability throughout the remaining or extended loan term.
- **Transparency:** Consumers should get clear, concise information about the decisions servicers make.

The bureau's principles do not establish legal requirements but are instead intended to complement ongoing discussions among industry, consumer groups, and policymakers and are available at the following link:
http://files.consumerfinance.gov/f/documents/20160802_CFPB_Principles_for_Future_of_Loss_Mitigation.pdf.

New Version of Consumer Reporting Agency (CRA) and HMDA Software

The FFIEC's CRA/HMDA Software Downloads page has been updated to provide downloads of CRA and HMDA data entry software, Version 2016 R-2. This version facilitates data entry for calendar-year 2016 data that must be submitted by March 1, 2017.

Automated Clearing House (ACH) Unauthorized Transaction Fees

Federal Reserve Financial Services notified clients of a "soft implementation" of NACHA's new \$4.50 fee for unauthorized ACH entries. NACHA rules provide that, beginning October 3, 2016, an ODFI will be assessed a fee for each ACH debit that is returned as unauthorized (return reason codes R05, R07, R10, R29, and R51). As a means of compensating the Receiving Depository Financial Institution (RDFI) for a portion of the costs associated with handling unauthorized transactions, the fee collected from the ODFI will be credited to the RDFI.

FedACH Services began implementation of the changes in August 2016, so that FedACH Services customers will receive item counts of unauthorized return items originated and received but with no accompanying fee assessment. Billing statements for August and September 2016 provide FedACH Services customers with an early glimpse at their unauthorized return item volumes. Actual fees will be seen on the November 2016 billing statement, based on October data.

FFIEC Announces HMDA Resources for Data Collected in 2017 and 2018

Beginning with data collected in 2017, financial institutions will file their HMDA data with the CFPB rather than the Federal Reserve Board. For HMDA data collected in or after 2017, a web-based

data submission and edit-check system (the HMDA Platform) is being created to process HMDA data. It is expected that the HMDA Platform will streamline the HMDA submission process and reduce the burden on HMDA filers.

The FFIEC and HUD also published the following documents on “Resources for HMDA Filers,” to help financial institutions report HMDA data collected in or after 2017; these materials are also accessible from the CFPB website at <http://www.consumerfinance.gov/data-research/hmda/for-filers>:

- Filing instructions guide for HMDA data collected in 2017
- Filing instructions guide for HMDA data collected in 2018
- Technology preview
- FAQs

FinCEN Issues FAQs on CDD Rule

FinCEN issued Guidance Document FIN-2016-G003, "Frequently Asked Questions Regarding Customer Due Diligence Requirements for Financial Institutions," to assist covered financial institutions in understanding the scope of the new "Customer Due Diligence Requirements for Financial Institutions." FinCEN plans to issue additional FAQs or other guidance on the rule, compliance with which is mandatory starting May 11, 2018. Guidance Document FIN-2016-G003 is available at https://www.fincen.gov/sites/default/files/2016-09/FAQs_for_CDD_Final_Rule_20160929.pdf.

Bureau Adds HMDA Resources

The CFPB has added additional resources to its HMDA rule implementation page to assist institutions with the new HMDA regulations. New links on the page include the following:

- 2018 HMDA transactional coverage chart—illustrating one approach to help determine whether a transaction is HMDA-reportable under the new rule
- Overview of the HMDA final rule—a YouTube recording of the bureau's July 14 Webinar

Resources can be found at <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/hmda-implementation/>.

QUESTIONS?

If you wish to discuss these matters in detail, please contact Steve Zanardelli, Tim Schofer, or Frank Antiga at (724) 934-0344 or (800) 580-7738, or email szanardelli@srsnodgrass.com, tschofer@srsnodgrass.com, or fantiga@srsnodgrass.com.