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Flood Insurance Reform – The Wait Continues

Congress has until December 8, 2017 to reauthorize the National Flood Insurance Program (NFIP). The Program had originally had been set to expire September 30, 2017, but was extended when legislation passed by both houses of Congress was signed by the President on September 8, 2017.

Originally passed in 1968, the NFIP is the only nationwide provider of flood insurance and backs more than 95 percent of the plans in the United States. The push to reform the program emerged in the wake of Hurricanes Katrina and Sandy, whose payouts of more than \$16 billion and \$8 billion, respectively overwhelmed the program's finances. After having provided an additional \$16 billion in debt relief to the NFIP in October relating to Hurricanes Harvey and Irma, the House has recently passed, and the Senate is now considering, legislation restructuring the nearly 50-year-old program.

21st Century Flood Reform Act” (H.R. 2874)

On November 14, 2017, the House approved the “21st Century Flood Reform Act” (H.R. 2874), which would amend the National Flood Insurance Act of 1968. The House bill reauthorizes the program for five years, increases premiums for repeatedly flooded homes, shifts some policies to private insurers, updates federal flood mapping procedures, increases penalties for residents without insurance, and allows private policies to satisfy the federal flood insurance mandate.

The bill is now in the Senate, which as of this writing, has not made any announcement regarding its status. While we recognize that some of the specifics could change once the Senate finishes with the bill, we are proving the following is a summary of the key aspects of H.R. 2874, as presented to the Senate on November 15, 2017:

Policyholder Protections and Information

The House bill requires the Federal Emergency Management Agency (FEMA) to:

- Provide financial assistance through state programs for low income families to purchase NFIP insurance;
- Publish an annual explanation of flood insurance premiums and hold public meetings;
- Utilize, in part, applicable flood insurance rate maps and other appropriate risk assessment models, data, and tools in establishing premium rates;

- Incorporate in premium rates the differences in coastal and inland flood risk;
- Clearly communicate to policyholders their property's full flood risk, the history of flood claims on their property, and the effect of filing further claims; and
- Make data on historical claims, required coverage, and previous damage available to the current owner of the property within 30 days of a request.

State or local governments must require a seller or lessor to disclose to a purchaser or lessee any previous flood damage or flood insurance claims, and any obligation to purchase flood insurance. This requirement, whether by statute or regulation, must be adopted for the area to qualify for participation in NFIP.

FEMA may create a community-wide flood insurance pilot program that covers all residential and non-residential properties and satisfies the mandatory purchase requirement. The Federal agencies that oversee mortgage lending must mandate the purchase of flood insurance for properties located in special flood hazard areas.

Increased Consumer Choice

The House Bill contains provisions to increase consumer choice for insurance through private market development. Specifically, it requires that FEMA:

- Allow Write Your Own (WYO) companies, which write and service federal standard flood insurance policies in their own name, to sell private flood insurance;
- Provide data related to NFIP risks and premiums, including community-level data, through a publicly available data system; and
- If an NFIP policyholder switches to private flood insurance during the NFIP coverage period, FEMA must refund any unused NFIP premium. However, properties that have received a claim payment for that period or Increased Cost of Compliance mitigation assistance are not eligible for a refund.

Mutual aid societies (i.e., organizations of members who share a common set of ethical or religious beliefs) may sell private flood insurance, subject to state law. This coverage satisfies the mandatory purchase requirement.

The Government Accountability Office (GAO) must report on the feasibility of reducing flood insurance premiums and eliminating the need for flood insurance coverage by authorizing flood damage savings accounts. If determined feasible by the GAO, FEMA must establish a demonstration program for flood damage savings accounts.

Mapping Fairness

The House bill requires FEMA to consult with the Department of Defense, the U.S. Geological Survey, and the National Oceanic and Atmospheric Administration to obtain information relevant to flood insurance mapping.

The House bill establishes / revises certain aspects of relating to mapping updates. Specifically:

- Any denials of requests by FEMA for updates to flood maps may be appealed; and, if an appeal is successful, FEMA must refund premiums and the policyholder may be permitted to cancel the policy;
- The appeal period for FEMA flood elevation determinations is revised to 90-days; and, if no appeals are filed, makes a determination final; and
- Amends the Biggert-Waters Flood Insurance Reform Act of 2012 by revising the time period FEMA provides to communities for consultation regarding mapping changes to a maximum of 30-days.

Protecting Consumers and Individuals through Improved Mitigation

The House bill revises the NFIP community rating program to require FEMA to provide premium credits in communities that protect natural and beneficial floodplain functions. The current NFIP community rating program allows FEMA to provide such premium credits.

Ongoing Program Integrity

The House bill makes FEMA responsible for ensuring NFIP is financially sound. FEMA must commission an annual independent actuarial review of the financial status of NFIP.

The premium surcharge amount on flood insurance is changed to:

- (1) increase annual surcharges for all primary residences, and
- (2) reduce annual surcharges for certain non-owner occupied residential properties, and
- (3) increase annual surcharges for all other non-primary residences.

As part of this process, FEMA must institute a uniform rate of assessment for all policyholders when increasing premiums.

During the phase-in period of the required reserve ratio for the NFIP reserve fund, FEMA must increase the annual 7.5% assessment by at least one percentage point if the required amount was not collected the previous year.

Multiple-Loss and High-Risk Properties

To better ensure the integrity of the Program going forward, the House bill addresses the treatment of multiple-loss and high-risk properties. Specifically:

- The bill revises NFIP classifications of properties incurring multiple flood losses and coverage for properties that have incurred multiple flood losses. For multiple loss properties, FEMA must raise premiums by at least 15% annually if the premiums do not reflect full risk. Certain multiple loss properties are subject to minimum deductibles of \$5,000.
 - FEMA must deny coverage to a property owner that does not implement flood mitigation measures if the property is an extreme repetitive loss property (a property with cumulative claims that exceed 150% of the maximum coverage amount).
 - FEMA must undertake efforts to validate the accuracy of claim history data.
 - Multiple loss properties are not eligible for subsidized premium rates that apply to properties newly mapped into areas with special flood hazards.
 - FEMA must communicate to policyholders the effect on premiums of filing further claims for multiple-loss properties.
 - The bill revises the Flood Mitigation Assistance program, to include making assistance available to property owners, in coordination with the State and community, in the form of direct grants under for carrying out mitigation activities that reduce flood damage to extreme repetitive-loss properties.
 - The bill eliminates NFIP coverage for properties that prospectively exceed specified lifetime levels of claim payments.
- The bill also limits the availability of NFIP coverage for high-risk properties, including new structures built in a special flood hazard zone and structures with high replacement costs. For such properties, FEMA must establish a Flood Insurance Clearinghouse to provide offers of NFIP and private flood insurance coverage.

Other Program Integrity Provisions

The House bill contains several additional provisions intended to better ensure the ongoing integrity and viability of the NFIP. Specifically:

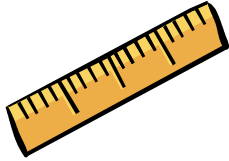
- The allowance paid to Write Your Own companies is limited to 27.9% of the premium rate. FEMA must reduce the costs to companies participating in the Write Your Own program.
- Penalties for violations of the mandatory purchase requirement are amended in the Flood Disaster Protection Act of 1973 to increase to \$5,000.
- If a state allows all-perils policies to cover flood damage, property in that state is not subject to NFIP's mandatory purchase requirement.
- The maximum loan amount for the small loan exception to NFIP's mandatory purchase requirement is increased from \$5,000 to \$25,000, adjusted for inflation.
- A state or local government, or a private lender, may require flood insurance coverage for structures outside a special flood hazard area.
- FEMA must approve claims under NFIP not later than 120 days after a policyholder submits proof of loss.

Next Steps Toward Reform

As noted earlier in this article, the bill is now in the hands of the Senate. It has until December 8, 2017 to reach agreement with the House on the specifics of the bill, pass it, and get it to the President for signature. There has been no indication how close or how far this is from happening.

In prior NFIP reauthorization efforts, we have seen legislation passed at the last minute, and we have also seen the Program expire, only to be reauthorized retroactively. While such times always seem to raise the anxiety and uncertainty levels for lenders, as well as for current and prospective property owners, things always seem to work out in the long run. There's no reason to believe that the same will not happen this time around, and all angst experienced over the past several months will once again be water under the bridge!

Short Clips



FDIC ISSUES Q1– Q2 2018 CRA EVALUATION SCHEDULES

On 11/30/17, the Federal Deposit Insurance Corporation (FDIC) released its Community Reinvestment Act (CRA) [Evaluation Schedules](#) for the first and second quarters of 2018.

DOL FINALIZES 18-MONTH EXTENSION FOR FIDUCIARY RULE EXEMPTIONS

On 11/29/17, the Department of Labor (DOL) published a [Rule](#) in the Federal Register extending the compliance date for certain exemptions to the fiduciary rule to July 1, 2019. The extension would apply to the best interest contract exemption, principal transaction exemption and prohibited transaction exemption 84-24. DOL granted the extension to ensure it will have sufficient time to consider public comments submitted in response to an executive order earlier this year to re-examine the fiduciary rule for possible repeal or revision.

Prior to that date, the Department will not pursue claims against fiduciaries who are working diligently and in good faith to comply with the rule and applicable provisions of the exemptions.

FHFA INCREASES CONFORMING LOAN LIMITS FOR 2018

On 11/28/17, the Federal Housing Finance Agency (FHFA) announced that it will raise the [maximum conforming loan limits](#) for mortgages that Fannie Mae and Freddie Mac purchase in 2018 from \$424,000 to \$453,100. In high-cost areas, such as Los Angeles, New York, San Francisco and Washington, D.C., the maximum loan limit will be \$679,650, which is 150 percent of \$453,100. Meanwhile, limits will rise in all but 71 counties in the country.

OCC ISSUES Q1– Q2 2018 CRA EVALUATION SCHEDULES

On 11/28/17, the Office of the Comptroller of the Currency (OCC) released its CRA [Evaluation Schedules](#) for the first two quarters of 2018.

FDIC ANNOUNCES WEBINAR ON RESOURCES FOR ACCESSING AFFORDABLE MORTGAGE CREDIT

On 11/27/17, the FDIC issued [FIL-61-2017](#) announcing that it will host a webinar on December 8, 2017, from 2:00 p.m. to 3:30 p.m. Eastern Time, highlighting the FDIC's Affordable Mortgage Lending Guide, and panelists will discuss state and federal mortgage products. The goal is to increase lenders' awareness and understanding of available mortgage lending products and services. Those interested may [register](#) to participate in the webinar.

CFPB FORMALLY RESCINDS ARBITRATION RULE

On 11/22/17, the CFPB published a [Final Rule](#) in the Federal Register formally rescinding the Arbitration Rule (12 CFR 1040), and removing it from the Code of Federal Regulations. The rescission action is effective immediately.

AGENCIES FINALIZE MINOR, TECHNICAL CHANGES TO CRA REGULATIONS

On 11/24/17, the federal bank regulatory agencies published [amendments](#) to their respective CRA regulations in the Federal Register, primarily to conform to changes made by the CFPB to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA).

The amended CRA regulations revise the definitions of "home mortgage loan" and "consumer loan", and update CRA public file content requirements to maintain consistency between the CRA regulations and amendments to Regulation C, which generally become effective on January 1, 2018. In addition, the final rule contains technical corrections and removes obsolete references to the Neighborhood Stabilization Program.

The amendments to the CRA regulations also will become effective on January 1, 2018.

AGENCIES RELEASE 2016 CRA DATA ON SMALL BUSINESS, COMMUNITY DEVELOPMENT LENDING

On 11/21/17, the three federal banking agency members of the Federal Financial Institutions Examination Council (FFIEC) with Community Reinvestment Act (CRA) responsibilities - the Board of Governors of the Federal Reserve System (Fed), the FDIC, and OCC [announced the availability of data](#) on small business, small farm,

and community development lending reported by certain commercial banks and savings associations under the CRA.

An FFIEC disclosure statement on the reported 2016 CRA data is available, in electronic form, for each reporting commercial bank and savings association. The FFIEC also has prepared aggregate disclosure statements of small business and small farm lending for all metropolitan statistical areas and nonmetropolitan counties in the United States and its territories. These statements are available on the [FFIEC website](#).

CFPB APPROVES FINAL REVISED UNIFORM RESIDENTIAL LOAN APPLICATION

On 11/20/17, the CFPB issued its [Bureau Official Approval](#) of the final redesigned Uniform Residential Loan Application, confirming that the revised form complies with Regulation B. The revised application includes a question asking borrowers to specify their language preference. Lenders may begin using the new URLA in July 2019, and it will be mandatory for loans eligible for purchase by Fannie Mae and Freddie Mac beginning in February 2020.

While the final redesigned URLA is not to be used until July 2019, this does not delay the updated HMDA GMI collection requirements effective January 1, 2017, as the new [Demographic Information Addendum](#) became effective as of its issuance on September 27, 2017.

FDIC TO HOLD TELECONFERENCE ON SMALL BUSINESS LENDING RESOURCES

On 11/15/17, the FDIC issued [FIL-59-2017](#) announcing that it will hold a free teleconference on December 12, 2017 at 2 p.m. EST to provide information for community banks on small business lending. Presenters will discuss FDIC resources and research relevant to small business, including Money Smart for Small Businesses, the FDIC's small business lending survey and Community Reinvestment Act consideration for small business lending and investments. A Q&A period will follow the presentation. Those interested may [register](#) to participate in the teleconference.

OCC UPDATES BRANCHING AND RELOCATIONS BOOKLET

On 11/15/17, the OCC issued a revised Comptroller's Handbook [booklet](#) on branches and relocations, replacing the booklet issued in 2009. The new document incorporates updates following the merger with the Office of Thrift Supervision and regulations revised in 2015.

HOUSE PASSES FIVE-YEAR FLOOD INSURANCE REAUTHORIZATION

On 11/14/17, the House passed [H.R. 2874](#), which would reauthorize the National Flood Insurance Program for up to five years. In addition to extending the NFIP before it expires on December 8, 2018, and thus providing greater certainty to lenders and borrowers, the legislation also includes updates to interagency guidance and mandatory staffing that will facilitate compliance.

The Bill is now in the Senate, and if it passes, will go to the President to be signed into law.

AGENCIES ANNOUNCE 2018 THRESHOLD FOR SMALLER LOAN EXEMPTION FROM HPML LOAN APPRAISAL REQUIREMENTS

On 11/09/17, the CFPB, Fed, and the OCC published a [final rule](#) in the Federal Register announcing the 2018 threshold for smaller loan exemption from appraisal requirements for higher-priced mortgage loans (HPMLs). Effective January 1, 2018, the exemption threshold amount is increased from \$25,500 to \$26,000. This new threshold is based on the CPI-W in effect on June 1, 2017, which was reported on May 12, 2017. The OCC, the Board, and the Bureau are revising the commentaries to their respective regulations to add new comments, effective January 1, 2018, reflecting the updated threshold amount.

CFPB LAUNCHES BETA VERSION OF NEW HMDA PLATFORM

On 11/06/17, the CFPB launched a beta version of its [new platform](#) for reporting HMDA data. The beta version allows bankers to familiarize themselves with the new system by creating test login credentials, uploading and validating sample HMDA data files, reviewing edits and filing test data. Bankers may make unlimited tests using the beta system. All test accounts and data will be removed from the system when the filing period opens in January 2018.

OCC PROVIDES GUIDANCE FOR BANKS ON MANAGING RISK FOR NEW ACTIVITIES

On 10/20/17, the OCC issued [Bulletin 2017-43](#), highlighting the risk management principles banks should adhere to when undertaking new activities, including offering new, modified or expanded products and services. These principles include adequate due diligence and approvals before introducing a new activity, policies and procedures to properly measure, monitor and mitigate risk, effective change management and ongoing monitoring.

The Bulletin also noted that new activities should be developed and implemented consistently with sound risk management practices, align with the bank's overall strategic plan, encourage fair access to financial services and fair treatment of consumers, and be in compliance with all applicable laws and regulations.

CFPB UPDATES SERVICING RULE COMPLIANCE RESOURCES

On October 18, 2017, the CFPB updated its [Executive Summary](#) of the 2016 mortgage servicing final rule and [Small Entity Compliance Guide](#) to reflect technical changes made by the October 4, 2017 interim final rule.

REGULATORS ISSUE KEY HMDA DATA FIELDS

On October 17, 2017, the federal regulatory agencies issued a list of 37 [Designated Key HMDA Data Fields](#) that examiners will use to test and validate the accuracy of data collected under the new Home Mortgage Disclosure Act requirements, which take effect in 2018.

The identification of these fields is intended to support the efficient and effective evaluation of financial institutions' compliance with the HMDA's requirements. In certain circumstances, however, examiners may deem it necessary to review additional HMDA data fields as appropriate. The agencies also issued [Examiner Guidelines](#) for examiners to use when evaluating HMDA data.

In related news, on October 16, 2017, the CFPB published a new Reporting Reference Chart. The [Reportable HMDA Data: A regulatory and reporting overview reference chart](#). The chart combines the Summary of Reportable Data chart, the filing instructions from the 2018 Filing

Instructions Guide, and the Reporting "Not Applicable" chart into one reference tool, which banks can use for guidance on the data points that are required to be collected under Regulation C.

OCC REVISES CRA EXAM POLICY ALIGNS RATINGS WITH CRA PURPOSES

On 10/12/17, the OCC updated its CRA supervision policies to ensure a logical connection between banks' CRA-related activities and CRA performance evaluation ratings and to give "full consideration" to banks' efforts to take corrective action, the agency said yesterday. The OCC issued a [revised section](#) of its policies and procedures manual that outlines how examiners will approach CRA ratings.

Good to Know

Send your questions to the answerperson@mandm.consulting

Sending requests to the above address gets you a written response to your questions. Emails sent to the answer person are received and responded to five days a week.

Q: Are there any small servicer exemptions for the Reg Z and Reg X monthly loan statement changes effective 10/19/17 and 4/19/18?

A: [§1026.41\(e\)\(4\)](#) exempts small servicers from all of the requirements outlined in §1026.41 of Regulation Z involving periodic statements for residential mortgage loans, including the requirements effective 10/19/17 and 4/19/18.

On 10/18/17, the CFPB updated its [Real Estate Settlement Procedures Act \(Regulation X\) and Truth in Lending Act \(Regulation Z\) Mortgage Servicing Rules Small entity compliance guide](#), which you may find helpful.

Q: We are writing a mortgage to John Doe which is secured by property A. The loan proceeds will pay off a mortgage in John Doe's name secured by property B.

1. Is this HMDA reportable?
2. Is this categorized as a refinance?

A: The loan you describe would be HMDA reportable; and most likely as a refinance. The HMDA definition of Refinancing, in §1003.2, reads as follows:

"Refinancing means a new obligation that satisfies and replaces an existing obligation by the same borrower, in which:

- *For coverage purposes, the existing obligation is a home purchase loan (as determined by the lender, for example, by reference to available documents; or as stated by the applicant), and both the existing obligation and the new obligation are secured by first liens on dwellings; and*
- *For reporting purposes, both the existing obligation and the new obligation are secured by liens on dwellings."*

The key components of this are that the new loan and the loan being paid off involve the same

borrower, and that both loans are secured by dwellings. There is no requirement that they be the same dwelling.

As previously noted, the loan would most likely be reported as a refinance. The only thing that would alter that purpose code would be if there were also funds to be used for home improvement at either of the properties.

Q: Could you please confirm that the 2005 Interagency Guidance on Overdraft Protection Programs specifically indicates that a Bank should include consideration for the amount of fees accumulated by a customer when determining the need to take action on an account with excessive activity.

A: I find no such specific language in the 2005 Interagency Guidance. The closest thing I could find on the topic was the following item at the end of the Guidance:

- *Monitor overdraft protection program usage. Monitor excessive consumer usage, which may indicate a need for alternative credit arrangements or other services, and inform consumers of these available options.*

However, the FDIC issued additional guidance in [FIL-81-2010](#) which included more specific requirements to the statement above. Specifically:

- *Monitor programs for excessive or chronic customer use, and if a customer overdraws his or her account on more than six occasions where a fee is charged in a rolling twelvemonth period, undertake meaningful and effective follow-up action, including, for example:*
 - *Contacting the customer (e.g., in person or via telephone) to discuss less costly alternatives to the automated overdraft payment program such as a linked savings account, a more reasonably priced line of credit consistent with safe and sound banking practices, or a safe and affordable small-dollar loan; and*
 - *Giving the customer a reasonable opportunity to decide whether to continue fee-based overdraft coverage or choose another available alternative.*

While the 2010 additional guidance does not

specifically mention that the amount of fees accumulated be considered in determining whether action should be taken, the FDIC (and perhaps the other regulatory agencies) would likely argue that such consideration is implied by the requirement for banks to monitor for excessive or chronic customer use.

Q: We have a question regarding subsequent flood hazard determinations on our HELOCs, which have an initial 5-year draw period. We review the credit at that end of this period to determine whether we will renew / extend the draw period for another 5-year period. We will renew / extend the draw period up to 2 times, so that a HELOC could have up to a 15-year total draw period, before converting to a 15-year repayment period.

Are we required to obtain a new flood determination each time the draw-period is renewed / extended, and/or when the line goes into repayment? As our flood determinations have life of loan monitoring, it seems strange that we would pull a new determination, when we would already be notified if the flood status had changed on the property.

A: A Standard Flood Hazard Determination Form (SFHDF) is required when you make, extend, increase, or renew a loan that is to be secured by improved real estate.

It sounds like your “basic” HELOC has a 20-year total term (5-year draw period / 15-year repayment period); and that the Credit Union has the option of renewing / extending the draw period an additional 5 years up to two times. Technically, in my opinion, a new flood hazard determination would be required with each renewal / extension of the draw period.

However, in most cases, you would likely be able to rely on the initial flood hazard determination for the first “renewal”. Under [Question 68 of the Interagency Flood Q&As](#), a lender may rely on its own prior determination when it is increasing, extending, or renewing a loan secured by the property if three conditions are satisfied:

- 1) the prior determination was made within seven years of the date of the transaction;
- 2) the SFHDF reflects the basis of the determination; and
- 3) FEMA has not revised or updated the map

affecting the property since the original determination was made. Lenders can determine when the last update was made to a flood map for a particular address from [FEMA's website](#).

If you renew / extend the draw period a second time, you would need to obtain a new flood hazard determination if there have been no changes to the flood map. However, with respect to your point regarding “life of loan coverage”, if there has been a map change / update, and you’ve been notified accordingly by your life of loan provider, that determination becomes the “most recent” and, depending on the date, may be relied upon for the second draw period renewal.

Also, you do not need to obtain a new flood hazard determination when the line converts to the repayment period. That conversion does not qualify as either making, extending, increasing, or renewing a loan that is to be secured by improved real estate.

Q: Our CRA Officer will be retiring in February and is designated in the CRA Policy as the CRA Officer. A new employee will take on the role of CRA Officer effective December 1st. The CRA Policy is typically reviewed and/or revised by the Board in May of each year. I don’t believe a CRA Officer is required to be designated by the Board by regulation, so is it necessary to change Policy now or would it be okay to wait and change that information in May during the normal Policy review rotation?

A: I also can find no regulatory requirement on this subject. Thus, I don’t foresee any problem waiting until the next scheduled Policy review to update the information regarding the CRA Officer.

Q: Is there any requirement for an ATM to always provide a receipt to a customer? The head of our Remote Services department wants to know if we can make the printing of a receipt optional for the customer (that is, can we give them a choice regarding whether or not they want a receipt).

A: You can make the printing of an ATM receipt optional. [Comment 1005.9\(a\)-1, Receipts furnished only on request](#), states that “The regulation requires that a receipt be “made

available.” A financial institution may program its electronic terminals to provide a receipt only to consumers who elect to receive one.”

Q: If the bank is paying all the fees on a specific product (for example, a HELOC), do we still have to provide a copy of the AVM or Appraisal?

A: If the loan / line of credit is secured by a first lien, you are required under [§1002.14\(a\)\(1\)](#) of Reg. B to provide a copy of the AVM or appraisal. It does not matter who pays for the service.

As you referenced a HELOC in your inquiry, and this is most often the type of product where a bank pays for this service, I stress that the requirement applies to first lien transactions only, whether closed-end or open-end credit. As such, you are not required under the regulation to provide a copy of the AVM or appraisal on traditional 2nd lien equity loans or HELOCs.

Q: I have a question about SAR reporting to the Board. We presently provide the Board with a summary of events for each SAR we file. This system has become a bit cumbersome, so we are considering a process change. Specifically, we would like to report to SARs on a quarterly basis in a summary format. The summary would include the number of SARs filed, the type of activity, and perhaps year to date filing totals.

Could you offer us any guidance on this subject? Would quarterly reporting in summary format be acceptable? If not, is monthly reporting better? Should the board report be detailed or is a high-level summary sufficient?

A: You’re required to notify the Board of a SAR filing at the “next regularly scheduled meeting” after the SAR is filed. Thus, you need to provide a report to the Board each month, unless there were no SAR filings since the prior Board meeting.

The content of the Board Report is where you may be able to save some time and effort. In my days as a BSA Officer, we provided limited specific information about the SARs filed. What you are considering would satisfy any regulatory requirements. I came across an [Independent Bankers Association of Texas Q&A Item](#) on this subject which you may find helpful.

Q: Can we grant a loan to a foreign person who

has been granted asylum in the U.S.?

A: Based on my research of this matter, I believe that you can make a loan to such an individual. Individuals who have been granted asylum in the U.S. are automatically eligible to work in the U.S., and are eligible to apply for a green card (permanent residence) 1 year after being granted asylum. I found nothing in my research that indicated that they are restricted / not eligible for obtaining a loan from a bank.

Q: We have an application in process that I need some clarification with from an underwriting / ability-to-repay perspective. The application is for a 1 step construction loan; interest-only payments during the 12-month construction phase, then automatically converting to permanent financing once the construction phase is completed. The term of the amortization is 348 months for a total loan term of 360.

The applicant currently rents and will continue to rent until the construction is complete and they are able to move into the new home.

From an underwriting perspective, should we:

- Utilize the monthly P&I payment on the proposed loan once the loan converts, plus the current rent and other debts?
- Utilize the current rental payment, plus the highest interest only payment during the 12-month construction phase, plus other debts?
- Utilize the payments during the 12-month construction phase (i.e., interest only payment, rent payment, and other debts) and then also calculate DTI based on final numbers (i.e., P&I payment on the proposed permanent loan, plus other debts)?

A: [§1026.43\(a\)\(3\)\(iii\)](#) of Regulation Z excludes a construction phase of 12 months or less of a construction-to-permanent loan from ATR/QM coverage. Given that, in my opinion, you would calculate DTI based the P&I payment for the permanent phase of the loan (I’m assuming this is a fixed rate mortgage) plus other debts. You would omit the amount that had been paid for rent, as that would no longer be applicable once the loan converted.

Important Dates– Don't Forget!

Generally, we retain the prior month, and go forward for at least a year as known. Dates are either effective dates of Final Rules, or end of the comment period for proposed rules.)

- 11/15/2017 [CFPB, Mortgage Servicing Rules](#). End of Comment Period regarding certain aspects of the Interim Final Rule.
 - 11/24/2017 [CFPB, Proposed HMDA Policy Guidance](#). End of Comment Period regarding proposed changes to the disclosure of loan-level HMDA data
 - 01/01/2018 [CFPB, Regulation B](#). Effective date for Amendments to Ethnicity and Race Information Collection requirements.
 - 01/01/2018 [HMDA, Regulation C](#). Effective date for revised transaction coverage and expanded fields.
 - 01/01/2018 [CFPB, Regulation Z](#). Effective date of 2018 dollar thresholds for several Reg. Z provisions.
 - 01/01/2018 [CFPB, HPML Loan Appraisal Requirements](#). Effective date for 2018 smaller loan exemption threshold.
 - 04/01/2018 [CFPB, Prepaid Accounts Rule](#). Mandatory compliance date for most Reg. E & Reg. Z changes originally scheduled to become effective on 10/01/17.
 - 04/19/2018 [CFPB, 2016 Mortgage Servicing Rules](#). Mandatory compliance date for sections of the Final Rule relating to Successors in Interest, and Periodic Statements.
 - 05/11/2018 [FinCEN, CDD / Beneficial Ownership Rules](#). Mandatory compliance date.
 - 07/01/2018 [Federal Reserve, Regulation CC](#). Effective date of Final Rule reflecting a virtually all-electronic check collection and return environment.
 - 10/01/2018 [CFPB, Amendments to the TRID Rules](#). Mandatory compliance date.
 - 10/01/2018 [CFPB, Prepaid Accounts Rule](#). Mandatory compliance date regarding electronic transaction histories, and for submitting prepaid account agreements to the CFPB.
 - 12/31/2018 [FHFA, HARP Extension](#). Program extended beyond original September 2017 end-date.
 - 01/01/2019 [HMDA, Regulation C](#). Effective date for changes to enforcement and reporting provisions.
 - 10/01/2019 [CFPB, Prepaid Accounts Rule](#). Mandatory compliance date for providing the full 24 months of written account transaction history upon request.
 - 01/01/2020 [HMDA, Regulation C](#). Quarterly reporting for high volume reporters starts.
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