

YOUR MONTHLY COMPLIANCE NEWSLETTER



FINDINGS FROM OUR CONSULTING WORK

We like to kick off each monthly newsletter with some common issues we find. This month, we are discussing our old friend, the appraisal notice.

The general regulatory requirement is this: when you take an application for credit that will be secured by a first lien on a 1 to 4 family dwelling, your loan officers must provide the appraisal disclosure. Essentially, the disclosure states that the applicant has the right to receive a copy of an appraisal no less than three business days prior to closing the loan.

This fun little disclosure causes all sorts of problems for lenders

and compliance professionals, so let's not waste any time.

In the home lending world, specifically the TRID world, we have a set of disclosures often referred to as the "three-day disclosures." The main disclosure in this set is the Loan Estimate. These disclosures must be provided within three business days of receiving what we consider a full TRID application. That means we receive six pieces of information, and once we have all six, the three-day clock starts:

1. Name
2. Income
3. Social Security number

4. Property address
5. Property value or estimate
6. Loan amount requested

Everyone has this three-day packet in mind, and the appraisal disclosure often gets lumped into that packet. However, that is not a hard and fast rule, and it gets many lenders in trouble.

Yes, the appraisal disclosure also has a three-day requirement, but that requirement is based on the initial Regulation B application for credit. That is not always the same application date that

See FINDINGS page 3

COMMUNITY REINVESTMENT ACT – PUBLIC FILE REMINDER

It is that time of year for institutions that are subject to the Community Reinvestment Act to make sure your Public File is up to date. **This needs to be completed by April 1st each year.**

The best time to do it is when your fourth quarter call report is completed. Ensure you update your quarterly loan-to-deposit ratios for all of 2025. It's also a good time to make sure your branch and account information is current, your assessment areas are correct, and your most recent performance evaluation is in there. Any public comments need to be included for the current year and each of the prior two calendar years.

For a full list of public file requirements, check out *Section 228.43* link [HERE](#).

FINCEN EASES BENEFICIAL OWNERSHIP REPORTING REQUIREMENTS

There has been a shift in how we collect beneficial ownership information on new accounts that many of you in the BSA world will like, and it takes effect immediately.

For many years, new account opening personnel were required to collect beneficial ownership information and fill out a new form or recertify previous information on every new account a business opens. That meant, if a small business opened three deposit accounts and took out two loans on the same day, five forms were required, or one form and four recertifications. That is all changing.

The newly revised customer due diligence requirements say that financial institutions need to identify beneficial owners in these scenarios:

- (1) when a legal entity customer first opens an account with a covered financial institution,
- (2) any time thereafter when the covered financial institution has knowledge of facts that would reasonably call into question the reliability of beneficial ownership information previously obtained about the legal entity customer, and
- (3) as needed based on a covered financial institution's risk-based procedures for conducting ongoing customer due diligence.

Tuscan Club Consulting has conducted well over 100 BSA audits over the years, and this is a very common finding. It is good to see a little reasonable relief in this area. If you want to read the FinCEN order, you can find it [HERE](#).

FINDINGS

Continued from page 1

triggers the six pieces for a full TRID application.

That creates problem number one: the application date for the appraisal disclosure may be, but is not always, the same application date that triggers the Loan Estimate. Let's use the most common example: pre-qualifications.

Let's say that I want to go house shopping, but I first want to know how much I can afford. I visit one of your lenders and start an application. They collect my name and income information and run a credit report to determine how much I can likely qualify for. That is 100 percent a Regulation B application, and the appraisal disclosure is a Regulation B requirement. Therefore, the clock starts that day.

However, let's say a week passes, and I finally find the house I want to buy. Now TRID has started, and you have three days to provide the Loan Estimate. If you wait until that time to provide the appraisal disclosure, you have missed the window and created a violation.

Problem number two: the appraisal disclosure is on the

Loan Estimate. When TRID came out more than ten years ago, the regulators did us a favor and created confusion at the same time. They placed the appraisal disclosure in the Loan Estimate. We believe that is a major reason why industry professionals assume the appraisal disclosure is a TRID requirement simply because it appears on a TRID document. If we receive all six pieces of information at the initial application, the Loan Estimate will go out within three days, and the appraisal disclosure requirement will be met.

In the case of pre-qualifications, however, the Loan Estimate may not go out for weeks. That means we must provide a separate appraisal disclosure at the time of the Regulation B application, or we will miss the three-day Regulation B timing requirement.

Problem number three: the general TRID three-day disclosures do not need to be provided if the home loan application is denied within those initial three days. Most people know this. However, that rule does not apply to the appraisal disclosure. It must be provided regardless of the application's outcome which also includes applications

withdrawn or closed for incompleteness.

Does it make sense to deny a home loan application and at the same time provide a disclosure stating that if we obtain an appraisal the applicant can receive a copy? Of course not, but we did not write the rule, and that is what the rule requires. We often see this disclosure missing in cases where the application is denied within three days.

The takeaway: the appraisal disclosure may have a three-day timing requirement, and it may appear on the Loan Estimate, but that does not mean it follows TRID rules and timing requirements. It is a Regulation B requirement. While regulators may have intended to simplify things by making it a three-day rule and including it on the Loan Estimate, the result has been widespread confusion. The rules are not the same.

All of this may seem like minor technical issues, but many lenders make these mistakes. Clean this up as part of your compliance program because even if it is a minor technical issue, it can become a widespread systemic problem, and those are the issues you want to avoid.

YOUR MONTHLY FAIR LENDING CORNER NEWSLETTER



The focus of our March Fair Lending Newsletter is screening applicants. This is a topic we touched on briefly last year, but we often receive a lot of questions surrounding it, so we wanted to take a deeper dive.

Pretty much every lender does some level of screening when it comes to loan applicants. You have to do something. Lenders will ask questions to first determine what the applicant needs. If they buy a car, how much are they looking to borrow? Are they buying new or used? How long do they want to finance? Those questions are needed to get through the underwriting process, and they also ensure the applicant gets the loan they need.

Screening becomes an issue when the lender starts collecting informal underwriting factors and then communicates an informal loan decision.

For example, let's say I applied for a car loan and casually mention that my credit score online said it was 490. Your lender knows that the minimum credit score they can approve is 620. I am so far below your credit standards that the loan officer tells me there is no point in applying. Why is that a problem?

It's a problem because I have come in to initiate a Regulation B application. With that, I have provided personal information about my creditworthiness, and the lender has communicated back a credit decision to me. Do you think I will then fill out an application form, and the lender will give me an adverse action notice? Likely, no. That is the problem.

Every applicant should get the same **Opportunity** to go through the application

Continued on page 2

process and get a fair underwriting decision. I mean, it is in the name of the law after all – Equal Credit **Opportunity** Act.

Let's change it up a bit and bring in another caveat. What if I was applying to refinance my home, and before the application starts, I mentioned I had filed for bankruptcy last year. That same scenario is likely to play out, and I will be screened and discouraged from applying. Why would this situation be different than the car loan situation?

That is because we now have an application for a dwelling secured loan with a property identified.

That means this loan is now HMDA reportable, but it will likely be omitted and left off our Loan Application Register. We now have HMDA violations along with underreported denied loans. That artificially deflates your denial data, hiding issues, and also affects peer lenders negatively because they are compared to your denial rates which are now inaccurate.

Loan officers should encourage everyone to fill out an application and go through the full underwriting process. It's what the law requires, adverse action notices are also required, and your HMDA data will be accurate.

Introducing Our Totally Updated And Enhanced

FAIR LENDING SCHOOL 2.0

GET CERTIFIED AS A **FAIR LENDING EXPERT (FLE)**



Fair Lending School 2.0 has been completely updated!

- All new videos
- New risk assessment module added
- 2 more hours of content
- Reorganized manual
- Updated content and examples
- All new training experience – same price

Learn:

- Loan Lifecycle Process and Fair Lending Risks
- How to Monitor and Audit Your Own Program
- Real-World Case Studies and Examples
- Step-by-Step Procedures

Benefits:

- Professionally Produced Videos – 100% Online
- No Travel = Zero Time Away From Your Institution
- Completely Self-Paced
- The Best Fair Lending Training Available
- **12** Continuing Education Credits – Including CRCM Credit

Cost:

Course: \$1,395
Certification: \$350

Our Fair Lending School was authored by a team of commissioned examiners.



Visit tcuniversity.us to get started today.

Earn CRCM and FLE Certification Credit

FAIR LENDING EXPERT GROUP (FLEX)

Expand your knowledge and expertise in Fair Lending



- Open to all compliance, fair lending, and audit professionals
- We have banks, credit unions, and mortgage companies from across the United States
- We meet quarterly for 2 hours
- One Annual fee gets all of your people in the group (Pricing starts at \$800/organization)
- We submit all meetings for 2.5 hours of CRCM credit (earn up to 10 CPE hours every year)
- We focus on different fair lending training topics at each meeting
- Ask our experts your fair lending questions
- Keep updated on changes in regulations and the latest guidance
- Share fair lending exam and audit findings so you stay ahead on what the regulators are seeing
- All meetings are recorded if you miss the live broadcast