JULY 2026

YOUR MONTHLY COMPLIANCE NEWSLETTER

FINDINGS FROM OUR AUDIT WORK

We have had a finding pop up more times recently than we care to admit, and it pretty much affects anyone who takes buildings as collateral for loans. The issue involved fees and flood certifications.

If you are unfamiliar with flood insurance requirements, what you need to know is identifying the flood zone code of any improved property (essentially a building) securing your loan is the first step toward compliance. That is how you determine whether flood insurance is required on the loan.

Back in the 1900s, we used to pull out old flood maps and figure out where each building was located. Today, we can use a vendor to do that for us more efficiently. Vendors document the results on a Standard Flood Hazard Determination Form so the lender can keep the process moving. It is common to disclose and pass along to the borrower that fee paid to the vendor. So far, so good. No harm.

The issue we find is when a lender relies on an old determination form. In certain circumstances, you can certainly do that. If you start with a construction loan, you want to know if that building is going to be in a

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FINCEN UPDATED GUIDANCE ON SECTION 314(B) INFORMATION SHARING

As part of the continuing federal effort to prevent fraud, FinCEN updated their guidance on sharing information between financial institutions about suspected fraud under Section 314(b) of the USA PATRIOT Act. The press release explaining the update can be found here.

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FEDERAL RESERVE SUPERVISION AND REGULATION REPORT

The Fed released its 2026 annual Supervision and Regulation Report, found here. The report is typically released near the end of the year, so we are as surprised as you are to see it in June! Though the focus of the report is the current health of the U.S. banking system, page 11 summarizes recent regulatory developments published by the Fed. Pages 15-24 also contains information on supervisory developments that our BSA/AML and Safety and Soundness friends may find interesting.

CFPB STATEMENT ON ABILITY TO REPAY AND IMMIGRATION STATUS

The CFPB released a statement, found here, reminding creditors that they may "legitimately consider" the immigration status of loan applicants when making credit decisions. Please note that the CFPB is not stating immigration status must be considered and is not prescribing how it is considered. The CFPB does not conduct your safety and soundness examinations. The statement nods to Executive Order 14406. We discuss the impact of executive orders in the Fair Lending Newsletter this month.

REGULATION B FINAL RULE NEWS

We all knew there would be more to say about the big April Reg B final rule. Maybe we'll start a gossip column called "Reg B Watch." As expected, the CFPB performed some housekeeping and rescinded, here, the December 2020 advisory opinion on Special Purpose Credit Programs (SPCPs) since it does not align with the new final rule. On the other side of the conversation, the first lawsuit against the CFPB relating to the final rule was filed, found here, and the press release from the plaintiffs can be read here. Our general recommendation is still not to change anything about your program. However, if you have an SPCP, you need to understand the new risks involved in offering that program depending on its criteria.

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flood zone. You pull the flood certificate from your vendor and charge $20 to the customer. But what happens in a year when the building is finished, and now it's time to do permanent financing?

You can rely on that old flood certificate, but you cannot charge for it again. That is essentially what is happening because it's defaulted to charge the borrower in the system. Your documents are set up to add that $20 fee, but nobody stops to think "Did we actually pull a new flood certificate, or did we rely on the construction one we already have?" If you pulled a new one, great. Charge and disclose the fee and then move on with life. If you relied on the old one, you must remove that fee from the loan costs; otherwise, you are charging twice for a single third-party service.

We find this often, and construction loans are the biggest offenders. However, it can happen anytime you reuse a flood certificate such as a refinance or maybe a home improvement loan. If this is brand new to you and you are freaking out right now, don't sweat it. First find out if this has ever happened at your institution. If so, find out which customers were affected, send them a refund, and then train your loan staff and put procedures in place to prevent recurrence.

YOUR MONTHLY FAIR LENDING CORNER NEWSLETTER

This month's fair lending newsletter is going to discuss the changing regulatory environment.

We get questions on this topic constantly, but they seem to be centered around one major theme: "Regulatory oversight seems to be diminishing. What should I do at my organization in response?" The simple answer – nothing.

Our three branches of government serve three different purposes. Congress (Legislative Branch) writes laws that govern what we do in banking and lending. The courts (Judicial Branch) interpret those laws and help set precedence. Then the president (Executive Branch) decides how to enforce those laws.

At a time when it seems like laws and regulations are constantly changing and new executive orders are always in the press; it is easy to feel disoriented and unsure about what to do. Hopefully we can help.

It is critical to note that an executive order does not change the way laws are written or interpreted, and it is not law itself. Independent of executive orders, if there is not a change, there could still be liability in choosing not to follow the law. An order from the executive branch can lead to regulators deciding not to pursue or enforce that law, but the law is still there. Remember, your primary

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regulator is not the only party that can hold any lender responsible. Special interest groups can bring civil suits to take the issue to the courts for interpretation and there are states with laws that mirror federal laws. In other words, there are more players in the game than your regulators.

When the executive branch released guidance that disparate impact would no longer be enforced, we saw three different states step up with three difference disparate impact cases within months. We have also seen civil suits brought against lenders for discriminatory practices, all while the law remains intact. This is further proof that we need to pay attention to more than just our primary regulators and their priorities.

The other elephant in the room is your data, and how long that data lives and is usable for lawsuits and regulatory exams. Data like your Home Mortgage Disclosure Act (HMDA) applications data is publicly available for scrutiny by anyone with means to analyze it. When the Department of Justice reviews a discriminatory case, they look back at five years' worth of data. That means, your data lives well past any one presidential term or set of priorities. When the regulatory tides change, your data is free game for a new administration.

When asked what to do, our response is – nothing. If anything, now is the time to build. With temporary decreases in regulatory scrutiny, and we do mean temporary, take this time to breathe and to build. If you continue to devote resources to fair lending, serve all customers in your area, and do things the right way, you will have the lowest risk when the political pendulum swings back.

Just because a certain law, regulation, or rule is not a priority of the current administration doesn't mean you should ignore or forget about it. Nothing is permanent, and your data lives on. Ensure that your performance can withstand any political tide.

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