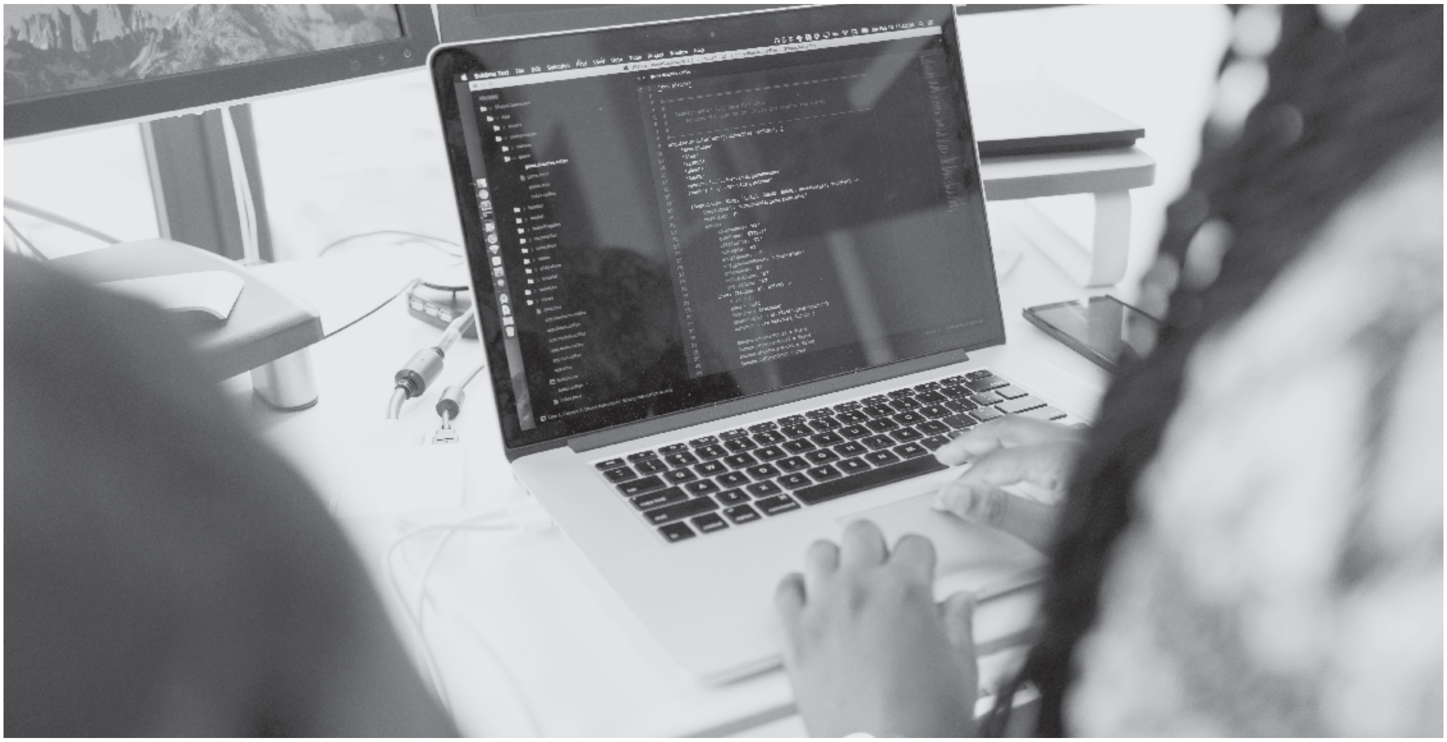
SEPTEMBER 2026

YOUR MONTHLY COMPLIANCE NEWSLETTER



We are doing HMDA data validation (or HMDA scrubs as we call them) constantly, so we have learned a lot over the years on how to ensure they are successful. We want to take this month to talk about the value of an external set of eyes reviewing your HMDA program and how to get the most benefit out of the process.

If you are a HMDA reporter, we don't need to tell you what an honor that is. In all seriousness, while HMDA is a major regulatory burden, it also gives you and others great insight into lending risk and missed business opportunities. With that said, we know we need our HMDA data to be accurate. The best way to do that is to scrub your data internally.

What about having an external third party scrub our data? That's a great idea, and a lot of our readers already do that, but there are a few internal steps that should happen first to get the most out of your money.

Scrub your data first and update your loan application register (LAR) before the external auditors start. Why? First off, having external people scrub your files is way more expensive than an employee, so be conscious of how many files they review. Secondly, an auditor can typically find concerns and weaknesses by reviewing procedures and testing a relatively small sample of files. You want auditors to review the files and program that you plan to submit as final. If they review the files before you do, they will find errors you likely would have caught, so you don't really know if your program is truly effective.

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RESCISSION OF INTERAGENCY STATEMENT OF SPECIAL PURPOSE CREDIT PROGRAMS (SPCP)

If you recall back to early 2022, a laundry list of federal agencies published a joint statement to encourage SPCPs by assuring their permissibility. The agencies have now, unsurprisingly, issued a notice rescinding that statement, found here.

One big question is still unanswered: can a lender design an SPCP around the demographic makeup of a neighborhood or geographic area? For example, could a lender target an SPCP toward a zip code simply because that area has a high percentage of a particular race or ethnicity? There are two competing views on this:

- **Argument against:** Using neighborhood demographics this way could be seen as a "proxy", essentially a workaround for directly targeting a protected group (race, national origin, etc.), which would not be allowed.
- **Argument for:** Because regulators have recently rolled back "disparate impact" liability (the legal theory that a practice can be discriminatory based on its effects, even without intent to discriminate), some may argue this kind of geographic targeting is now fair game.

Bottom line: until regulators clarify this, lenders should proceed cautiously when designing SPCP eligibility criteria tied to geography.

COMMUNITY REINVESTMENT ACT PROPOSED RULE

We typically don't discuss proposed rules, as many are never finalized, and those that are often differ significantly from the original proposal. However, with the abbreviated comment periods we've seen lately, they deserve more consideration. The FDIC and OCC jointly published a notice of proposed rulemaking for changed CRArules, found here, that is essentially a bid to reduce regulatory burden by adjusting the asset thresholds and scopes associated with different performance assessment frameworks (i.e. the performance tests for small, intermediate small, and large bank evaluations).

If it is made final as is, the "small bank" threshold would be less than $1 billion in total assets while a "large bank" would be $10 billion or more, with those in between falling into a new "intermediate bank" category. If you are set to be an intermediate-small or large bank for the next evaluation, we highly suggest you keep collecting information as though nothing will change.

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If you already reviewed the files and the auditors find few to no errors, you know you have a good program and will have a clean LAR as long as you devote the same resources to all of the other files. If they find many errors after your review, that means there is work left to be done.

Also consider that finding a good qualified external auditor with a lot of HMDA experience can be worth its weight in gold. While many compliance professionals working for an institution have only seen a couple of HMDA programs, external auditors with years of experience may have seen dozens or hundreds of programs because they work with a new lender every week. That kind of experience has tremendous value.

One more piece of advice on HMDA scrubs. Ensure that you review and compare your LAR data to source documents, not some checklist along the way. We see these HMDA Data Boarding Sheets often that have a summary of the relevant HMDA data points. If you verify the data on that boarding sheet or checklist is the data on the LAR, all you have done is ensure the data was correctly transcribed from one area to another. The source data is the data of record for most HMDA fields. That means you should go back to the original application for things like demographic information. Look at underwriting documents to verify ratios. Review the actual credit report to ensure the correct score and bureau name made to the LAR. This is how examiners scrub your data, and it's how you should too.

In summary, third-party reviewers should be used as a last check on the system to ensure it is working and eliminating errors, not your primary source to find them.

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YOUR MONTHLY FAIR LENDING CORNER NEWSLETTER

The focus of the September Fair Lending Newsletter is on training. We get that training can get repetitive, monotonous, repetitive, and risks devolving merely into a checkbox to make HR, Legal, and Compliance happy. Fair lending training shouldn't be a chore; it should enlighten all staff to the risks associated with their roles and specifically help the Board, management, and loan staff understand why policies and procedures matter and how they should be followed.

There are four core forms of training, each with their target audience. The first form is director and executive training. It is critical for board directors and executive leadership to have a conceptual understanding of fair lending risk so they can appropriately guide the institution. This training should be short and engaging with a focus on regulator expectations, key loan lifecycle risks, and expectations related to policies, procedures, and oversight. There are several resources available to specifically train directors and executives. Of course, we highly recommend our free 30-minute Fair Lending Training for Board Members video, found here.

Second, and the most in-depth, is training for compliance and audit teams. Whoever is responsible for analyzing and reporting the bank's performance related to fair lending should regularly receive detailed training. This training

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form should be the only one that dives deep into regulatory requirements, analysis methodologies, and reporting expectations. Depending on the size and complexity of your institution, training for compliance and audit teams may include online training courses, newsletters, webinars, conferences, and certification courses.

The third form of training is your basic online training modules that are assigned to lending staff and sometimes operations staff to check a box that says, “We require fair lending training.” No one likes it, but most people take it. We have all been there, clicking on the same computer-based training every single year. This certainly checks the box, but learning is very limited.

The last and most frequently overlooked form is basic lender and customer service training. The concept here is that you don’t have to teach someone compliance if you teach them how to do their job in a compliant manner. The other three forms are much less effective if you have staff who don’t know, understand, or follow your specific policies and procedures. While the same in spirit, we’ll tackle basic lender training before customer service training.

Basic lender training is designed to ensure all loan staff understand how to follow and reference policies and procedures. You may be surprised by how many lenders we interview who don’t understand all the details on how to make a loan at their organization. If the board and executive team establish and approve policies and procedures that are clear, concise, free from guesswork, and comply with regulatory requirements, all the loan staff need to know is how to follow those policies and procedures. Boring compliance training can become a moot point.

Customer service training is for all customer-facing staff. Ask yourself these two questions. Does every person who interacts with customers know the bank’s process for receiving loan applications? Is the expectation that customers receive a warm hand-off to a loan officer, are directed to wait in a sitting area, or are directed to complete an online application? If your staff is trained to follow a clear and simple set of procedures when someone asks them about applying for a loan and they follow those procedures, the fair lending risk presented by their interactions greatly reduces.

Story time. Someone on our team – let’s call him Josh – once tried to apply for a mortgage by bringing personal and financial documents into the lobby of a large branch. Upon being greeted, he was told the institution doesn’t take walk-in appointments for loan applications and was directed to an online application. Was Josh upset and discouraged because he spent all that time gathering documents and driving to the branch? Maybe a bit. Does he still feel awkward when thinking about it? Yes. If that was the institution’s procedure, did they do anything wrong? No.

What if later that day, a customer service representative welcomed someone else in and got them a coffee while they waited for a loan officer to become available? That could be indicative of a lack of training and lead to some serious issues if done on a large enough scale to show the institution was discouraging certain applicants through poor customer service.

The key to an effective fair lending training program is discovering and deploying content that will engage the audience and provide the information they actually need to contribute to the institution’s culture of fairness and service.

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