

# Consumer Compliance Requirements for Commercial Products and Services

## Outlook Live Webinar – September 24, 2025

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# Webinar Overview

- **Antidiscrimination Laws:**
  - Equal Credit Opportunity Act (ECOA)
  - Fair Housing Act (FHA)
- Home Mortgage Disclosure Act (HMDA)
- Community Reinvestment Act (CRA)
- Flood Disaster Protection Act (FDPA)
- Expedited Funds Availability Act (EFAA)
- **Other Applicable Laws:**
  - Section 5 of the Federal Trade Commission Act (UDAP)
  - Servicemember Civil Relief Act (SCRA)
  - Truth in Lending Act (TILA)

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## ECOA (Regulation B) and FHA

- ECOA and FHA both contain antidiscrimination provisions
  - ECOA prohibits discrimination in any aspect of a credit transaction and applies to both consumer and business transactions
  - FHA prohibits discrimination in residential real estate transactions, whether they are consumer or commercial

ECOA	ECOA & FHA	FHA
<ul style="list-style-type: none"> <li>• Marital status</li> <li>• Age</li> <li>• Receipt of public assistance</li> <li>• Exercise of rights under the Consumer Credit Protection Act</li> </ul>	<ul style="list-style-type: none"> <li>• Race</li> <li>• Color</li> <li>• National origin</li> <li>• Sex</li> <li>• Religion</li> </ul>	<ul style="list-style-type: none"> <li>• Familial status</li> <li>• Disability</li> </ul>

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## ECOA (Regulation B) – Adverse Action Notifications

- Business Applicants with gross annual revenues of \$1 million or less:
  - Option One: Follow the requirements for consumer applicants; or
  - Option Two ([§ 1002.9\(a\)\(3\)\(i\)\(B\)](#)):
    - At application, provide the applicant with a written disclosure that
      - Describes the right to receive written reasons ([§ 1002.9\(a\)\(2\)\(ii\)](#)) for the denial within 30 days if requested within 60 days of the creditor's notification of action taken;
      - Provides the name, address, and telephone number of the person or office from which the statement of reasons can be obtained; and
      - Includes the ECOA notice
    - When adverse action is taken, provide notice of the action either orally or in writing

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## ECOA (Regulation B) – Adverse Action Notifications (continued)

- Business Applicants with gross annual revenues over \$1 million:
  - Option One: Follow the requirements for consumer applicants;
  - Option Two: Follow the requirements for business applicants with gross annual revenue of \$1 million or less; or
  - Option Three ([§ 1002.9\(a\)\(3\)\(iii\)](#)):
    - When adverse action is taken, provide oral or written notice of the action taken within a reasonable time of the action taken; and
    - If the applicant makes a written request for denial reasons within 60 days of the creditor's notification, provide (1) a written statement of the reasons for adverse action and (2) the ECOA notice

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## ECOA (Regulation B) – Spousal Signatures

- Spousal Signature Rule ([§ 1002.7\(d\)](#))
  - **Core Requirement:** Individual applicants that meet the creditor's lending standards cannot be required to provide the signature of an applicant's spouse or other person, other than a joint applicant, on any credit instrument
  - **For commercial credit,** a creditor may require the personal guarantee of the partners, directors, or officers of a business even though the business independently meets the creditor's lending standards. Creditors must base this decision on the guarantor's relationship to the business and not on a prohibited basis. ([comment 7\(d\)\(6\)-1](#))

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## Scenario – Spousal Signatures

- Business A submits a loan application to improve a residential rental duplex and provides a corporate resolution listing one officer. The bank requires a spousal guarantee from the officer even though Business A is creditworthy. Select the best answer:
  1. The bank can request a spousal guarantee because the loan is covered by the FHA and marital status is not an FHA-prohibited basis.
  2. The bank can request a spousal guarantee regardless of ownership because Regulation B allows a spousal guarantee for a business loan.
  3. The bank cannot specifically request a spousal guarantee.

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## Scenario – Spousal Signatures Response

- The bank cannot specifically require a spousal guarantee. While the loan is covered by FHA, which does not include marital status as a prohibited basis, the loan is *also* subject to Regulation B, which includes marital status as a prohibited basis. The spousal signature rules in § 1002.7(d) prohibit a creditor from requiring the signature of a guarantor's spouse just as they bar the creditor from requiring the signature of an applicant's spouse. ([comment 7\(d\)\(6\)-2](#))
- But note: a creditor may require Business A to provide a guarantor for the loan, and the spouse of an officer of Business A may permissibly offer to be a guarantor. The distinction is that the lender cannot *require* the guarantor to be a spouse of the officer, which is discrimination based on marital status.

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## Other ECOA (Regulation B) Provisions

- Other technical requirement reminders:
  - Creditors must provide copies of all appraisals and other written valuations for credit secured by a first lien on a dwelling ([§ 1002.14\(a\)\(1\)](#))
  - Creditors must retain written or recorded information for commercial credit applications for 12 months ([§ 1002.12\(b\)\(1\)](#))
  - Statute of limitations for a private right of action is five years or within one year after the commencement of an administrative enforcement proceeding brought by the Attorney General of the United States within five years after the alleged violation ([§ 1002.16\(b\)\(2\)](#))

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## ECOA (Regulation B) Resources

- Adverse Action:
  - [Adverse Action Notice Requirements Under the ECOA and the FCRA](#) (Consumer Compliance Outlook (CCO), 2<sup>nd</sup> Quarter 2013)
  - [Adverse Action Notifications - Examiner Insights](#) (Outlook Live, July 2025)
  - [Top Federal Reserve System Compliance Violations in 2023 Under the Equal Credit Opportunity Act](#) (CCO, 4<sup>th</sup> Issue 2024)
  - [Advanced Topics in Adverse Action Notices Under the Equal Credit Opportunity Act](#) (CCO, 4<sup>th</sup> Issue 2024)
- Spousal Signature Rules:
  - [Regulation B and Marital Status Discrimination: Are You in Compliance?](#) (CCO, 4<sup>th</sup> Quarter 2008)
  - [View from the Field: Commonly Cited Compliance Violations in 2011](#) (CCO, 1<sup>st</sup> Quarter 2012)

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## HMDA (Regulation C)

- Regulation C requires financial institutions (both banks and nonbanks) to collect and report data regarding applications for covered loans, originations of covered loans, and purchases of covered loans for each calendar year
  - Covered loans are closed-end mortgage loans and open-end lines of credit not excluded under [§ 1003.3\(c\)](#)
- Loans primarily for business or commercial purposes are generally not reportable under [§ 1003.3\(c\)\(10\)](#), unless they are home improvement loans under [§ 1003.2\(j\)](#), home purchase loans under [§ 1003.2\(i\)](#), or refinancings under [§ 1003.2\(p\)](#), and no other exclusion applies
  - Closed-end mortgage loans or open-end lines of credit used primarily for agricultural purposes are not reportable under [§ 1003.3\(c\)\(9\)](#)

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## HMDA (Regulation C) *(continued)*

### Examples of reportable loans

- A closed-end mortgage loan or an open-end line of credit to improve a doctor's office or a daycare center that is located in a dwelling other than a multifamily dwelling
- A closed-end mortgage loan or an open-end line of credit to a corporation, if the funds from the loan or line of credit will be used to purchase or to improve a dwelling, or if the transaction is a refinancing
  - See [§ 1003.3\(c\)\(10\)](#) and [comment 3\(c\)\(10\)-3](#)

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## HMDA (Regulation C) *(continued)*

### Examples of non-reportable loans

- A closed-end mortgage loan or an open-end line of credit whose funds will be used primarily to improve or expand a business, for example, to renovate a restaurant that is not located in a dwelling, or to purchase a warehouse, business equipment, or inventory
- A closed-end mortgage loan or an open-end line of credit to a corporation whose funds will be used primarily for business purposes, such as to purchase inventory
  - See [§ 1003.3\(c\)\(10\)](#) and [comment 3\(c\)\(10\)-4](#)

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## HMDA (Regulation C) *(continued)*

### Sound Practices

- Regular training for commercial and small business lenders and staff
- Clear and detailed procedures addressing HMDA data collection, recording, and reportability
- Effective system of controls, such as HMDA checklists and second reviews

### Resources

- The FFIEC's [A Guide to HMDA Reporting: Getting It Right](#) is a valuable resource to help determine whether loans are subject to HMDA reporting

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## CRA (Regulation BB)\*

- Regulation BB requires banks, except small banks, to collect and maintain the following data for each small business or small farm loan originated or purchased by the bank ([12 C.F.R. § 228.42](#)):
  - The loan amount at origination;
  - The loan location; and
  - An indicator whether the loan was to a business or farm with gross annual revenues of \$1 million or less.

\*Regulation BB, [12 C.F.R. Part 228](#), is the Federal Reserve's CRA implementing regulation for the institutions it supervises. The FDIC and OCC have substantially similar CRA implementing regulations for their institutions. [12 C.F.R. Part 25](#) (OCC) and [12 C.F.R. Part 345](#) (FDIC)

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## CRA (Regulation BB) (continued)

### Common Data Collection and Reporting Violations

- Reporting of Inaccurate Loan Amounts
- Reporting Wrong Loan Locations
- Reporting Incorrect Revenue Indicators

### Violations were primarily attributable to:

- Lack of process for validating accuracy of data
- Inadequate software monitoring,
- Weak internal controls and second reviews, and
- Insufficient staff compliance training.

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## CRA (Regulation BB) (continued)

### Sound Practices

- Periodically verify the accuracy of CRA data generated or input by software systems
- Use a second review process that compares collected data with supporting loan documentation
- Provide appropriate training and adjust as needed to reflect audit/monitoring findings; regulatory, system, or staffing changes
- Develop appropriate procedures and revise as needed to accommodate change
- Ensure that monitoring and audit efforts are commensurate with data volume and any bank strategy, structure, staff, or software changes that have occurred

### Resources

- [Common Community Reinvestment Act \(Regulation BB\) Data Collection and Reporting Violations in the Federal Reserve System \(CCO, 1<sup>st</sup> Issue 2025\)](#)
- [Transitioning from an Intermediate Small Bank to a Large Bank Under the Community Reinvestment Act \(CCO, 4<sup>th</sup> Quarter 2014\)](#)
- [CRA Loan Data Collection Grid](#) (Dallas Fed)

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## Flood Disaster Protection Act (FDPA)

- The FDPA and each Agency's respective flood insurance regulations apply to commercial properties and contents.\*
- Banks cannot make, increase, extend, or renew a loan secured by a building or mobile home located in a special flood hazard area (SFHA) unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan.
  - For commercial properties, the maximum amount of insurance available under the National Flood Insurance Program (NFIP) is \$500,000 for buildings and \$500,000 for contents (Refer to the [Interagency Questions and Answers Regarding Flood Insurance \(Q&A Amount 1\)](#))

\*Regulation H, [12 C.F.R. 208.25](#), is the Federal Reserve's FDPA implementing regulation for the institutions it supervises. Refer to each Agency's respective regulations: OCC ([12 C.F.R. Part 22](#)), FDIC ([12 C.F.R. Part 339](#)), FCA ([12 C.F.R. Part 614 Subpart 5](#)), NCUA ([12 C.F.R. Part 760](#))

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## Flood Insurance – Nonresidential Properties\*

A building whose **primary use is commercial or nonhabitational**. This category includes, but is not limited to:

- A building where the policyholder is a commercial enterprise primarily carried out to generate income and the coverage is for:
  - A building used as an office, retail space, wholesale space, factory, hospitality space, or for similar uses, or
  - A building not used for habitation or residential use
- A mixed-use building in which the total floor area devoted to nonresidential uses is:
  - 50% or more of the total floor area within the building, if a single-family building, or
  - 25% or more of the total floor area within the building for all other buildings

The following buildings where the **normal occupancy is for less than 6 months** in duration:

- Apartment buildings
- Assisted living facilities
- Condominiums (if not eligible for a Residential Condominium Building Association policy)
- Cooperative buildings
- Dormitories
- Hotels and motels
- Rooming houses
- Tourist homes

Other buildings **not used for habitation**, including but not limited to:

- Agricultural buildings
- Detached garages
- Nonresidential condominium buildings
- Houses of worship
- Recreational buildings (including pool houses and clubhouses)
- Schools
- Storage or toolsheds
- Strip malls

\*For additional information, refer to Section 3, pgs. 10-11, available at: [NFIP Flood Insurance Manual \(October 2025\)](#)

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## Flood Insurance – “Insurable Value”

- The insurable value of the building may generally be the same as 100 percent Replacement Cost Value (RCV), which is the cost to replace the building with the same kind of material and construction without deduction for depreciation.
  - Additionally, for nonresidential properties, the insurable value might be based on actual cash value (ACV), which is replacement cost value minus the value of its physical depreciation.
  - But note: insurable value does not include land because flood insurance “is limited to the building or mobile home and any personal property that secures a loan and not the land itself.” [12 C.F.R. § 208.25\(c\)\(1\)](#); Q&A [Amount 7](#).
- Banks can use any reasonable method to determine insurable value, for example:
  - Cost-value (not market-value) appraisal, construction-cost calculation, insurable value used on a hazard insurance policy, or replacement cost value listed on the flood insurance policy declarations page
- Refer to Q&A [Amount 2](#)

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## Flood Insurance – Contents Coverage

- Flood insurance coverage for commercial properties cannot exceed the insurable value of the building or its contents
- Contents securing the loan are required to be insured under the regulation when they are located in a commercial building in an SFHA that is also securing the loan
  - The bank's reason for securing the loan with contents (e.g., out of an abundance of caution) is not relevant to whether flood insurance is required
- Refer to Q&As [Other Security Interests 6-10](#) and [Amount 2](#)

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## Flood Insurance – Contents Coverage Example

**Scenario:** A loan is secured by a warehouse and its contents of commercial inventory. The outstanding principal loan is \$200,000. The insurable value of the warehouse is \$150,000, and the inventory is valued at \$100,000.

Structure	Maximum Amount of NFIP	Insurable Value
Warehouse	\$500,000	\$150,000
Contents	\$500,000	\$100,000
Aggregate Max NFIP Coverage	\$250,000 (\$250,000 + \$100,000)	
Outstanding Loan Balance	\$200,000	

**Answer:** The required amount of flood insurance is the lesser of the outstanding loan balance (\$200,000) and the maximum amount of insurance available under the NFIP (\$500,000 for the building + \$500,000 contents = \$1,000,000). Therefore, the answer is the outstanding loan balance at \$200,000, which is the lesser amount. Both the contents and the building will be considered to have sufficient amount of flood insurance coverage for regulatory purposes so long as some reasonable amount of insurance is allocated to each category. The flood insurance requirements could be satisfied by placing \$150,000 of flood insurance coverage on the warehouse and \$50,000 of flood insurance coverage on the contents.

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## Flood Insurance – Multiple Buildings / Mixed-Use Properties

- For multiple buildings, the lender must calculate the required amount of insurance required on each building and add them together (Q&A [Amount 6](#))
- Mixed-use properties should be analyzed by total floor area to determine whether they are primarily commercial or residential (Q&As [Amount 3](#), [Amount 4](#), [Escrow 5](#) reference mixed-use properties)

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## Flood Insurance – Multiple Structures Example

**Scenario:** A loan is secured by a factory and 3 warehouses. All 4 buildings are nonresidential properties in an SFHA in a participating community. The outstanding loan balance is \$350,000. The insurable value (IV) for the factory is \$150,000. The insurable value for each of the warehouses is \$50,000.

			
IV=\$150,000	IV=\$50,000	IV=\$50,000	IV=\$50,000
The Minimum Required Amount of Coverage is the Lesser of These 3 Values:			
Principal Loan Outstanding	\$350,000		
Maximum Amount Available Under the NFIP	\$2,000,000 (\$500,000 per building x 4)		
Insurable Value	<u>\$450,000</u> (\$150,000 + \$50,000 + \$50,000 + \$50,000)		
Answer: The minimum amount of required flood insurance coverage is \$300,000, which is the combined insurable value of the properties.			

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## Flood Insurance – Mixed-Use Structures Example

**Scenario:** A loan is secured by a building that contains a restaurant and 3 apartment units. The building is in an SFHA in a participating community.

	<ul style="list-style-type: none"> <li>The principal loan outstanding is for \$800,000.</li> <li>The insurable value of the property is \$1,000,000.</li> <li>The restaurant is 4,000 square feet. The apartments are 800 square feet each.</li> <li>The total floor area for the building is 4,000 + 800 + 800 + 800 = 6,400.</li> <li>The restaurant covers 62.5% of the total floor area (4,000 ÷ 6,400 = 62.5%).</li> <li>Therefore, this building is considered a nonresidential building because it is a mixed-use building in which 25% or more of the total floor area within the building is devoted to nonresidential use.</li> <li>The maximum amount of coverage available under the national Flood Insurance Program is \$500,000 for this mixed-use, nonresidential building.</li> </ul>
The Minimum Required Amount of Coverage is the Lesser of These 3 Values:	
Principal Loan Outstanding	\$800,000
Maximum Amount Available Under the NFIP	\$500,000 (nonresidential building)
Insurable Value	\$1,000,000
Answer: The bank is required to obtain \$800,000 in flood insurance coverage because it's the lesser of the maximum amount of insurance available for a nonresidential building under the national Flood Insurance Program coverage and the outstanding loan amount or the property's insurable value.	

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## Flood Insurance – Sound Practices/Resources

### Sound Practices

- Develop and implement procedures to ensure a consistent and repeatable process
- Provide detailed training to ensure bank staff maintain a strong working knowledge of flood insurance requirements
- Implement internal controls, such as flood worksheets and second reviews, to ensure loans close with the required amount of insurance coverage on buildings and contents

### Resources

- [Commercial Flood Insurance Compliance — Washing Away Common Pitfalls \(CCO, 2<sup>nd</sup> Issue 2022\)](#)
- [Top Federal Reserve System Compliance Violations in 2023 Under the Flood Disaster Protection Act of 1973 \(CCO, 3<sup>rd</sup> Issue 2024\)](#)
- [Interagency Q&As Regarding Flood Insurance \(May 11, 2022\); Outlook Live](#)
- [Flood Insurance Compliance Requirements \(CCO, 3<sup>rd</sup>/4<sup>th</sup> Quarter 2015\)](#)

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## Expedited Funds Availability Act (Regulation CC)

- Regulation CC requires banks to make available funds deposited into transaction accounts, including business accounts, available according to specified time schedules
- Regulation CC was amended to adjust for inflation the dollar amounts relating to availability of funds (updated thresholds were effective July 1, 2025)

Section	Prior	New
Minimum Amount, <a href="#">§ 229.10(c)(1)(vii)</a>	\$225	\$275
Cash Withdrawal Amount, <a href="#">§ 229.12(d)</a>	\$450	\$550
New-Account Amount, <a href="#">§ 229.13(a)(1)(ii)</a>	\$5,525	\$6,725
Large-Deposit Threshold, <a href="#">§ 229.13(b)</a>	\$5,525	\$6,725
Repeatedly Overdrawn Threshold, <a href="#">§ 229.13(d)(2)</a>	\$5,525	\$6,725

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## Other Applicable Laws

- Section 5 of the FTC Act prohibits unfair and deceptive acts and practices and applies to consumers and businesses
- The Servicemembers Civil Relief Act (SCRA) covers, among other things, loans, rates, and foreclosures and does not distinguish between consumer and commercial credit. See [50 U.S.C §§ 3901-4043](#)
- The Truth in Lending Act (TILA) is implemented by Regulation Z and applies to business accounts on matters related to credit card issuance and liability for unauthorized use of a credit card. See [12 C.F.R §1026.12\(a\)](#) and [\(b\)\(5\)](#)

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## Other Applicable Laws - Resources

- [Consumer Compliance Requirements for Commercial Products and Services](#) (CCO, 1<sup>st</sup> Issue 2024)
- [Compliance Spotlight: Supervisory Observations on Representment Fees](#) (CCO, 2<sup>nd</sup> Issue 2023)
- [Servicemember Financial Protection: An Overview of Key Federal Laws and Regulations](#) (CCO, 2<sup>nd</sup> Issue 2017)
- [Servicemember Financial Protection Webinar: Questions and Answers](#) (CCO, 1<sup>st</sup> Quarter 2013)
- [Servicemember Financial Protection](#) (slides) (Outlook Live, September 2012)

OUTLOOK<sub>LIVE</sub>

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## Sound Practices

- Ensure proper oversight by management and board through ongoing reporting of compliance-related matters
- Implement appropriate policies and procedures and ensure process for regular review and approval
- Develop and implement a strong training program, both for current regulations and any recent changes
- Conduct regular risk assessments and align monitoring, testing, and audit activities according to risk levels
- Implement system of controls that are periodically tested for effectiveness

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## Questions?

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