

RECORD RETENTION REQUIREMENTS FOR FEDERAL CONSUMER PROTECTION LAWS AND REGULATIONS

Most federal consumer protection laws and regulations require providers of financial products and services to retain records of compliance for a specified period. To facilitate compliance, we have listed a high-level summary of the retention requirements for select federal consumer protection laws and regulations. We have designed this chart as a pullout for easy future reference so, for example, if a compliance officer has a question about the retention requirements for Regulation B, the chart would provide a summary and a link to the regulation for details. The chart is intended to provide a quick overview but is not a substitute for reviewing the applicable statute or regulation. The chart is limited to the specific laws listed, and other state or federal laws could also apply.

Regulation/ Statute	Citation	Requirement ¹	Retention Period ²
Regulation B/Equal Credit Opportunity Act (ECOA)	12 C.F.R. §1002.12	Maintain applications and required notifications, including written statements alleging violations, prescreened solicitations, related selection criteria, complaints correspondence, self-test documentation, right-to-appraisal notice, adverse action notices, and ECOA notices. Must also maintain records of fair lending self-test	For consumer transactions and self-testing, 25 months after date of notice For commercial transactions, 12 months, with a special rule for business credit applications in §1002.12(b)(5). For enforcement proceedings and investigations, the period is extended (§1002.12(b)(4))
Regulation C/Home Mortgage Disclosure Act (HMDA)	12 C.F.R. §1003.5(a)(1), (d)	Maintain loan/application register (LAR) and public disclosure statement	3 years — LAR 5 years — disclosure statement
Regulation E/Electronic Fund Transfer Act (EFTA)	12 C.F.R. §1005.13(b), .33(g)(2)	Maintain evidence of compliance as required by the EFTA and Regulation E, including (but not limited to) error-related documentation	2 years
Regulation G/Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act	12 C.F.R. §1007.104(h)	Maintain records of registrants' criminal history background reports and actions taken	Does not specify
Regulation H/Flood Disaster Protection Act of 1973	12 C.F.R. §208.25(i)(3), (4) ³ and .25(f)(2)	Retain a record of the special flood hazard determination form and receipt of notices to the borrower and servicer, force-placed notices, and evidence of flood insurance if required	Life of the loan

¹This information is paraphrased from the law or regulation. The applicable law or regulation contains more details.

²This identifies the *period* that a record must be retained, not what triggers the retention period (e.g., application or date notice sent).

³Each federal banking agency codifies the flood implementing regulations in their respective regulations. We have provided the citation for the Federal Reserve's flood implementing regulations. The other agencies' flood insurance record retention requirements, which are substantially similar, appear in 12 C.F.R. Part 22.9(d),(e) for institutions supervised by the Office of the Comptroller of the Currency; 12 C.F.R. Part 339(d),(e) for institutions supervised by the Federal Deposit Insurance Corporation; and 12 C.F.R. Part 760.9(d),(e) for institutions supervised by the National Credit Union Administration.

RECORD RETENTION REQUIREMENTS FOR FEDERAL CONSUMER PROTECTION LAWS AND REGULATIONS

Regulation/ Statute	Citation	Requirement	Retention Period
Regulation M/ Consumer Leasing Act	12 C.F.R. §1013.8	Retain evidence of compliance with Regulation M, including having performed required actions (except advertising) and having made required disclosures	2 years
Regulation V/Fair Credit Reporting Act (implementing regulations for accuracy and integrity requirements)	Appendix E to 12 C.F.R. Part 1022	Maintain records to substantiate accuracy of consumer information furnished to credit reporting agencies that is subject to a direct dispute	Reasonable period of time, but not less than any applicable recordkeeping requirement to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute
Regulation X/Real Estate Settlement Procedures Act	12 C.F.R. §§1024.10(e), 14(h), 15(d)	Retain HUD-1/HUD-1A (if applicable), documents relating to kickbacks and unearned fees and affiliated business arrangements	5 years after settlement
	12 C.F.R. §1024.38(c) Small servicers, as defined in §1026.41(e) (4), are exempt from §1038(c)'s requirements	<p>Servicer must retain records documenting actions taken for a mortgage loan account, including servicing disclosure statements</p> <p>In addition to the record retention requirements, the servicer must maintain an accessible servicer file accessed within 5 days and contains transactions credited or debited to the account, including escrow and suspense accounts, the security instrument, servicers' notes for communications with the borrower, and any documents the borrower provided to the servicer</p>	1 year after loan is discharged or servicing is transferred

RECORD RETENTION REQUIREMENTS FOR FEDERAL CONSUMER PROTECTION LAWS AND REGULATIONS

Regulation/ Statute	Citation	Requirement	Retention Period
Regulation Z/Truth in Lending Act (TILA)	12 C.F.R. §1026.25	Retain evidence of compliance with exceptions noted below	2 years – agencies may require longer retention periods
	§1026.25(c)(1)(i), 25(c)(2)	Retain records for loan originator compensation, ability-to-repay requirements in §1026.43, and loans secured by real property, except closing disclosure, which are covered below	3 years
	§1026.25(c)(1)(ii)(A)	Retain closing disclosure	5 years
	§1026.25(c)(1)(ii)(B)	Must provide records to new owner or new servicer if loan is sold or a new servicer is appointed who must retain records for balance of 5 years. The creditor must also retain evidence that it performed the required actions and issued the required disclosures	5 years
Regulation CC/ Expedited Funds Availability Act	12 C.F.R. §229.21(g)	Retain evidence of procedures to ensure receipt of disclosures and notices and to prove compliance with funds availability. Must also retain copies of “reasonable cause” exceptions under §229.13(g) and description of why exceptions apply	2 years
Regulation DD/Truth in Savings Act	12 C.F.R. §1030.9	Retain evidence of compliance and show evidence that procedures are followed (e.g., information of rate and balances to verify interest properly paid). Sample disclosures must be kept	Minimum 2 years — agencies may require longer retention periods
Regulation BB/ Community Reinvestment Act (CRA)	12 C.F.R. §228.43 ⁴	CRA disclosure statement CRA public file, including written comments, assessment areas, branch information, and HMDA disclosure statement (if bank is an HMDA reporter) Written comments about CRA performance and the bank’s responses Most recent public CRA performance evaluation	Current and prior 2 calendar years

⁴ We have provided the citation to the Federal Reserve’s CRA implementing regulations. The other agencies’ record retention requirements for CRA, which are substantially similar, appear in 12 C.F.R. Part 195.43 for federal savings associations supervised by the Office of the Comptroller of the Currency; 12 C.F.R. Part 25.43 for national banks supervised by the Office of the Comptroller of the Currency; and 12 C.F.R. Part 345.43 for state nonmember banks supervised by the Federal Deposit Insurance Corporation.

RECORD RETENTION REQUIREMENTS FOR FEDERAL CONSUMER PROTECTION LAWS AND REGULATIONS

Regulation/ Statute	Citation	Requirement	Retention Period
Servicemembers Civil Relief Act (SCRA)	50 U.S.C. §3901 et seq.	The SCRA does not impose recordkeeping requirements; however, examiners may want to view SCRA records to verify compliance	N/A
Fair Credit Reporting Act (FCRA)	15 U.S.C. §1681(m)	Creditors or insurance companies making prescreened offers of credit or insurance based on consumer reports must retain criteria used to make the offer and the requirements that apply to loan if secured	3 years
	15 U.S.C. §1681(w); 12 C.F.R. Part 208, App. D-2	While the focus of this article has been on record retention, the FCRA also requires that when financial institutions dispose of certain sensitive consumer information, they take reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal	

A discussion of record retention must include the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. 7001(d)(1) et seq. The E-Sign Act was designed to facilitate electronic commerce by providing that the validity or enforceability of a contract, electronic record, or signature for a transaction affecting interstate commerce (subject to certain exceptions) cannot be challenged solely because it is in electronic form or because an electronic signature or record was used to form the contract. For purposes of this article and chart, the E-Sign Act also provides that if a law requires the record of a transaction to be retained, an electronic record satisfies this requirement. To comply with the E-Sign Act for recordkeeping purposes, an electronic record must:

- accurately reflect the information in the contract or other record,
- be retained in a form that reflects the information in the contract or other record,
- be accessible to people entitled to view the information for the period the law requires, and
- be in a form that can be retained and later reproduced.⁵

Specific questions should be directed to your primary regulator.

⁵ 15 U.S.C. §7001(d)(1) and 15 U.S.C. §7001(e). *Outlook* discussed the compliance requirements for the E-Sign Act in a 2009 article titled “Moving from Paper to Electronics: Consumer Compliance Under the E-Sign Act,” available at https://consumercomplianceoutlook.org/2009/fourth-quarter/q4_02/.