



Compliance News...

Standard Flood Hazard Determination Form Revision

The Federal Emergency Management Agency (FEMA) recently updated the Standard Flood Hazard Determination Form (SFHDF). The expiration date on the form was changed. There were **no** changes to the format or to the content of the form. Mandatory use of the new form is required by July 1, 2006. The new form may be found at: <http://www.fema.gov/pdf/nfip/sfhdf.pdf>.

You may still use a previously completed SFHDF (completed on the old form) on a subsequent loan provided the SFHDF is less than seven years old. Additionally, please check with your current provider to make sure this is something your current contract allows.

New Regulation DD Rules & Credit Unions

In our newsletter last month, <http://www.bankerscompliance.com/images/May%202006.pdf>, we stated July 1, 2006, as the effective date of the new Regulation DD requirements for all financial institutions. However, on April 20, 2006, the National Credit Union Administration (NCUA) amended the effective date for their final rule. Specifically, the NCUA moved the effective date for Truth in Savings, Part 707 to October 1, 2006, to allow time for necessary system modifications. We are sorry for any confusion our newsletter may have caused.

FDIC, OCC, FRB and OTS - Top Compliance Violations for 2005

The chart on the next page is an average weighted compilation of the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB) and Office of Thrift Supervision (OTS) top ten violations for 2005. The weighted average ranking is on the left and the corresponding Regulatory Agency specific rating is on the right. For example, the Requirement to Purchase Flood Insurance is the number one overall violation; however, the FDIC ranked it as their number ten overall violation. Additionally, some of the regulatory agencies combined certain violations (i.e. HMDA #3 and #9). Please read the footnotes below the chart for further clarification.

Type of Violation		FDIC	FRB	OCC	OTS
1	Requirement to Purchase Flood Insurance	10	1	1	1
	<i>This cite is used when a bank does not obtain flood insurance, or lets it lapse. This is an important issue given the hurricanes this year. Also, situations constituting a pattern or practice of violations result in the assessment of civil money penalties for this violation.</i>				
2	Use of HUD Settlement Statements/Proper completion [24 CFR 3500.8(b)]	1	2	3	8
	<i>This covers a variety of technical errors or omissions in preparing the HUD. My data does not drill down further into the types of problems, but usually it's because POC items were listed incorrectly or other technical problems. This does not represent a major issue facing the banks, it's more of a routine type of problem.</i>				
3	Accuracy of LAR [12 CFR 203.4(a)]	3	6, 7	9	2,3,4
	<i>This represents the citation for virtually any HMDA LAR preparation error. The data is collected on this level, so we cannot drill down further to see if there are any particular types of errors occurring, or if they relate more to the new fields. Our enforcement activities (e.g. civil money penalties) have not spiked this year, so I suspect this may be more routine.</i>				
4	Required use of SFHDF	6	3	2	
	<i>This is cited when either the bank does not use the form when required, or didn't keep a copy of it, as required. (It's usually the result of using application forms or processes which do not contain blanks or fields for monitoring information.)</i>				
5	Did not obtain government monitoring information (GMI) [12 CFR 202.13(a)]	8	4	10	6
	<i>This occurs when a lender does not obtain government monitoring data on applicable loans.</i>				
6	Accuracy of Finance Charge [12 CFR 226.18(d)]		5	8	5
	<i>This occurs when the finance charge on real estate loans is understated by more than \$100.00 or is greater than the amount required to be disclosed. On non-real estate loans with an amount finance of \$1000 or less it is not more than \$5.00 above or below the amount required to be disclosed; or on loans over \$1000 it is not more than \$10 above or below the amount required to be disclosed.</i>				
7	Good Faith Estimate - Lender to Provide [24 CFR 3500.7(a)]	9	9	7	10
	<i>This citation is used when the lender does not provide a Good Faith Estimate within the required time.</i>				
8	Good Faith Estimate Errors [24 CFR 3500.7(c)]	2			
	<i>This reflects technical issues, such as fees missing from the GFE, or fees that don't bear a reasonable relationship to what borrowers were actually charged (as disclosed on the final HUD). This is more of a "routine" type of issue and isn't really a major concern from a "hot topics" point of view.</i>				
9	Overcollect GMI [12 CFR 202.5(b)]	5, 7			
	<i>This is the absolute reverse problem from the other ECOA cite above; where monitoring information is collected when it should not, and outside of cases where the bank obtaining the information for self-testing. This applies to race, color, religion, or national origin (#5) and gender(#7).</i>				
10	Force Placement of Flood Insurance			4	
	<i>This is cited when the borrower fails to obtain the required insurance and the bank does not purchase the insurance on behalf of the borrower within 45 days of notifying the borrower.</i>				
11	Lender must complete GMI when applicant doesn't [12 CFR 202.13(b)]	4			
	<i>This section is cited when banks do not ask for the monitoring information, and in situations where there was a face-to-face interview and the applicants did not provide the info., and the bank did not complete the form on the basis of visual observation or surname. Like the others above, this is not really a new issue, I believe this one appears nearly every year and is most commonly due to misunderstanding or process issues.</i>				

Type of Violation		FDIC	FRB	OCC	OTS
12	Notice of Special Flood Hazard			5	
	<i>This is typically cited when the customer is not provided the special flood hazard notice or there is no evidence that the borrowers received the notice (signatures).</i>				
13	Timing of Notice			6	
	<i>The special flood hazard notice must be provided a reasonable time prior to closing.</i>				
14	Notification within 30 days after receiving application [12 CFR 202.9(a)(1)(i)]				7
	<i>This section is cited when banks do not provide the adverse action notice within 30 days from obtaining all the information necessary to make a credit decision.</i>				
15	Denial Notice - Proper completion/Incomplete [12 CFR 202.9(a)(2)]		10		9
	<i>The adverse action notice must contain a statement of the action taken; the name and address of the creditor; the name and address of the federal agency that administers compliance with respect to the creditor and either a statement of specific reasons for the action taken; or a disclosure of the applicant's right to request specific reasons within 30 days.</i>				
16	Aggregate number & amount of loans to businesses & farms [12 CFR 228.42(a)(4)]		8		
	<i>This is cited when the bank uses an incorrect code for reporting small business or small farm loans on the CRA LAR.</i>				

Footnotes:

FDIC: #5 = Race, color, religion or national origin. #7 = Gender

FRB: #6 = Ethnicity, race and sex / income of applicant. #7 = Loan Amount

OCC: Compiled from banks with < \$1 Billion in Total Assets.

OTS: #2 = Application number/Application Date. #3 = Type of Action Taken. #4 = Ethnicity, race & sex / income of applicant.