

Federal Reserve Bank of San Francisco
101 Market Street, San Francisco, California 94105

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To State Member Banks, Bank
Holding Companies, Financial Holding
Companies, Savings and Loan Holding Companies,
and Foreign Banking Offices
in the Twelfth Federal Reserve District

CFPB Guidance on Social Security Disability Income Verification

On November 18, 2014, the Consumer Financial Protection (CFPB) issued [CFPB Bulletin 2014-03](#) to remind creditors of: (1) their obligations under the Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B, with respect to consideration of public assistance income; and (2) relevant standards and guidelines regarding verification of Social Security Disability Insurance (SSDI) and Supplemental Social Security Income (SSI) (collectively, Social Security disability income) received by mortgage applicants.

As indicated in the guidance, Social Security disability income recipients have faced special challenges in providing proof that their disability payments are likely to continue, especially since the Social Security Administration (SSA) generally will not provide documentation regarding how long benefits will last.

As noted in the CFPB bulletin, ECOA and Regulation B prohibit creditors from discriminating in any aspect of a credit transaction against an applicant because all or part of the applicant's income derives from a public assistance program.¹ As a result, fair lending concerns may arise under ECOA and Regulation B when a creditor requires additional documentation beyond that required by lawful applicable agency or secondary market standards and guidelines to demonstrate that Social Security disability income is likely to continue, such as information about the nature of an applicant's disability or a letter from an applicant's physician. The bulletin further notes that disparate treatment prohibited under ECOA and Regulation B may exist when a creditor treats applicants differently on a prohibited basis -- for example, when a creditor imposes additional documentation requirements on public assistance recipients not imposed on other applicants. Lastly, the bulletin notes that ECOA and Regulation B may also be violated if an income verification standard has a disproportionately negative impact on a prohibited basis, even though the creditor has no intent to discriminate and the practice appears neutral on its face, unless the creditor practice meets a legitimate business need that cannot reasonably be achieved through means that are less disparate in their impact.

The CFPB bulletin highlights the regulations and applicable agency and secondary market standards and guidelines that address verification of Social Security disability income, including those issued by the CFPB, the Department of Housing and Urban Development, the Department of Veterans Affairs, Fannie Mae and Freddie Mac. The CFPB is providing this information to help creditors avoid unnecessary documentation requests and avoid policies and practices that may violate ECOA and Regulation B.

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's website, at <http://www.frbsf.org/banking-supervision/publications/district-circular-letters/>.

For additional information, please contact:

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¹ Such income includes, but is not limited to, Social Security disability income.