



EM-33.1

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Overview

The descriptions and guidance below should not be interpreted as comprehensive statements of the laws and regulations. Rather, they are intended to give a broad overview of each law or regulation's requirements and provide examiners with key considerations for examining compliance at Farm Credit System institutions.

This section contains FCA's standard procedures for examining compliance with federal lending laws and regulations; however, the guidance for several of the procedures is currently under development. In the interim, the following links provide related guidance that was contained in the old FCA Examination Manual:

- [EM- 605 Introduction](#)
- [EM- 650 Flood Insurance](#)

Examination Procedures and Guidance

General

1. HMDA:

Evaluate the adequacy of guidance and controls to ensure compliance with the Home Mortgage Disclosure Act (HMDA) and Regulation C.

Guidance:

The Home Mortgage Disclosure Act (HMDA) is implemented by the Consumer Financial Protection Bureau (CFPB) [Regulation C](#), Home Mortgage Disclosure, Title 12 CFR Part 1003. Regulation C's purpose is to provide the public with loan data that can:

- Help determine whether financial institutions are serving the housing needs of their communities.
- Assist public officials in distributing public-sector investments to attract private investment to areas where it is needed.
- Assist in identifying possible discriminatory lending patterns and enforcing compliance with anti-discrimination statutes.

Institutions covered by the regulation must report, in a HMDA Loan/Application Register (HMDA-LAR), specified information about their originations and purchases of mortgage loans (home purchase and refinancing) and home improvement loans. This includes loan applications that do not

result in originations. Four broad categories of information to be reported per [12 CFR 1003.4](#) include:

- Information about applicants, borrowers, and the underwriting process, such as sex, ethnicity, age, credit score, debt-to-income ratio, and automated underwriting system results.
- Information about the property securing the loan, such as construction method, property value, and additional information about manufactured and multifamily housing.
- Information about the features of the loan, such as pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan.
- Certain unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution.

Each covered institution must report this data as specified on the [CFPB's HMDA page](#). Data for each covered institution, as well as aggregated data for all covered institutions in a metropolitan area, will be available to the public on the CFPB's HMDA page per [12 CFR 1003.5](#).

Evaluative questions and items to consider when examining guidance and controls to ensure compliance with Regulation C include:

- ***Institutional Coverage: Is the institution covered by the requirements of Regulation C? A System institution is a covered institution if it meets both of the following per [12 CFR 1003.2\(g\)\(2\)](#):***
 - On the preceding December 31, it had a home or branch office in a Metropolitan Statistical Area (MSA). As addressed in [12 CFR 1003.2\(c\)\(2\)](#), an institution is deemed to have a branch office in an MSA or a Metropolitan Division (MD) if, in the preceding year, it received applications for, originated, or purchased five or more covered loans related to property located in that MSA or MD (even if it does not have an office in the MSA or MD); and
 - It originated at least 25 covered closed-end mortgage loans or at least 500 covered open-end lines of credit in each of the two preceding calendar years. An institution is not required to report a closed-end mortgage loan or an open-end line of credit, respectively, unless the institution meets the threshold for that loan type for 2 consecutive years. (The open-end threshold will be 500 loans until December 31, 2019. Absent any further action by the CFPB, the threshold will decrease to 100 open-end lines of credit effective January 1, 2020.)
- ***Transactional Coverage: Has the institution properly defined the types of transactions covered per [12 CFR 1003.2\(e\)](#) and [1003.3\(c\)](#)?***
 - Covered transactions generally include applications for and originations of the following loans that are secured by a dwelling:
 - Consumer-purpose (personal, family, or household purposes) closed-end loans and open-end lines of credit.
 - Business-purpose closed-end loans and open-end lines of credit, if the loans or lines of credit are home purchase loans, home improvement loans, or refinancings.
 - Regulation C excludes from its coverage closed-end mortgage loans and open-end

lines of credit used primarily for agricultural purposes, even if the loan is secured by a dwelling. A loan or line of credit is used primarily for agricultural purposes if:

- The loan funds will be used primarily for agricultural purposes; or
 - The loan or line of credit is secured by a dwelling that is located on real property primarily used for agricultural purposes (e.g., a farm).
- Regulation C refers users to Regulation Z for guidance on what is an agricultural purpose. Regulation Z explains that an agricultural purpose transaction includes a transaction involving real estate that includes a dwelling (e.g., the purchase of a farm with a homestead) if the transaction is primarily for agricultural purposes. It allows institutions to use any reasonable standard to determine the primary use of the property and to select the standard to apply case-by-case.
 - If a home purchase, home improvement, or refinancing loan or line of credit is secured by a dwelling and is not for an agricultural purpose, it is subject to Regulation C, whether it is a loan made to a farmer, rancher, or aquatic producer or harvester under FCA Regulation [613.3000](#) or a loan made to a rural homeowner under FCA Regulation [613.3030](#).
 - Covered transactions include preapproval requests for home purchase loans that were approved but not accepted. Pre-approval requests for open-end lines of credit, reverse mortgages, and home purchase loans to be secured by multifamily dwellings are excluded.
- ***Policies and Procedures: Are policies and procedures sufficient to ensure regulatory compliance?*** Institutions should have policies and procedures that address and ensure compliance with Regulation C requirements. Effective policies and procedures should include guidance for determining institutional and transactional coverage, compiling reportable data points, and ensuring compliance with disclosure and reporting requirements.
 - ***Internal Controls: Are internal controls sufficient to ensure compliance with the regulation and timely detection of violations?*** Internal control processes and audit programs should cover the pertinent regulatory requirements associated with Regulation C. Specific individuals should be assigned responsibility for collecting and reporting data and be given sufficient resources to do so accurately. Data tracking systems need to collect and monitor related loan and application data to determine applicability and ensure compliance with Regulation C requirements. Institutions should make a good faith effort to accurately gather and record data. However, an error in compiling or recording data is not a HMDA or Regulation C violation if it was unintentional and occurred despite the maintenance of procedures reasonably adopted to avoid such errors. Audits should include a reasonable amount of transactional analysis to verify data accuracy and compliance with reporting requirements. To determine whether internal controls are adequate to ensure compliance, examiners should review the following for adequacy and effectiveness:
 - Policies and procedures
 - Process flowcharts and checklists
 - Loan file documentation (verification to the HMDA-LAR)
 - Public posting and disclosures
 - Training materials

- **Reporting:** Has the institution submitted its HMDA-LAR in accordance with [12 CFR 1003.5](#) and the instructions on the [CFPB's HMDA website](#)? The institution must submit the HMDA-LAR in electronic format by March 1 following the calendar year for which data is compiled. The institution also must retain a copy for its records for at least 3 years.
- **Posted Notices:** Does the institution provide public notice as required by [12 CFR 1003.5](#)? An institution must post a general notice in the lobby of its home office and each branch physically located in an MSA or MD that its HMDA data is available on the CFPB's HMDA website at www.consumerfinance.gov/hmda. An institution must be prepared to make disclosure statements available for 5 years and HMDA-LARs (as modified by the CFPB to protect privacy) available for 3 years. The unmodified HMDA-LARs must be retained for at least 3 years for examination purposes.

Refer to the HMDA section in the [CFPB Supervision and Examination Manual](#) for more detailed information and guidance on examining compliance with Regulation C. Additional information can be found on the CFPB's website at [HMDA Rule Implementation](#) and [Resources for HMDA Filers](#). The FFIEC also provides helpful information on its [HMDA web page](#).

Note: This examination guidance applies to the version of Regulation C that became effective January 1, 2018, including the Regulation C revisions related to institutional coverage, transactional coverage, and data collection, recording, reporting, and disclosure that were published on October 28, 2015 and additional revisions that were published September 13, 2017. The 2015 revisions were briefly summarized in FCA's Informational Memorandum on [Amendments to Regulation C and Regulation Z and Annual Threshold Adjustments under Regulation Z and Regulation M](#) dated January 13, 2016, and the 2017 revisions were briefly summarized in FCA's Informational Memorandum on [CFPB Actions on Home Mortgage Disclosure Act, Mortgage Servicing Rules, and TILA-RESPA](#) dated October 23, 2017.

2. TILA:

Evaluate the adequacy of guidance and controls to ensure compliance with the Truth in Lending Act (TILA) and Regulation Z.

Guidance:

The Truth in Lending Act (TILA) is implemented by [Regulation Z](#), Title 12 CFR Part 1026. The Consumer Financial Protection Bureau (CFPB) has rulemaking authority under TILA, and FCA has enforcement authority under TILA with respect to Farm Credit System (System) institutions.

TILA is intended to ensure credit terms are disclosed in a meaningful way so consumers can compare credit terms more readily and knowledgeably. In addition, TILA:

- Protects consumers against inaccurate and unfair credit billing and credit card practices.
- Provides consumers with rescission rights.
- Provides for rate caps on certain dwelling-secured loans.
- Imposes limitations on home equity lines of credit and certain closed-end home mortgages.
- Provides minimum standards for most dwelling-secured loans.
- Delineates and prohibits unfair or deceptive mortgage lending practices.

Generally, TILA/Regulation Z applies to all creditors that regularly offer or extend credit to consumers (natural persons) primarily for personal, family, or household purposes, if the credit is

subject to a finance charge or is payable by a written agreement in more than four installments. However, certain transactions are exempted per [12 CFR 1026.3](#). The most common exemptions for System institutions include:

- Extensions of credit primarily for business, commercial, or agricultural purposes. The agricultural purpose exemption also applies to a transaction involving real property that includes a dwelling (for example, the purchase of a farm with a homestead) if the transaction is primarily for agricultural purposes, as discussed in [Official Interpretation 3\(a\)-8](#). A creditor must determine in each case if a transaction is primarily for an agricultural or other exempt purpose, as discussed in [Official Interpretation 3\(a\)-1](#).
- Extensions of credit to other than a natural person (e.g., to a partnership, corporation, or the like).
- Extensions of credit in which the amount of credit extended exceeds the applicable threshold amount or in which there is an express written commitment to extend credit in excess of the applicable threshold amount.
 - This exemption does not apply to an extension of credit secured by any real property or by personal property used or expected to be used as the principal dwelling of the consumer, or to a private education loan as defined in [12 CFR 1026.46\(b\)\(5\)](#).
 - The CFPB announces the threshold amount annually, and FCA generally issues an Informational Memorandum on this announcement.

The disclosure and other rules that creditors must follow differ depending on whether the creditor is offering open-end credit, such as credit cards or home-equity lines, or closed-end credit, such as car loans or mortgages. [Regulation Z](#) is structured as follows:

- Subpart A General (sections 1026.1 through 1026.4) provides general information that applies to open-end and closed-end credit transactions. It sets forth definitions and stipulates which transactions are covered and which are exempt from the regulation. It also contains the rules for determining which fees are finance charges.
- Subpart B Open-End Credit (sections 1026.5 through 1026.16) relates to open-end credit. It contains rules on account-opening disclosures, periodic statements, and other requirements, including special rules that apply to credit card transactions.
- Subpart C Closed-End Credit (sections 1026.17 through 1026.24) relates to closed-end credit. It contains rules on disclosures, treatment of credit balances, annual percentage rate calculations, rescission rights, and advertising.
- Subpart D Miscellaneous (sections 1026.25 through 1026.30) contains rules on record retention, oral disclosures, disclosures in languages other than English, effect on state laws, state exemptions, and rate limitations.
- Subpart E Special Rules for Certain Home Mortgage Transactions (sections 1026.31 through 1026.45) contains special rules and exemptions for certain home mortgage transactions. It sets forth requirements for high-cost mortgages, higher-priced mortgage loans, home equity plans, and other credit secured by a dwelling, and it contains requirements for mortgage transfer disclosures and periodic statements for residential mortgage loans. It also specifies

the contents of the TILA-Real Estate Settlement Procedures Act (RESPA) Integrated Disclosures (TRID) – the Loan Estimate and Closing Disclosure.

- Subpart F Special Rules for Private Education Loans (sections 1026.46 through 1026.48).
- Subpart G Special Rules Applicable to Credit Card Accounts and Open-End Credit Offered to College Students (sections 1026.51 through 1026.60).

Several appendices contain information on multiple advance construction loans, annual percentage computations, ability to pay, and other topics. They also contain model disclosure forms.

[Official Interpretations](#) to Regulation Z are published in a supplement to the regulation. The interpretations include more detailed information on disclosures or other actions required of creditors. The CFPB cautions that it is virtually impossible to comply with Regulation Z without reference to and reliance on the interpretations. Good faith compliance with the interpretations protects creditors from civil liability under TILA. In addition, FCA periodically issues Informational Memoranda that communicate important information and changes related to Regulation Z. In some cases, they provide guidance specific to System institutions. For example, FCA's Informational Memorandum on [TILA-RESPA Integrated Mortgage Disclosures – Clarification of Borrower Stock and Participation Certificates Disclosure](#) dated April 28, 2015, provides direction on how to disclose borrower stock in the Loan Estimate and Closing Disclosure.

Evaluative questions and items to consider when examining guidance and controls to ensure compliance with TILA and Regulation Z include:

- ***Policies and Procedures: Are policies and procedures sufficient to ensure regulatory compliance?*** Institutions should have written policies and procedures that ensure compliance with TILA/Regulation Z requirements. Effective policies and procedures should address the various provisions of the regulation including, but not limited to, rules governing:
 - Applicability and exemptions
 - Finance charges
 - Disclosures
 - Right of rescission
 - Special rules for certain home mortgage transactions
 - High-cost mortgages
 - Higher-priced mortgage loans
 - Loan estimate and closing disclosures
 - Mortgage transfer disclosure
 - Periodic statements
 - Valuation independence
 - Advertising
 - Record retention
- ***Internal Controls: Are internal controls sufficient to ensure compliance with TILA/Regulation Z policies, procedures, and regulatory requirements?*** The board and management should implement effective internal control processes to ensure compliance with TILA/Regulation Z. Examples include documented guidance, training, standardized forms, checklists, centralized processing, internal audit or review coverage, and designating a compliance officer. In addition, if templates are used, management should ensure they

encompass all applicable regulatory requirements they are intended to address. They should also be updated, as needed, and used consistently throughout the institution. Institutions are expected to have sufficient resources and processes to manage regulatory changes, which should include completing appropriate due diligence over updates to any vendor-provided processes, forms, and templates used to generate disclosures. Furthermore, institution training should ensure employees recognize which loans are subject to TILA/Regulation Z so that required disclosures are made.

The guidance in this procedure does not discuss every requirement of TILA/Regulation Z, because the requirements are very detailed and complex. Refer to the TILA section in the [CFPB Supervision and Examination Manual](#) for more detailed information. Also, the CFPB's [Compliance and guidance](#) web page includes links to a number of resources, including *Small Entity Compliance guides*, covering the following topics:

- [TILA-RESPA Integrated Disclosure rule implementation](#)
- [Title XIV rules: mortgage origination](#)
- [Title XIV rules: Mortgage Servicing](#)
- [Truth in Lending annual threshold adjustments](#)
- [Rural and underserved counties list](#)

3. ECOA:

Evaluate the adequacy of guidance and controls to ensure compliance with the Equal Credit Opportunity Act (ECOA) and Regulation B.

Guidance:

4. RESPA:

Evaluate the adequacy of guidance and controls to ensure compliance with the Real Estate Settlement Procedures Act (RESPA) and Regulation X.

Guidance:

The Real Estate Settlement Procedures Act (RESPA) is implemented by [Regulation X](#), Title 12 CFR Part 1024. The Consumer Financial Protection Bureau (CFPB) has rulemaking and enforcement authority over RESPA. RESPA/Regulation X is intended to eliminate abusive practices in the real estate settlement process and provide home buyers and sellers with accurate disclosures of settlement costs. RESPA also provides protections for borrowers with delinquent loans and addresses general servicing policies, procedures, and requirements. For loans not subject to a full or partial exemption from RESPA/Regulation X (as discussed below), institutions must, among other things:

- Provide certain disclosures, when applicable, and ensure the disclosures allow for comparison by borrowers.
- Follow required escrow practices.
- Not pay kickbacks or unearned referral fees to other parties in connection with the referral of business.
- Provide loan applicants a list of homeownership counseling organizations.
- Follow mortgage servicing requirements, including requirements pertaining to foreclosure.

Summary of Regulatory Requirements – [Regulation X](#) is structured as follows:

- *Subpart A General Provisions* (sections 1024.1 through 1024.5) – Provides definitions and explains covered and exempt transactions, and allows for providing disclosures in electronic form. *Note:* Refer to FCA Regulation [609.910](#) for applicable electronic commerce requirements for System institutions.
- *Subpart B Mortgage Settlement and Escrow Accounts* (sections 1024.6 through 1024.20) – Establishes requirements regarding mortgage settlements and escrow accounts, including requirements related to disclosures, kickbacks and unearned fees, affiliated business arrangements, and escrow accounts.
- *Subpart C Mortgage Servicing* (sections 1024.30 through 1024.41) – Establishes mortgage servicing requirements, including requirements related to information servicers must provide to borrowers, resolution of errors, force-placed insurance, and protections for borrowers who have fallen behind on their mortgage payments.

Appendices contain information on completing certain required disclosures, model clauses for a required notice, and other information.

[Official Bureau Interpretations](#) to Regulation X are published in a supplement to the regulation. Good faith compliance with the interpretations affords protection from liability under RESPA.

Applicability – RESPA/Regulation X applies to all federally related mortgage loans not subject to an exemption. A federally related mortgage loan, as defined in [12 CFR 1024.2](#), is a loan (other than a temporary loan, such as a construction loan), including a refinancing, made by a lender that is regulated by a federal agency (this includes all System institutions), if the loan is secured by a lien on residential property upon which either a one to four family structure or a manufactured home is located or is to be constructed using proceeds of the loan.

Most common potential exemptions for System institutions – RESPA/Regulation X exempts certain transactions from its scope, either in full or in part. This section discusses a full exemption commonly used in System institutions, partial exemptions that generally apply to System institutions, and a partial exemption that applies to *small servicers*. Most of the exemptions are set forth in [12 CFR 1024.5\(b\)](#). Additional exemptions applicable to System institutions and *small servicers* are set forth in provisions of subpart C of Regulation X, as discussed below.

A full exemption commonly used in System institutions is for loans primarily for business, commercial, or agricultural purposes. This exemption is set forth in [12 CFR 1024.5\(b\)\(2\)](#).

Regulation [12 CFR 1024.30\(b\)\(3\)](#) provides for partial exemptions from certain mortgage servicing requirements for mortgage servicers that are *qualified lenders* as that term is defined in FCA Regulation [617.7000](#). This regulation defines a *qualified lender* as:

- A System institution, except a bank for cooperatives, that makes loans subject to FCA's borrower rights regulations.
- An other financing institution (OFI), but only with respect to loans discounted or pledged under section [1.7\(b\)\(1\)](#) of the Farm Credit Act of 1971, as amended.

The mortgage servicing requirements from which *qualified lenders* are exempt include the following:

- General servicing policies, procedures, and requirements ([12 CFR 1024.38](#)).

- Early intervention with delinquent borrowers ([12 CFR 1024.39](#)).
- Continuity of contact with delinquent borrowers ([12 CFR 1024.40](#)).
- Loss mitigation procedures ([12 CFR 1024.41](#)).

In adopting these exemptions, the CFPB recognized that some of FCA's borrower rights regulations, at 12 CFR Part 617, offer protections comparable to, but potentially inconsistent with, some of the RESPA/Regulation X servicing requirements. These exemptions apply to System institutions only when they are acting as *qualified lenders*, and they do not apply to loans that are not subject to FCA's borrower rights regulations (e.g., certain rural home and farm-related service business loans). These *qualified lender* exemptions are discussed in FCA's Informational Memorandum on [Final Mortgage Servicing Rules Under the Real Estate Settlement Procedures Act \(Regulation X\) and the Truth in Lending Act \(Regulation Z\)](#) dated July 18, 2013.

Servicers (including System institutions) that qualify as *small servicers* are subject to different requirements with respect to force-placed insurance under [12 CFR 1024.17\(k\)\(5\)\(iii\)](#). Per [12 CFR 1026.41\(e\)\(4\)](#), a *small servicer* is one that services 5,000 or fewer mortgage loans and that services only loans for which it is the creditor or assignee.

Note: *Qualified lenders* and *small servicers* remain subject to all other requirements of RESPA/Regulation X, unless another exemption applies. The exemptions that are not discussed above are detailed and complicated, and examiners should refer to the regulations and to the guidance referenced below for more information.

Evaluative Questions – Evaluative questions and items to consider when examining guidance and controls to ensure compliance with RESPA/Regulation X include:

- ***Policies and Procedures: Are policies and procedures sufficient to ensure regulatory compliance?*** Institutions should have written policies and procedures addressing compliance with RESPA/Regulation X requirements. Effective policies and procedures should address the various regulatory provisions including, but not limited to, rules governing:
 - [Mortgage Settlement and Escrow Accounts](#)
 - Mortgage settlement disclosures
 - Prohibition against kickbacks and unearned fees
 - Affiliated business arrangements
 - Title companies
 - Escrow accounts
 - List of homeownership counseling organizations
 - [Mortgage Servicing](#)
 - General disclosure requirements
 - Mortgage servicing transfers
 - Timely escrow payments and treatment of escrow account balances
 - Error resolution procedures
 - Requests for information
 - Force-placed insurance
 - General servicing policies, procedures, and requirements
 - Early intervention requirements for certain borrowers
 - Continuity of contact
 - Loss mitigation procedures

- **Internal Controls: Are internal controls sufficient to ensure compliance with RESPA/Regulation X policies, procedures, and regulatory requirements?** The board and management should implement effective internal control processes to ensure compliance with RESPA/Regulation X. Examples include documented guidance, training, standardized forms, checklists, centralized processing, internal audit or review coverage, and designating a compliance officer. In addition, if templates are used, management should ensure they encompass all applicable regulatory requirements they are intended to address. They should also be updated, as needed, and used consistently throughout the institution. Institutions are expected to have sufficient resources and processes to manage regulatory changes, which should include completing appropriate due diligence over updates to any vendor-provided processes, forms, and templates used to generate disclosures. Furthermore, institution training should ensure employees recognize which loans are subject to RESPA/Regulation X so that required disclosures are made.

The guidance in this procedure does not discuss every requirement of RESPA/Regulation X because the requirements are very detailed and complex. Refer to the RESPA section in the [CFPB Supervision and Examination Manual](#) and the CFPB's [Mortgage Servicing Rules](#) website for more detailed information. Additionally, FCA periodically issues Informational Memorandums on RESPA/Regulation X (refer to the [Informational Memorandums list](#) on FCA's website).

Note: In 2013, the CFPB issued the *TILA-RESPA Integrated Disclosure Rule*, or TRID. This rule consolidated into two disclosure forms the four existing disclosure forms required under the Truth in Lending Act (TILA) and RESPA for most closed-end consumer credit transactions secured by real estate. Regulation Z, Title 12 CFR Part 1026, now houses the integrated forms, timing, and related disclosure requirements for most closed-end consumer mortgage loans. However, the integrated disclosures are not used to disclose information about reverse mortgages, home equity lines of credit (HELOCs), chattel-dwelling loans (e.g., loans secured by a mobile home or a dwelling that is not attached to real property), or other transactions not covered by the TRID rule. Creditors originating these types of mortgages must continue to use the RESPA disclosure forms, as applicable.

5. Fair Credit Reporting:

Evaluate the adequacy of guidance and controls to ensure compliance with the Fair Credit Reporting Act (FCRA) and Regulation V.

Guidance:

6. Flood Insurance:

Evaluate the adequacy of guidance and controls to ensure compliance with flood insurance requirements (FCA Regulations Part 614, subpart S).

Guidance:

7. Fair Housing:

Evaluate the adequacy of guidance and controls to ensure compliance with the Fair Housing Act.

Guidance:

8. SAFE Act:

Evaluate the adequacy of guidance and controls to ensure compliance with the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) and Regulation G.

Guidance:

9. Margin Stock:

Evaluate the adequacy of guidance and controls to ensure compliance with Regulation U.

Guidance:

The Federal Reserve Board (FRB) issued [Regulation U](#) pursuant to the Securities Exchange Act of 1934. Regulation U sets out certain requirements for lenders who extend credit secured directly or indirectly by margin stock. Margin stock includes any equity security registered on a national securities exchange, such as the New York Stock Exchange or the American Stock Exchange; any over-the-counter security trading in the NASDAQ Stock Market's National Market; any debt security convertible into a margin stock; and most mutual funds. Debt securities convertible into a margin stock would include publicly traded options, such as puts, calls, and combinations.

Evaluative questions and items to consider when examining guidance and controls to ensure compliance with Regulation U include:

- **Policies, Procedures, and Controls: Are policies, procedures, and controls sufficient to ensure compliance?** Institutions should have policies, procedures, and controls that address and ensure compliance with the registration, reporting, and lending requirements of Regulation U.
- **Registration: Is the institution required to register with the FRB? If so, did it register within the required time frame?** Institutions that extend credit secured directly or indirectly by margin stock and that meet the following requirements must register with the FRB using Form FR G-1. This one-time registration must be completed within 30 days after a quarter-end where either of the following has occurred:
 - Credit extended during the quarter secured by margin stock was \$200,000 or more.
 - Credit outstanding at any time during the quarter secured by margin stock was \$500,000 or more.
- **Margin Requirements: Did the institution comply with the margin requirements (currently 50 percent) for purpose credit secured directly or indirectly by margin stock?** Purpose credit is any credit for the purpose, whether immediate, incidental, or ultimate, of buying or carrying margin stock. Institutions must not extend any purpose credit, secured directly or indirectly by margin stock, in an amount that exceeds 50 percent of the margin stock's current market value.

- **Reporting: Is the institution appropriately completing and filing the required FRB forms?**
 - FRB Form FR G-1 – Registration Statement for Persons Who Extend Credit Secured by Margin Stock (Other Than Banks, Brokers, or Dealers): Institutions must file this form as discussed above under *Registration*.
 - FRB Form FR G-2 – Deregistration Statement for Persons Registered Pursuant to Regulation U: Institutions may use this form to deregister with the FRB if, during the preceding 6 calendar months, it has not had more than \$200,000 of credit secured by margin stock outstanding. Deregistering is optional, but institutions that do not deregister must file an annual report (FRB Form FR G-4) every year.
 - FRB Form FR G-3 – Statement of Purpose for an Extension of Credit Secured by Margin Stock by a Person Subject to Registration under Regulation U: The borrower and lender must complete this form for each extension of credit secured directly or indirectly by margin stock. It must be kept in the lender's records for at least 3 years after the termination of the credit.
 - FRB Form FR G-4 – Annual Report: Institutions (unless they have deregistered) must use this form to file an annual report with the FRB within 30 days of June 30. The report shows their lending activities secured by margin stock, including the amount of such credit outstanding and extended during the year.

For detailed information and forms, see the FRB's [Regulation U Compliance Guide](#).

10. Consumer Leasing:

Evaluate the adequacy of guidance and controls to ensure compliance with Regulation M.

Guidance:

11. OFAC Requirements:

Determine compliance with the Office of Foreign Asset Control (OFAC) requirements related to monitoring for Specially Designated Nationals.

Guidance:

12. SCRA & MLA:

Evaluate the adequacy of guidance and controls to ensure compliance with the Servicemembers Civil Relief Act (SCRA) and Military Lending Act (MLA).

Guidance:

13. Audit:

Determine if the institution conducts an effective audit (scope, reporting, and followup) of compliance with federal lending regulations.

Guidance:

The internal audit and review program is a key mechanism for ensuring compliance with federal lending regulations and policies. The internal auditor (or other qualified, independent party) should review the adequacy of lending practices to ensure compliance with applicable criteria. The audit risk assessment and scope should address federal lending regulations, and audit frequency should be commensurate with the complexity of the institution's operations and risk profile. The scope should include a review of policies and procedures as well as a transaction review. A reliable audit program provides the board reasonable assurance that processes are effective.

Evaluative questions and items to consider when examining the audit function regarding compliance with federal lending regulations include:

- **Audit Coverage: Is there periodic audit or review coverage of all applicable federal lending regulations?** Audit or review coverage and frequency should be appropriate relative to risks, changes in the operating environment, regulatory requirements, and periodic testing needs. Coverage should also be consistent with the institution's risk assessment results and annual audit plan.
- **Scope and Depth: Are audit or review scope and depth sufficient to conclude on the adequacy, completeness, and timeliness of lending processes?** The scope should cover key processes and controls within the area being audited or reviewed. The depth of work, including transaction testing, should be sufficient to determine if internal controls are functioning as intended and regulatory requirements are met. The scope and depth of coverage should be consistent with the approved audit or review plan and engagement contract (if applicable). If audit or review work deviated materially from the original planned scope, the board (or Audit Committee, if so delegated) should be notified of the reasons for the change. Specific items that should be considered in the audit or review scope include:
 - Lending processes and controls. Internal audits or reviews should address all federal lending requirements that are applicable and relevant to the institution.
 - Policies, procedures, templates, and other guidance related to federal lending regulations.
 - Compliance with federal lending-related regulations, policies, and procedures. Audits or reviews should include sufficient transaction testing to detect noncompliance with established criteria.
 - Fraud-related threats and vulnerabilities, as well as anti-fraud controls.
- **Reliability of Results: Did FCA identify any concerns with audit and review reliability?** Evaluate the reliability of internal audit or review work by comparing the results to FCA's examination results in this area. This comparison often includes FCA testing of transactions that were covered in the internal audit or review (transactions are often loans or loan applications, but may include other types of transactional activity, as well). In addition to the audit or review report, examiners should request and review the workpapers and hold

discussions with the auditor to obtain a more thorough understanding of work completed. Often, auditors and reviewers will complete line sheets, flowcharts, control matrices, standard work programs, workpaper forms, or other relevant documents when conducting work. Workpapers should adequately document the work performed and support the final report. In addition, any proforma work programs, workpapers, or other tools should be accurate and sufficiently thorough. If there are material weaknesses identified by examiners that are not identified by internal audits or reviews, examiners should assess the underlying reasons.

- **Reports: Do internal audit reports sufficiently communicate review results and recommendations, if applicable?** Examiners should consider the following when evaluating the audit or review report:
 - Is the report prepared in accordance with the institution’s guidelines?
 - Is an executive summary or overview included to provide the board with a general conclusion on audit or review results?
 - Is the report accurate, concise, supported, and timely in communicating the audit or review objectives, scope, results, conclusions, and recommendations?
 - Are conclusions and recommendations realistic and reasonable, with material and higher risk issues clearly identified and prioritized?
 - Are conclusions and recommendations supported by convincing evidence and persuasive arguments (condition, criteria, cause, and effect)?
 - Does the report conclude whether the institution adheres to policies, procedures, and applicable laws or regulations, and whether operating processes and internal controls are effective?
 - Does the report address potential vulnerabilities to fraud, if applicable?
- **Corrective Action: Are management responses to audit findings in this area reasonable, complete, and timely? Have corrective actions been effective?** Audits and reviews are only effective if corrective action is taken to remedy the weaknesses identified. As such, there should be a reasonable, complete, and timely management response to the audit or review report. In some cases, management commitments and agreements or any areas of disagreement are documented in the report or in a separate memo or tracking system. If corrective actions are not resolving the issues or concerns (based on repetitive audit findings, FCA findings, etc.), examiners should further investigate the reasons. For example, this could indicate the audit or review did not sufficiently identify the underlying causes or materiality of weaknesses, sufficient resources are not being directed toward corrective actions, or weaknesses exist in the institution’s corrective action process, including board oversight of the process.

14. Transaction Testing:

Examine individual loans and applications to assess compliance with federal lending regulations and the effectiveness of institution control processes.

Guidance: