



**Banker's Compliance  
Consulting**

**Government  
Monitoring -  
Regulation B**

October 2019

**Turning Regulations into  
PLAIN ENGLISH!**

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*\* Words in Italics are taken directly from the applicable regulations.*

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**Regulation B**  
**12 CFR 1002**

I. Collection of Monitoring Information:

A. Age:

There are no prohibitions on the collection of an applicant's age. In fact, in many cases it's required (i.e. BSA/AML Customer Identification Program requirements and ECOA §1002.13).

B. Marital Status:

1. Unsecured Loans:

*If an applicant applies for individual, unsecured credit, a creditor **shall not inquire** about the applicant's marital status... [§1002.5(d)(1)]*

2. Secured Loans:

*If an application is for other than individual unsecured credit, a creditor **may inquire** about the applicant's marital status, but shall use only the terms "married," "unmarried," and "separated". A creditor may explain that the category "unmarried" includes single, divorced, and widowed persons. [§1002.5(d)(1)]*

C. Monitoring Information Collection for Mortgage Loans:

A financial institution must collect data about the ethnicity, race, sex, age and marital status of the applicant (natural person). [§1002.13(a)]

	<b>National Banks</b>	<b>FDIC and Federal Reserve Banks</b>
<b>Non-HMDA banks</b>	Collect 20 items including race, sex, ethnicity, marital status and age for purchase and refinance applications to be secured by the applicant's primary dwelling.	Collect race, sex, ethnicity, marital status and age for purchase and refinance applications to be secured by the applicant's primary dwelling.
<b>HMDA banks</b>	Collect race, sex, ethnicity, marital status and age for all purchase, all refinance, all home improvement and consumer home equity loan applications to be secured by any dwelling.	

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### D. Coverage:

#### 1. Collect:

Request monitoring information (**ethnicity, race, sex, age and marital status**) if the primary loan purpose is to:

##### a. Purchase the Applicant's Principal Residence:

*...a dwelling (1-4 family) occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling...* [§1002.13(a)] **This includes bridge loans and home equity lines of credit.** *A person can have only one principal residence at a time. However, if a person buys or builds a new dwelling that will become that person's principal residence within a year or upon completion of construction, the new dwelling is considered the principal residence...* [Commentary to §1002.13(a) #4]

##### b. Refinance the Applicant's Principal Residence:

**A refinance loan secured by ...a dwelling occupied... by the applicant as a principal residence...** [§1002.13(a)] *A refinancing occurs when an existing obligation is satisfied and replaced by a new obligation undertaken by the same borrower.* [Commentary to §1002.13(a) #6] **Includes bridge loans and home equity lines of credit.**

#### 2. Do Not Collect (Ethnicity, Race and Sex) [Commentary to §1002.13(a) #5]:

- a. Home Equity Applications
- b. Home Improvement Applications
- c. Debt Consolidation (Except Refinance)
- d. Any Application Not Secured by the Applicant's Primary Residence

#### 3. Temporary Financing:

*An application for temporary financing to construct a dwelling is not subject to... the collection requirements of this section (i.e. construction only). But an application for both a temporary loan to finance construction of a dwelling and a permanent mortgage loan to take effect upon the completion of construction is subject to... the collection requirements of this section.* [Commentary to §1002.13(a) #5]

#### 4. Home Equity Lines of Credit:

*An application for an open-end home equity line of credit is not subject to this section unless it is readily apparent to the creditor when the application is taken that the primary purpose of the line is for the purchase or refinancing of a principal dwelling.* [Commentary to §1002.13(a) #5]

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### E. Notification of Request:

*The disclosure to an applicant regarding the monitoring information **may be provided in writing (or orally)**. A creditor may devise its own disclosure so long as it is substantially similar. The creditor need not orally request the monitoring information if it is requested in writing. [Commentary to §1002.13(c) #1]*

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. You may select one or more designations for "Race". The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under federal regulations the lender is required to note ethnicity, race, and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

[§1002.13(b) and Appendix B]

### F. Collection Rules:

*Questions regarding ethnicity, race, sex, marital status, and age may be listed, at the creditor's option, on the application form or on a separate form that refers to the application. **The applicant(s) shall be asked but not required to supply** the requested information. [§1002.13(b)]*

#### 1. Timing:

The lender must request the monitoring information **at the time of application**. [§1002.13(b)]

#### 2. Documenting the Request for Monitoring Information:

*The **regulation requires written applications for the types of credit covered by... this section** (purchase and refinance, primary dwelling secured). **A creditor can satisfy this requirement by recording... the information that the applicant provides orally...**[Commentary to §1002.13(b) #2]*

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### 3. In Person Applications – Information Not Provided:

*If the applicant(s) chooses not to provide the information or any part of it, that fact shall be noted on the form. **The creditor shall then also note on the form, to the extent possible, the ethnicity, race, and sex of the applicant(s) on the basis of visual observation or surname.*** [§1002.13(b)]

### 4. Telephone and Mail Applications:

#### a. Collection:

*A creditor that accepts an application by telephone or mail **must request the monitoring information... at that time.*** [Commentary to §1002.13(b) #3(i)]

#### b. Information Not Provided – Mail or Telephone:

*A creditor that accepts an application by mail **need not make a special request for the monitoring information if the applicant has failed to provide it on the application form returned to the creditor.*** [Commentary to §1002.13(b) #3(ii)]

Note: ***If it is not evident on the face of an application that it was received by mail, telephone, or via an electronic medium, the creditor should indicate on the form or other application record how the application was received.*** [Commentary to §1002.13(b) #3(iii)]

### 5. Video or Other Electronic Media Applications:

#### a. With Video Capability:

*If a creditor takes an application through an electronic medium that allows the creditor to see the applicant (i.e. Facetime, Skype, etc.), the creditor **must treat the application as taken in person.** The creditor must note the monitoring information on the basis of visual observation or surname, if the applicant chooses not to provide the information.* [Commentary to §1002.13(b) #4(i)]

#### b. Without Video Capability:

*If an applicant applies through an electronic medium without video capability, the creditor **treats the application as if it were received by mail.*** [Commentary to §1002.13(b) #4(ii)]

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### 6. Ethnicity and Race:

*...a creditor may choose on an application-by-application basis whether to collect aggregate information (does not include ethnicity and race subcategories) pursuant to... the ECOA ...or disaggregated information (includes ethnicity and race subcategories) pursuant to... HMDA ...about the ethnicity and race of the applicant. [Commentary to §1002.13(a) #8]*

#### a. ECOA Lenders:

*When a creditor collects ethnicity and race information...under ECOA ...the applicant must be offered the option to select more than one racial designation... [Commentary to §1002.13(b) #1]*

#### b. HMDA Lenders (Optional for ECOA Lenders):

*When a creditor collects ethnicity and race information... under HMDA ...the applicant must be offered the option to select more than one ethnicity designation and more than one racial designation. [Commentary to §1002.13(b) #1]*

*When a creditor collects ethnicity and race information... under HDMA ...the creditor must comply with any restrictions on the collection of an applicant's ethnicity or race on the basis of visual observation or surname set forth in... HMDA (Appendix B). [§1002.13(b)] Do not identify subcategories on the basis of visual observation or surname. Only an applicant may self-identify as being of a particular... subcategory... [§1002.13(b) and Appendix B to §1003 #8]*

### 7. Refinance – Subsequent Requests:

*A creditor that receives an application to refinance an existing extension of credit made by that creditor for the purchase of the applicant's dwelling may request the monitoring information again but is not required to do so if it was obtained in the earlier transaction. [Commentary to §1002.13(a) #6]*

### 8. Applicant ≠ Natural Person Alert:

*Collection only ...applies only to applications from natural persons. [Commentary to §1002.13(a) #1]*

### 9. Multiple Co-Applicants:

*If there is more than one co-applicant, a creditor is permitted, but is not required, to collect the information... from a second or additional co-applicant. [§1002.13(b)]*