

Fair Lending and Related Mortgage Development Updates: *More Focus on Manufactured Home Financing*

Prepared by:
Elizabeth C. Yen
Hudson Cook, LLP



INTRODUCING

Lorman's New Approach to Continuing Education

ALL-ACCESS PASS

The All-Access Pass grants you **UNLIMITED** access to Lorman's ever-growing library of training resources:

- ✓ **Unlimited Live Webinars** - 110+ live webinars added every month
- ✓ **Unlimited OnDemand and MP3 Downloads** - Over 3,800 courses available
- ✓ **Videos** - More than 1,900 available
- ✓ **Slide Decks** - More than 3,000 available
- ✓ **White Papers** - More than 1,900 available
- ✓ **Reports**
- ✓ **Articles**
- ✓ **... and much more!**

Join the thousands of other pass-holders that have already trusted us for their professional development by choosing the All-Access Pass.



Get Your All-Access Pass Today!

SAVE 20%

Learn more: www.lorman.com/pass/?s=special20

Use Discount Code Q7014393 and Priority Code 18536 to receive the 20% AAP discount.

*Discount cannot be combined with any other discounts.

Fair Lending and Related Mortgage Developments and Trends: More focus on manufactured home financing (including retail installment financing).

a. Statistical analysis of manufactured home financing (including retail installment financing)

transactions will be facilitated by the expanded Home Mortgage Disclosure Act (HMDA) data collection and reporting requirements that apply for calendar year 2018 and future years, as such data becomes available for public analysis beginning in 2019. (See also Section 4 and footnote 12 below.)

b. Persons who live in manufactured home parks (by renting space in such parks, and either renting or owning the manufactured homes situated in such parks) may be disproportionately low-income, compared to persons who live in “site built” homes, based in part on the difference between the average sales price of new manufactured homes and the cost of a single-family “site built” home. Manufactured home owners (and renters) also may include higher numbers of persons with low English language proficiency, and a higher percentage of older individuals (including retirees on fixed incomes).⁷ This raises demographic-related compliance concerns similar to those noted in Section 3 below (concerning reverse mortgage loans).

Consumers seeking manufactured home financing may also include those who are “unbanked” (having no bank account) or “underbanked” (having a bank account but also using nonbank financial services). FDIC research indicates that approx. 42% of households earning less than \$30,000 annually are either unbanked or underbanked. A high percentage of unbanked/underbanked households are headed by working-age individuals with disabilities, or by members of minority groups. (See 2015 FDIC National Survey of Unbanked and Underbanked Households (October 2016), copy available at <https://www.fdic.gov/householdsurvey/2015/2015report.pdf>.) See also footnote 8 below.

c. Purchase-money manufactured home financing may be heavily influenced by the retail seller of the

manufactured home, raising potential questions of credit pricing, steering, and other well-publicized compliance matters found in the automobile finance industry. (See, e.g., Section 1.i.(iii) above.) In the U.S. Attorney General’s 2016 Annual Report to Congress Pursuant to the Equal Credit Opportunity Act Amendments of 1976 (September 2017), copy available at <https://www.justice.gov/crt/page/file/996791/download>, the Department of Justice notes pending fair lending investigations concerning alleged discrimination based on race or national origin in the sale of manufactured homes.

d. The CFPB issued a so-called “white paper” in September 2014 on “Manufactured-Housing Consumer Finance in the United States” (copy available at http://files.consumerfinance.gov/f/201409_cfpb_report_manufactured-housing.pdf) that discusses demographic trends among manufactured home owners. In addition, the “white paper” notes the following matters, among other things:

- Approx. 48 percent of households that live in manufactured homes own both the home and the underlying land.
- Approx. 30 percent rent the land but own the manufactured home.
- Approx. 18 percent rent both the land and the manufactured home.
- Approx. 68 percent of manufactured home purchase-money transactions (including “chattel-only” and real property secured transactions) reported in 2012 under the Home Mortgage Disclosure Act fell into the “higher-priced mortgage loan” category (compared to 3 percent of reported loans for site-built homes). When compared to all of the reported “higher-priced mortgage loans,” the manufactured home transactions “tend to have higher rates.”
- Most “high cost” (HOEPA or Section 32) HMDA-reported loans (based on HMDA-reported APRs) were purchase-money manufactured home transactions.

(Note that “high cost” transactions include a pre-closing counseling requirement under 12 CFR Section

1026.34(a)(5), raising counseling issues similar to those discussed in Section 3.d. below (concerning reverse mortgage loans).

e. The Federal Housing Finance Agency (FHFA) issued regulations in December 2016 pursuant to 12 USC Section 4565, implementing a statutory duty of FNMA and FHLMC to serve the manufactured housing market (including “chattel-only” manufactured housing finance). (See 81 Fed. Reg. 96242 (December 29, 2016), effective January 30, 2017, adding 12 CFR Section 1282.31 et seq. - a “Duty to Serve Underserved Markets” regulation.) FNMA and FHLMC each published final FHFA-approved 3-year plans in December 2017 (effective January 1, 2018), including market research and the development of pilot manufactured housing finance programs in 2019-2020, to help facilitate a secondary market for loans secured by manufactured homes. When the actual pilot secondary market programs are announced (in 2019 or 2020), more attention may be paid by a larger number of regulators, in-house and outside counsel (among others) to consumer protection requirements applicable to manufactured home financing (presently a niche area of the residential finance market). (For example, although the revised integrated RESPA/Truth in Lending mortgage disclosures do not apply to a pure manufactured home financing transaction, where the owner of the home rents and does not own the land on which the home is located, the “high-cost,” “higher-priced” and related regulations at 12 CFR Section 1026.31 et seq. generally apply to consumer credit transactions secured by the consumer’s principal dwelling. In addition, to be eligible for federal rate preemption in a state that has not opted out (see 12 CFR Section 190.3 and 12 USC Section 1735f-7a), a first lien priority manufactured home credit transaction should comply with 12 CFR Section 190.4.)

The material appearing in this website is for informational purposes only and is not legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. The information provided herein is intended only as general information which may or may not reflect the most current developments. Although these materials may be prepared by professionals, they should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.

The opinions or viewpoints expressed herein do not necessarily reflect those of Lorman Education Services. All materials and content were prepared by persons and/or entities other than Lorman Education Services, and said other persons and/or entities are solely responsible for their content.

Any links to other websites are not intended to be referrals or endorsements of these sites. The links provided are maintained by the respective organizations, and they are solely responsible for the content of their own sites.