



Lending Related CIP Threads from BankersOnline.com

Escrow Accounts

I am interested to know how other banks are going to handle the following situation:
We handle attorney accounts that are set up by the attorney as escrow agent for another person. The person for whom the account is held in escrow is never present at account opening; only the attorney is present at account opening. Typically, we set up the account in the attorney's name and use the TIN for the individual whose funds are in escrow. If the individual is a non-resident alien the individual signs a W-8. The money in escrow is in the attorney's control and never in the individual's control. Are other banks faced with similar situations requesting ID from the attorney, the individual or both. Thanks for your help!

Since no one else has replied, I'll bite. You may be able to view these as a broker situation. The attorney is your customer so you won't need to CIP the other people.

Indirect loans and notice

Does anyone have a plan for notifying the "customer" of your CIP policy for indirect loans? The loan is in the dealer's name but we make the credit decision. Will the dealers need to have signs from every bank they use or provide written notice for the bank once the bank agrees to purchase the loan? I haven't read anywhere that the notice can be provided after the fact as the privacy notice is. Any help will be appreciated.

We are including the notice as an attachment to the notes furnished to the dealers.

We are sending the dealers a laminated notice that we are asking they post in their offices.

Leasing Company Board approval

Based on prior BOL threads, I have determined our leasing company is subject to CIP. My question is does the leasing company Board of Directors have to approve the CIP also? I'm thinking they do, but want another opinion.

If you're an insured institution, regulations applicable to your institutions are applicable to your operating subsidiaries. We're in a similar situation. Our solution is to define coverage of the BSA policy including the CIP procedures as extending to the bank and its subs. Board approval is obtained only by the Bank's board as it is the controlling body of the bank and all its subs.

Let me make clear that this is our approach and is offered for comparison purposes and not as legal advice.

That is our approach as well. All of our subs are directly under the bank (not the holding company) so I am not having each separate BOD approve, just the bank.

Quote:

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Does your sub's have separate BODs from the bank?

CIP and Overdraft Protection

We have an overdraft protection program that includes an application process. Would overdraft protection be considered an account (since it is an extension of credit) for CIP? I'm concerned about existing accounts that apply for overdraft protection and have not been through our CIP program.

If you are referring to an OD Line of Credit attached to a checking account, then any new customer opening the checking account and line would require CIP ID verification. If you are adding an OD Line to an existing checking account, the person is already a customer of yours. CIP requirements would not apply, unless you have a reason to question customer's identity.

I guess I was looking at it this way. If we have an existing customer that comes in to obtain a loan, after Oct 1 that would be considered a new account and, they would need to go through our CIP since they had never been through it before. I wondered if account overdraft protection would be considered a new account for CIP thus triggering the ID process?

I think what Upstate was getting at was that customers that have an existing account with you are exempt from CIP requirements as long as you have a reasonable belief that you know who they are. Your CIP policy could certainly require you to check them anyway, but as far as the reg goes you wouldn't necessarily have to.

I would consider it a new relationship for an existing customer. The regulation does allow flexibility for existing customers opening new relationships, and this situation would fall under that. I would treat the application for overdraft protection from a pre-Oct 1 customer the same as I would treat an existing customer's application to obtain any other loan or account from your bank.

I was still unsure on this one so I ran it by the OCC. Since it is an existing customer, if we have a "reasonable basis" to know the true identity of our customer they do not have to go through CIP. Understanding that "reasonable basis" has not been defined yet we are expanding on our "basis" in the policy.

Due Diligence Agreement?

Hi all you guys out there in BOL world. I might be way off track here (what else is new?), but I have 2 questions about due-diligence agreements with third parties who are closing loans:

1. For some of our mail-in/phone apps, no one sees the customer until the closing, at which time, their identification will be verified. Is anyone requiring these closing agents (attorneys, etc) to sign some sort of agreement stating that they will be following our bank's p & p regarding CIP?
2. If yes, does anyone have one they'd be willing to share?

I have heard various approaches, from some companies having the closing agent return a photo copy of the ID used to verify the customer to having them complete a form and return it to relying solely upon non-documentary ID for the verification for internet, phone, and mail applications. I have not heard yet of a separate agreement with the closing agent to gain the information; however, I have heard of enhancements being made to the Loan Closing instructions. I am trying to do some industry standard research right now, unfortunately approaches seem to vary.

We usually do our own closing; so we would get the ID at closing in this type of mail/internet application. We would have received some non-documentary ID because of the credit report and contacting the client for additional questions.

An agreement is a good idea if its purpose is to assure that the closing agent understands its responsibilities. However, it does not reduce the bank's responsibilities for CIP compliance and record retention. The bank remains wholly responsible for what the agent did or did not do.

Amy's comments are insightful. For the bank to meet its record retention requirements regarding "descriptions" of documents relied on, methods undertaken to verify identity, etc. there are only two obvious choices. First, the bank could require the closing agent to provide the "descriptions" to the bank (fill out a form or provide copies). Alternatively, the bank could conduct the verification prior to the closing, requiring the closing agent only to see identification at the appropriate time.

Admittedly, I am a control freak and would prefer the latter. The problem with the first alternative is that, if the form was missing or incomplete, the bank would have a locked in, undeniable violation of law.

Link to thread with sample "agreement" for indirect lending based on similar concepts.

Quote:

An agreement is a good idea if its purpose is to assure that the closing agent understands its responsibilities. However, it does not reduce the bank's responsibilities for CIP compliance and record retention. The bank remains wholly responsible for what the agent did or did not do.

The preamble says:

"The final rule issued here does not affect a bank's authority to contract for services to be performed by a third party either on or off the bank's premises. Thus, for example, a bank may contract with a third party service provider to keep its records even when the bank does not act under the reliance provision set forth in the regulation. However, Treasury and the Agencies note that the performance of these services for Federally regulated banks will be subject to regulation and examination by the Agencies under other applicable laws and regulations. See, e.g., 12 U.S.C. 1867.

The final rule also does not alter a bank's authority to use an agent to perform services on its behalf. Therefore, a bank is permitted to arrange for a car dealer or mortgage broker, acting as its agent in connection with a loan, to verify the identity of its customer. However, as with any other responsibility performed by an agent, and in contrast to the reliance provision in the rule, the bank ultimately is responsible for that agent's compliance with the requirements of this final rule."

So contracting parties are subject to regulation and examination and your institution is responsible for the actions of contactors and agents. You would have to have a great deal of confidence in those parties to have them do verification (as opposed to just collecting identifying information).

Section (b)(2)(ii)(B)(2) of the regulation says that your: "non-documentary procedures must address situations where an individual ...opens the account without appearing in person at the bank".

The third party can always collect the identifying information for you (including, if you wish, a copy of any ID) and you can follow up with non-documentary verification. That would minimize the need to trust third parties.

Well that's what we are going to do, we just want to make sure they collect the info, not verify it. I just was wondering if anyone would obtain such an agreement. I guess I just want to make sure that the closing agents know we are serious about the ID collection.
'Cause once the horse is out of the barn... you know what I mean.

CIP And Loan Signers

Any thoughts please,, In a loan transaction, we may have a signer to the loan that is not a borrower (entity) or guarantor. Would they be subject to CIP or OFAC??

Neither a borrower nor guarantor? Could you be more specific about the nature of the signer? Maybe then we can help.

It may be a LLC as the borrower and the manager of the LLC is authorized to execute the note. The manager is not obligated to the debt in any way. In this case the manager is just a signer on the note.

For business loans, we first verify the business. We have included in our risk-based procedures when we will require the signers of the note to be verified in addition to the business.

Mortgage loans closed out of territory

Our Mortgage department (sells all to secondary market) currently takes applications from persons outside of our lending territory. The closing takes place where the borrower is and the bank personnel never see the actual person.

Does anyone else have this kind of situation? If so, what are you putting into your CIP program to allow for not getting a government-issued, picture ID (and being able to compare the picture to the person who is borrowing the money)?

I would like to keep our CIP program as consistent across the board as far as getting documentary/nondocumentary verification etc. for operations, lending and mortgage lending.

If you are having an attorney close the loan on your behalf, you could have your procedures require them to ID the customer and document the information in the file. As extra precaution, you can do extra non-documentary ID procedures.

Mortgage and Money Laundering

I am scheduled to do CIP training for our Mortgage Department on Monday, the 15th. The person who handles training for the mortgage employees told me that if I had some mortgage/money laundering stories it would help to hold their interest. Does anyone have any money laundering or terrorist stories that relate to mortgage lending? For example, I heard that one of the 9/11 terrorists had actually applied for a mortgage but the approval had been delayed because they couldn't verify some of his information. I don't know if that's true, but that is the kind of thing I'm looking for. Anyone have any good ones you'd like to share?

I don't remember the case name off the top of my head, but there was the instance involving a realtor. Buyer was a drug dealer without a great credit history and couldn't qualify for enough of a mortgage for the purchase. He offered the seller cash to lower the price to what he could get. Seller and Realtor knew about this obviously. My recollection was that all three were busted. Hope this helps.

CIP And Lending Documentation

I am trying to figure out how we will maintain a description of the documents relied on to establish identity, the methods and results of any measures ... and the resolution of discrepancy discovered for the lending area. Currently all we have is a loan application. There is not enough room to include this information on it. I would like to know what others are doing? Have you drafted a worksheet for the lending area? I would appreciate any input.

You may use an additional worksheet or copies of items if you wish. If "copies" is a hot button for you, these may be a utility bill if you wish, or it may simply be notes on a sheet.

I have considered a worksheet with check boxes and space for descriptions and details. This could however, be labor intensive if you deal in large volumes.

At least you have the flexibility to do what is best, yet compliant, for your bank.

When you are evaluating alternatives, please consider modifying the loan application to include the verification information as "undesirable." Using it to keep a record of the verification process would extend its record retention to five years from the time the information is obtained, well beyond the current requirement for keeping copies of loan applications.

Outside evaluators who are reviewing loan applications are only looking for negative implications - the last thing you want to do is keep them beyond their currently required time frame.

We have developed a standard form (actually two, one for consumers and one for entities)which will be completed for CIP for ALL accounts--loans, deposits, trust. We are mandating that the Loan Department use this form until we can come up with a better solution. In the long run we will try to consolidate the form with the loan application but at least come October 1st we will have a standard form for every department in the bank to complete.

We have forms (pers/non-pers) for the lending area, and the deposit account info will be recorded on the signature card which is then imaged.

Would anyone be willing to share the worksheets they are using for CIP. That is what I intend to work on today and if someone has one that works for them, maybe I won't have to recreate the wheel. My email is dtimberlake@c-f-b.com and fax is 812-738-1807. I am also interested in whether you are already using the form. How did the loan officers accept another piece of paper to complete? Also, are you requiring the 4 required pieces of info on authorized signers of business and other entities. I am leaning toward requiring the info, but not verifying. Your thoughts.

We are using a checklist. Shows what will be used for face-to-face and the notation of documentary or non-documentary. All documents we use are kept in the file and if non-documentary we follow the same methods for all loans.

I was trying to determine what controls other mortgage lenders that are subject to the new rules are taking to ensure verification. Specifically, we are wondering if anyone is requiring documentary evidence, for example driver's license information for mortgage lending, or

depending solely on non-documentary verification? I want to make sure we are complying, but not adding more to the process than we need to.

Loan Application

We have been instructed to begin use of the new Freddie Mac loan ap(65) on 01/04. For CIP purposes would there be any harm in using the first page of the new application with the remaining pages of the old application for internal use?

That may be more of a Freddie question than a compliance question. However, as long as the application does not request any information that you are not legally allowed to obtain prior to 1/1/04, I wouldn't see a regulatory problem with it.

Nicknames

From what I understand in our CIP procedures, we should not use nicknames. As long as we can identify to our satisfaction the identity of our customer, can we use a derivative of a name to style the account? e.g. Bill for William, Al for Alfred, J.D. for James Daniel.

I would always prefer to use the legal name. I can see some issues here and may reluctantly give in to Bill who doesn't use William. But if he wanted to be called Red, I'd have issues with that. I believe the account should match the ID and the ID is hopefully the legal name.

Again, I'd always emphasize that we want the legal name.

Existing Customer

Johnny had a loan with us five years ago. It is paid off. He comes into the bank today to borrow more money. He has no other relationship with us. I have a reasonable belief that it's Johnny. Does CIP apply?

Unless your CIP policy and procedures are board approved, CIP is not mandatory for over a month. If they are approved, you will need to verify information for him as he is not an existing customer. You may have some of the information on file already from his past loan. This could allow you to let him verify that information is correct rather than asking for it again. (Depending upon what is stated in your policy, of course.)

It is true that he couldn't meet the "existing customer" exemption, however, because he was once a customer, the risk of this "new" customer is much lower than someone that you have had no previous relationship. Remember, that CIP is very risk based.

True or False

If the auto dealer is entering into a retail installment contract with the buyer/borrower and the financial institution is taking an assignment of that contract, the exclusion for loan purchase does apply and you need not apply your CIP procedures.

I agree as they are the original creditor and you are buying the loan.

If you are listed as the original lender because it was done under your guidelines and the contract was simply printed there, it would not be.

The former is a purchased asset, the latter is not. These keywords may assist in a search on other threads with the same topic. I see this as a hole in the CIP, personally, but don't know how much laundering could be at risk here.

You could still do or have done on the front end CIP measures just to CYA.

True, if the dealer is acting as your agent.

False, if the bank had nothing to do with the credit decision and the contract was not provided by or pre-assigned to the financial institution. That would be unusual.

Who knows? is the answer if the dealer is not an agent, the dealer forwards the application to the bank for evaluation, and the bank says OK, we'll purchase if you close the deal. Last I knew, regulators had not clarified this situation that can be argued either way. Expect them to go with True.

Sorry, I flipped my response.

CIP and Business Owners

My CIP program requires lenders obtain and verify ID of all business OWNERS. I have a commercial lender who thinks we should only get the ID of the OWNERS who are applying for the credit. He thinks that the OWNERS who are just signing off their rights to the asset should be exempt. I disagree but before I die on that hill, I'd like to know if you agree. Thank you. PS: What's the difference between God and a commercial lender? God doesn't think He's a commercial lender...

The regulation does not require that you obtain ID on all signers on a commercial account. We had designed our policy that way, but stated that if the account was "high risk" then all signers would need to be identified, even if they weren't going to be guaranteeing or signing on the loan/account. Our commercial lending department decided that they would rather have an "across the board" policy of identifying all signers, regardless, because it was too confusing for all concerned to be required to do it in some instances but not in others. So, our policy is that all signers on a commercial account must be identified in accordance with the Bank's CIP.

CIP doesn't ask you to obtain & verify info on "owners". It asks you to obtain & verify info on the Customer. If the customer is a business, then you verify the business - through corporate resolutions, partnership agreements, the secretary of state, etc.

Although I agree that many times commercial lenders shun compliance, this time I think you're asking for too much. As Bear pointed out, not even signers need to be verified. Certainly you will have cases where not all owners are even signers on the account.

Anon: Having a policy for "business" owners doesn't track the CIP regulation very well. If the business is a legal entity (like a corporation) that can be verified, you don't need to verify individuals, although you can if you want to. If the business is not a legal entity you will need to verify the individual(s) opening the account.

This is an observation that should not be taken as legal advice nor relied upon for any purpose.

I personally prefer checking out business owners. Do you want to do business with a legal entity when one of the individuals behind it is a convicted felon, an organized crime figure, and so forth? How will your bank look explaining to a reporter that you did business with someone because you didn't look to see who is running the company because of its legal structure? These decisions need to be made regardless of what congress - in its infinite wisdom - mandated. They are risk decisions and need to be thought through.

Quote:

Do you want to do business with a legal entity when one of the individuals behind it is a convicted felon, an organized crime figure, and so forth?

You mean to say that you won't open an account for someone that has been convicted and served their time? Imagine explaining to a reporter that you won't open an account for someone that once served some time.

While I agree that you should be prudent in your account opening practices, the original question was about a CIP program. CIP does not require you to look at the owners.

I agree with your reply that CIP does not require identifying owners of a business customer, which was the original question. From the viewpoint of enhanced due diligence, you might want to know this, depending on the nature of the business, but that is a different question.

2 things: Re a crime: it depends on what the crime was. If it was a financial crime, we wouldn't in most cases. It also depends upon the product requested. How high risk of a product is it for BSA/AML purposes?

Second, my concern is that many are trying to separate CIP from risk management. While the regulatory requirements are in CIP that is a minimum to meet a specific requirement. You can't

tell staff you don't have to do that in one policy but expect them to know they need to do something for other reasons. I base that on many years of banking, policy and procedure writing and implementation and risk management. You have to connect the dots in the policies and procedures. I have found that it is not a good practice to say "legally you do not have to do this but we are requiring it". Just say "do this".

So let me get this straight. You're going to have you new account personnel ask people "are you a felon?" If the applicant is still standing there, and they answer "yes" then you are going to ask them "what did you do that made you serve time?"

Don't see this happening.

David, I don't see a need for sarcasm. It is possible to write a policy that says you will not "knowingly" do business with "x". I have worked at credit card banks that even have that in their policy. If they do gain knowledge of something, then their policy requires further action/investigation.

In lending, you certainly can ask if some has been convicted. I have worked in lending areas where we modified our applications to ask that question because we were a high-risk product. In some types of banking, particularly in Private Banking, where you should be checking out who you are considering doing business with, you can do internet searches on prospects and see if you find anything that makes you uncomfortable or needs further investigation. That is being done in many Private Banking and large corporate areas. That is why I said depending upon the risk of the product. For large dollar banking, commercial, private banking, etc., it doesn't hurt to be safe rather than sorry. And you would be surprised what can be found with a Google search and, if necessary, further investigated with more sophisticated searches.

If you are doing a straight consumer car loan, you may feel it is not necessary; if you are dealing with a customer in Private Banking, higher dollar commercial, an international business (or one that imports and/or exports) and so forth, it something to think about. Each bank makes it own decision depending upon product line, customer base, etc, but prudent risk management includes assessing the risk.

We currently run a ChexSystems on all account signers for a Business Account. We won't allow a signer unless they've signed our permission form. After suffering losses and court fees because of dishonest bookkeepers, it became a risk mitigation tool.

And on business loans, we still run a credit report on the owners. The permission is part of the personal financial statement. (Along with the box to indicate if they are applying as an individual, jointly with spouse, or jointly with another person.)

Also, for signers on deposit accounts, we currently get Drivers License information. It makes it easier to complete the CTR on the cash deposits (or the SAR on the structured ones!)

Anon,

If your reference to the owners of the business is literal, they do not need to be identified for CIP purposes. A closely held corporation might have 50+ shareholders...

If you are actually referencing the signatories on the business account, Bear Collector and Bonnie have outlined a rationale and a mechanical approach. Although CIP does not require you to identify signatories, the "banker" in everyone should suggest it as a risk management tool - the easiest identity to steal is that of a corporation.

Generally, when bankers and regulators talk about the need for a bank to identify owners it is in the context of BSA compliance in general. It is not about requiring identification as much as it is about being aware that several businesses might have a common owner and the need to consider them as a single entity for monitoring purposes.

CIP-Trust Accounts & Mail in Loan Applications

Two questions. 1) What are people doing to verify trust account customers and how are you recording the information? 2) Are others only requiring verification via non-documentary verification on mail in loan applications when the lender never sees the customer throughout the entire loan process, even at the closing? By this I'm meaning using the credit report to verify the information provided on the loan application.

We don't have trust accounts but as for your 2nd question we are using the credit report along with reverse directory/phone book.

We will verify trust accounts by requesting a copy of the trust agreement. We will verify mail-in loan applicants by requesting tax returns or verification of employment, W-2s, ordering credit reports, verifications of deposit, etc.

CIP - Three Questions

I previously posted my questions as a reply under one for restricting account use. I need to start it as a new post. Here goes.

1. Lets say all information provided has been verified under our CIP Program, except the customer is applying for a TIN. We obtain proof of the application for a TIN. We conduct our risk based analysis and open the loan. Now, if after a reasonable period of time, the customer has not produced the TIN, aren't we required to close the account? How do we close a loan account?
2. Also, please help me understand the definition of "signatory". I have read and re-read the threads covering this, but I am still confused. Co-applicants, co-signers, guarantors(?), co-makers, are covered. Does signatory only apply to those authorized under a corporate resolution, or similar document, to conduct transactions for a business?
3. Just curious - If readers would be so kind as to respond - I'd like to survey as to how many banks are going to use an outside vendor for ID verification, vs leaving it to the subjectivity of the account servicer. Could you also give me your approximate asset size? NOTE: I'm not asking for the name of the vendor(unless you are comfortable in disclosing). Thanks everyone.

1. Do you really want to loan \$30,000 to someone you haven't verified the ID on? The answer is you don't close a loan without ID confirmation. On the deposit side, you simply close the account if needed.

2. My focus to date is on the deposit side where they are better defined/understood. On loans, we'll CIP all primary borrowers and other signers just out of underwriting practices.

3. Dunno yet, but doubt we'd outsource it. Vendors may provide tools we use, but we'll do the work.

Good questions. I'll try to get the ball rolling.

1. That is why I wouldn't make a loan w/o a TIN. Opening a deposit account is one thing, but a loan (as you are pointing out) is a whole different issue. I can't see calling a loan - or how I would call the loan - b/c of a missing TIN.

2. I understand your confusion on signatories. I suggest you read §103.121(b)(2)(i)(B) and page 19 (of the Adobe file) of the section by section analysis. I think co-applicants, co-signers and co-makers are NOT signatories as they are borrowers. A guarantor though is not an owner/borrower, so the signatory exemption applies.

3. I'm not a banker so I can't answer.

1. We will require a TIN or for a non-us citizen one of the appropriate alternative numbers. We will require a copy of ids used if they are not a us citizen.

2. We will verify all signers to an account.

3. Yes, we will most likely go with a vendor for batch processing on a nightly basis. We are currently verifying id on the front line by requiring check systems, credit reports etc. We believe our current system (we already get, name, address, TIN (or other) and DOB) with the additional back verification will provide us with reasonable belief.

1. I am with the 'no TIN- no loan' camp. But this brings me to a new question, as I am not in lending: Would refusing a loan based on the absence of a TIN constitute adverse action, or is this considered an incomplete application?

2. I prefer to CIP 'em all. After all, these are the people you are may need to count on to repay the debt, so it's best to know who they are and where to find them.

3. We are using a positive id service, and will continue to do so.

Thanks to all for your responses to date. I agree, no TIN, no loan. It's going to be a reality check for commercial lenders. Its my understanding that we can reject an individual for "Unable to verify Identity". If an outside vendor was used in the process, we would check the box on NAA "Our credit decision was based in whole or in part on information from an outside source, etc". Obviously, if a credit report had also been used, the NAA would include those reasons for rejection (if applicable) and the proper disclosure.

We are looking at several integrated CIP solutions. I am trying to absolutely minimize the risk in our bank by putting every customer through analysis, and taking the subjectivity away from the employee.

I would consider it an incomplete application.

The announcement yesterday from the IRS that they will issue EINs immediately on line should help you sell no TIN, no loan to your lenders. There really is no reason not to have a TIN by the time the loan closes.

Quote:

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I can't find that announcement. Do you have a link for me? Pretty please?

Quote:

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I can't find that announcement. Do you have a link for me? Pretty please?

http://sa2.www4.irs.gov/sa_vign/newFormSS4.do

I went to IRS site typed obtaining tax identification number in the search and then found the right one in the first ten hits.

oops that link did not work. this one works.

www.irs.gov/businesses/small/article/0,,id=102767,00.html

this is the article that has a link that says apply online now. that link takes you directly to the SS4

CIP Definition Of Customer

Does definition of customer include Guarantors?

i.e. commercial loan made to ZYZ corp. Mr. Jones is a Guarantor. XYZ Corp. and Mr. Jones has shared liability for repayment of the credit.

The definition of customer for CIP purposes does not include guarantors. The corporation would be the customer. You may, however, based on your risk assessment, decide that it is prudent to get identifying information on the guarantors - and to verify it.

CIP Notice of Incompleteness

I am seeing that some vendors are offering a form for when a loan or deposit account is not opened based on failure to meet a bank's CIP requirements (when a customer has not produced sufficient info/documentation). Is this necessary? OR Can we use the Notice of Action Taken forms check to box "other" and list the reason/s?

You have FCRA notice concerns when the reason for denial is based on CBR information. There are prescribed data requirements for this but there is no suggested adverse action form.

URLA & CIP?

Does anyone know if the Uniform Residential Loan Application (URLA) has been or will be updated to collect CIP information such as DL, state of issuance, mailing address if different from residence address, etc.??

I believe it's been updated, but the new version can't be used before 1/1/04.

It's been updated, but the only CIP change was for Date of Birth instead of Age. Also updated for 2004 HMDA changes, which is why you can't use until 01/01/04.

I haven't heard of any additional changes to be made regarding DL or for recording other ID information.

If the URLA does not request it will you be using a separate page to collect only the CIP info.?

Since the only CIP information that's not currently on the URLA is DOB, we will just write it on the applications until 1/1/04.

We are planning to have a separate page with "the notice", then a place for name, street address, DOB, and a place to record a form of ID.

Quote:

Since the only CIP information that's not currently on the URLA is DOB, we will just write it on the applications until 1/1/04.

How will you document the ID info.?

Won't a credit report be sufficient for verification purposes? This is considered a non-documented procedure. Getting drivers license info and running a credit report is not required in my opinion. As long as we do one of the two.

Quote:

Quote:

Since the only CIP information that's not currently on the URLA is DOB, we will just write it on the applications until 1/1/04.

How will you document the ID info.?

The information will be entered into our loan system.

You would still verify the information on the driver's license to verify it was the person in front of you, wouldn't you?

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CIP and Indirect Auto Loans

We have indirect lending relationships with a number of area auto / RV dealers. If the applicant's loan is channeled through our institution, the borrower signs a contract showing them as the "buyer", the dealership as the "seller" and our bank as the "assignee".

Basically, we approve / disapprove the loan, and if it is originated, we buy the paper. In this situation is the dealer our "agent" or not?? We are trying to determine if the CIP rules apply to the borrowers who obtain these indirect loans.

If the loan is originated in your bank's name, CIP applies.

It is my understanding CIP Rules do apply to your situation since your bank makes the credit decision and the indirect loan is originally booked by your bank.

Indirect loans can be excluded only if they were originally booked by another institution and then transferred to your bank.

But that is where the confusion lies. The bank's name appears on the contract as the "assignee". However, the bank does not purchase the loan until the dealership closes the sale. As a matter of fact, there is always a possibility (albeit slight) that the bank will not purchase the loan if it is not closed as approved.

In any event, we do make the credit decision and are willing to ensure our dealers comply with CIP if applicable. We just didn't want to cause them undo work if we do not have to.

Just because these are risk based, re-read Deena's post which is in the spirit and intent of this provision.

Your dealers may be of a higher standard than some of those I have experienced, but I believe CYA and risk mitigation is a key element of any banks program. Saving them work is good, but not if it is at your expense. Lack of verifications on purchased assets could be a hole in the law as to laundering. Plug it now if you can. (You'd still want necessary data in the file.)

Anonymous: Remember that is is not the sale that triggers the CIP requirements, it is the loan. Under your described scenario, your institution makes the credit decision and funds the loan, which is the "opening of an account" for CIP purposes. The dealer is the "seller" but not the lender.

Quote:

Anonymous: Remember that is is not the sale that triggers the CIP requirements, it is the loan. Under your described scenario, your institution makes the credit decision and funds the loan, which is the "opening of an account" for CIP purposes. The dealer is the "seller" but not the lender.

I'm going to play devil's advocate on this. I didn't read Anonymous' post to say that they fund the loan. It sounds like they make the underwriting decision, but that the dealer actually "makes" the loan. Then the bank purchases the loan. This sounds like it could qualify under the "purchased asset" exemption.

This is exactly our indirect scenario. Yes, the dealer closes the loan in our name. The customer is the buyer, the dealer is the seller and the contract is assigned to the bank. Funding was done in the OLD days when the dealer brought the contact to the bank, and was paid by check. Now, a draft system is used. I firmly believe that the onus is on the bank for CIP.

Anon,

Quote:

Basically, we approve / disapprove the loan, and if it is originated, we buy the paper.

If you don't approve the loan it does not get made. I do not see the basis for an argument that the loans you do approve are transferred to you rather than made by you.

Whether your concern is over avoiding an increase in the dealer's workload or just making certain things are done right, you can probably integrate CIP with your process more easily than you can avoid it.

David: The impression that I had was that the bank made the decision to extend credit and if it rejected the loan, it was not made. If it approved the loan the dealer would do the paperwork in the bank's name, but the dealer wouldn't "fund" anything (since any proceeds would go to the dealer). So the "approval" was also an agreement to fund the loan by the bank. I would say that the only way that this would qualify for the transfer exception is if the transaction would take place whether the bank approved it or not, and the paper could be sold to another bank or kept by the seller.

In my opinion CIP applies to loans originated with a dealership. We have made some decisions regarding how we will handle CIP. We are requiring the dealer to obtain the name, DOB, address, ID #, and one document. (We do not accept deals in business names, so this will be a drivers license.) We will use the credit report, a thank you letter, and the coupon book as nondocumentary methods of verification on our end. If you see any holes in this, please let me know.

We are struggling with the notice requirement. Has any one decided how they are planning to handle this? We added it to our applications, but not all dealers use our applications and any way the application is not the account opening phase of the transaction. We considered adding it to the contracts (dealers must use our contracts), but the vendor could only find space to fit it on the back of the contract, which may not qualify as 'reasonable notice'.

I do not see any holes in your approach. The one thing I have seen banks add is a requirement that a bank employee speak directly with the potential borrower immediately prior to relating loan approval to the dealer. In that conversation the bank seeks confirmation of some the information that is in the credit report which was not requested in the application. (This is as much for the purpose of preventing identity theft as compliance with CIP.) However, since the disclosure can also be given orally, the conversation also gives the bank an opportunity to assure the disclosure is made prior to opening the account.

I would still put the disclosure on the application and the back of the contracts as you plan to do. It is highly likely that all banks making these types of loans will eventually include the language on their applications, but dealers will undoubtedly find and use old forms for years to come.

I am in agreement that for indirect loans since we underwrite, fund and close in our name (or sometimes are assigned after closing) are our responsibility. We are going to look at revising our dealer contracts to emphasize the dealers responsibility to collect the information we require and to follow our CIP.

A question I have about all this is, do dealers have to follow any rules as far as ensuring a customer has a valid driver's license, or that the customer is who they say they are? Who regulates the dealers, the State?

I would like to re-open this discussion. In our indirect program, the dealer sends apps to one, or several banks - we don't know. We will make a decision and relate that back to the dealer. The dealer will write up the paperwork with the bank listed as "assignee". The customer signs and drives away with their new car. From there, the dealer sends the note to the bank. The note says "For value received, seller hereby sells, assigns and transfers to ...". If all is fine, the bank will

send the dealer a check payable to the dealership and book the loan. If a problem comes up, the bank can refuse the note and send it back to the dealer. This doesn't happen very often but has happened on occasion.

Does CIP apply to this type of credit? We would still obtain ID information regardless but do we have to address indirect lending in our CIP ... and have the dealership provide the CIP notice?

See David's Q&A question 9.

Quote:

See David's Q&A question 9.

Just in case you didn't know what "David's Q&A" meant, here is a link to it.

Just picked up on the Q&A. Thanks for the wonderful research and work on your part, David. Thank you too to BOL, you provide a great service for us in the banking, etc. world. Enjoy the day!!!

Thanks David. I have not been on line in a few days and didn't see your new Q&A. I am sure I speak for all to say we truly appreciate your input.

We have relationships with some vendors in our community who forward applications exclusively to our bank from their locations. Has anyone developed a form to gather all of the required information?

Banker's Compliance Consulting has a good Q&A on there website (www.bankerscompliance.com). Q9 talks about indirect lending and CIP. Basically, if the bank makes the credit decision and the loan will not be made if the bank denies the application, then CIP applies regardless of whether the loan is closed in the dealer or bank's name.
