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Bureau of Consumer Financial Protection
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Statement on Collection of Demographic Information by Community Development Financial Institutions

The Consumer Financial Protection Bureau (CFPB or Bureau) provides this statement regarding the collection of demographic information by financial institutions that are Community Development Financial Institutions (CDFIs) receiving assistance from the U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund).

Congress established the CDFI Fund to “promote economic revitalization and community development through investment in and assistance to community development financial institutions, including enhancing the liquidity of community development financial institutions.”¹ The CDFI Fund provides, among other things,

¹ Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. No. 103-325, tit. I, § 102(b), 108 Stat. 2160, 2163 (codified at 12 U.S.C. § 4701(b)).

Financial Assistance awards to eligible CDFIs.² A Financial Assistance award may be used by a CDFI to “serve investment areas or targeted populations by developing or supporting,” among other things, “the provision of basic financial services.”³

Certified CDFIs receiving assistance from the CDFI Fund are subject to various requirements under Federal law. For instance, in the Riegle Community Development and Regulatory Improvement Act of 1994, Congress directed that any Certified CDFI receiving assistance from the CDFI Fund be “require[d] . . . to compile such data . . . on the gender, race, ethnicity, [and] national origin” of “individuals that utilize the services of the assisted” CDFI.⁴ The CDFI Fund has promulgated a regulation implementing this provision providing that certified CDFIs receiving assistance from the CDFI Fund:

[S]hall compile such data on the gender, race, ethnicity, national origin, or other information on individuals that utilize its products and services as the CDFI Fund shall prescribe in an Assistance Agreement. Such data will be used to determine whether residents of Investment Area(s) or members of Targeted Population(s) are adequately served and to evaluate the impact of the CDFI Program.⁵

The Bureau is aware that some financial institutions which are Certified CDFIs receiving assistance from the CDFI Fund have inquired whether they are subject to the Equal Credit Opportunity Act (ECOA) and Regulation B’s general prohibition on a creditor collecting certain information about an applicant for credit, such as the applicant’s race or ethnicity. The Bureau understands that some Certified CDFIs receiving assistance

² See 12 U.S.C. § 4707(a)(1); Cmty. Dev. Fin. Insts. Fund, CDFI Program, www.cdfifund.gov/programs-training/Programs/cdfi-program/Pages/default.aspx (last accessed Apr. 25, 2019).

³ 12 U.S.C. § 4707(b)(1)(D); see also Cmty. Dev. Fin. Insts. Fund, Searchable Awards Database, www.cdfifund.gov/awards/state-awards/Pages/default.aspx (last accessed Apr. 25, 2019).

⁴ Pub. L. No. 103-325, tit. I, § 115, 108 Stat. 2160, 2184 (codified at 12 U.S.C. § 4714(b)).

⁵ 12 C.F.R. § 1805.803(b). An “Assistance Agreement” is the “formal agreement between the CDFI Fund and a Recipient, which . . . specifies the terms and conditions of assistance” provided by the CDFI Fund. § 1805.104.

from the CDFI Fund may regularly extend credit to consumers or small businesses,⁶ and accordingly may be considered “creditor[s]” for purposes of the ECOA and its implementing regulation, Regulation B.⁷

The ECOA makes it “unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction” on a prohibited basis.⁸ Regulation B imposes specific requirements on creditors governing, among other things, the collection of information about applicants for credit. For instance, Regulation B generally prohibits a creditor from inquiring “about the race, color, religion, national origin, or sex of an applicant or any other person in connection with a credit transaction.”⁹ This prohibition, however, is subject to an exception which states, in pertinent part, that “a creditor may obtain information required by a regulation, order, or agreement issued by, or entered into with, a court or an enforcement agency (including the Attorney General of the United States or a similar state official) to monitor or enforce compliance with the [ECOA], [Regulation B], or other Federal or state statutes or regulations.”¹⁰

As mentioned above, 12 C.F.R. § 1805.803(b) states that financial institutions that are Certified CDFIs and receive assistance from the CDFI Fund “shall compile” “gender, race, ethnicity, national origin, or other information”¹¹ A Certified CDFI receiving

⁶ See Cnty. Dev. Fin. Insts. Fund, CDFI Certification, www.cdfifund.gov/programs-training/certification/cdfi/Pages/default.aspx (last accessed Apr. 25, 2019) (“CDFIs include regulated institutions such as community development banks and credit unions”).

⁷ See 15 U.S.C. §§ 1691-1691f; 12 C.F.R pt. 1002. The ECOA defines a “creditor” as, in pertinent part, “any person who regularly extends, renews, or continues credit.” 15 U.S.C. § 1691a(e); see also 12 C.F.R. § 1002.2(l).

⁸ 15 U.S.C. § 1691(a); see also 12 C.F.R. § 1002.4(a).

⁹ 12 C.F.R. § 1002.5(b).

¹⁰ § 1002.5(a)(2). Regulation B contains additional exceptions allowing for, among other things, the collection by creditors of certain protected applicant information when the information is collected in compliance with the Home Mortgage Disclosure Act. See § 1002.5(a)(4); see also 12 U.S.C. §§ 2801-2810.

¹¹ 12 C.F.R. § 1805.803(b).

assistance from the CDFI Fund may collect this demographic information in accordance with the ECOA and Regulation B, provided the collection is for the purpose of complying with 12 C.F.R. § 1805.803.¹²

This statement summarizes existing requirements under the law. It is not an interpretation of a statute or rule and is not designed to implement or prescribe law or policy. It is not binding on the Bureau or other entities.

¹² In addition, regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, require Department of the Treasury recipients of Federal financial assistance to collect demographic data. *See* 31 C.F.R. § 22.6(b) (“In general recipients should have available for the designated Agency official racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.”).