

BALCH & BINGHAM LLP

REMINDER ON HMDA DATA RELEASE

As a bank that reports Home Mortgage Disclosure Act data, your data will soon become public in a way that has not occurred before, and will be “top of mind” to your federal bank regulator(s) in an unprecedented way. All of this is due to a unique set of circumstances:

- A change in HMDA reporting rules for 2004 that required reporting banks to include for the first time information on “higher priced loans”; and
- An emerging turf battle between New York Attorney General Eliot Spitzer and the Office of the Comptroller of the Currency over enforcement of fair lending laws against banks.

It is possible that Attorney General Spitzer’s entry into the fair lending enforcement arena will accelerate the Federal Reserve’s publication of HMDA data for reporting banks. That publication had been expected in September, but now might occur as soon as early August. Some also predict that the OCC will feel pressure to bring an enforcement action against a national bank in order to show its commitment to fair lending.

We remind all HMDA reporting banks to do a self-analysis of their data and otherwise to be ready for regulator inquiries and even media calls in case any of your data might show disparities related to sex, race or ethnicity in lending practices in any geographic area. We believe that the Federal Reserve’s report will garner considerable publicity when it is published.

Should you have questions, please contact Kate Musso at 205-226-8707, kfmusso@balch.com, or Steve Yoder at 205-226-8791, syoder@balch.com.

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