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## CFPB REMINDER ABOUT SS VERIFICATION & PROHIBITED PRACTICES

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*CFPB has issued a reminder to the lending community for determining likely-to-continue rules for Public Assistance income, including Social Security.*

*If an individual receives Social Security (SS) income for disability, it is a violation of ECOA to ask for proof it will continue. For example, Public Assistance for unemployment is typically six to 12 months; therefore, it is not likely to continue for 3 years. For child support through Public Assistance, proof of a minor's age would be acceptable since this form of public assistance terminates when a child reaches a certain age (unless disabled).*

CFPB has reminded the lending community that requiring documentation from one group of people (on Public Assistance) is a violation of ECOA, has ramifications under the Fair Housing Act, and, is considered a form of discrimination known as a disparate act (requesting extensive documentation such as proof of disability from a class of people). Disparate acts are prohibited per ECOA and Regulation B,

Direct quotes from the agencies to the CFPB and the lending community in the bulletin link below, are as follows:

### **HUD:**

HUD standards provide that if the SSA Notice of Award or equivalent document “does not have a defined expiration date, the lender shall consider the income effective and likely to continue.” HUD emphasizes that lenders “should not request additional documentation from the borrower to demonstrate continuance of Social Security Administration income” and “[u]nder no circumstance may lenders inquire into or request documentation concerning the nature of the disability or the medical condition of the borrower.” HUD also notes that “[p]ending or current re-evaluation of medical eligibility for benefit payments is not considered an indication that the benefit payment is not likely to continue.

### **VA:**

VA standards provide that “[t]he Social Security Administration has a program that pays benefits to individuals who cannot work because they have a medical condition that is

expected to last at least [one] year” and that “[l]enders may use income from this source as qualifying income.” The VA also emphasizes that “[i]t is not necessary to seek a statement from a physician about how long the medical condition will last.

**FANNIE MAE & FREDDIE MAC:** The National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) provide similar guidelines for loans that are eligible for their purchase.

♣ Fannie Mae’s Selling Guide explains that “Social Security income for . . . long-term disability that the borrower is drawing from his or her own account/work record will not have a defined expiration date and must be expected to continue.” The Selling Guide further provides that creditors must verify this income by obtaining either a copy of the Social Security Administration’s award letter or proof of current receipt and, for SSI, by obtaining both forms of documentation.

♣ Freddie Mac’s Single-Family Seller/Servicer Guide provides that “[l]ong-term disability income,” including “Social Security disability benefits,” “may be considered qualifying income that has a reasonable expectation of continuance unless there is a pre-determined insurance and/or benefit expiration date that is less than three years.” Further, the Guide provides that “[p]ending or current re-evaluation of medical eligibility for insurance and/or benefit payments is not considered an indication that the insurance and/or benefit payment will not continue.

The standards and the guidelines provided by the Bureau, HUD, VA, Fannie Mae, and Freddie Mac described above may help creditors avoid unnecessary documentation requests and increase access to credit for persons receiving Social Security disability income. In addition, following these standards and guidelines may help creditors avoid policies and practices that may violate *ECOA and Regulation B*.



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**LINK:**

file:///C:/Users/Donna/Downloads/201411\_cfpb\_bulletin\_disability-income.pdf