Regulation N, PRA Comment, P085405
Title: Mortgage Acts and Practices—Advertising (Regulation N), [12 CFR part 1014](#).
OMB Control Number: 3084-0156.

Introduction

Regulation N has been instrumental in the deterrence of deceptive mortgage advertising. However, mortgage advertising practices have evolved since its inception. Data-driven targeting, lead generators, and third-party data brokers now play a central role in shaping how ads reach consumers. To remain effective, Regulation N should better integrate data privacy principles and data broker accountability into its record keeping and enforcement framework.

360 Privacy is a distinguished leader in the field of consumer exposure and privacy protection. With years of service, the glaring and recurring issue of data broker integrity and consumer personally identifiable information (PII) tracking and transparency is a subject that needs immediate attention. A unified effort across all areas of responsibility within legislation maximizes overlap and will further strengthen consumer Privacy Rights and the wellbeing of the American people.

Background

> "The information retained under the Rule's recordkeeping requirements is used by the Commission to substantiate compliance with the Rule and may also provide a basis for the Commission to bring an enforcement action. Without the required records, it would be difficult either to ensure that entities are complying with the Rule's requirements or to bring enforcement actions based on violations of the Rule." [1]

Data brokers should be included in the defined entities that are required to retain relative information covered in the regulation.

Analysis

Regulation N requires retention of materially different commercial communications, mortgage product documents, and related service documents. It does not require retention of data sources, targeting criteria, or broker contracts that fuel modern mortgage advertising. Regulators cannot verify how consumer data was obtained and used. Data

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[1] https://www.federalregister.gov/d/2025-15323/p-19

brokers and lead generators can exploit consumer data, often without consent, to deliver misleading or predatory mortgage ads, while evading scrutiny.

The Agency needs to account for the adapting environment since the inception of this regulation. Without extending coverage, the current regulation leaves gaps which can be exploited, demeaning the efficacy and intention of its purpose.

Recommendations

1. Expand record keeping requirements.
    a. Require covered persons to retain documentation of data sources, targeting parameters, and broker relationships used in connection to mortgage advertising.
2. Disclose data broker relationships.
    a. Mandate that mortgage advertisers maintain a record of any third-party data brokers that supplied consumer information for marketing purposes.
    b. Align with State broker registries, like California's Delete Act, for consistency.
3. Enhance consumer access.
    a. Extend Regulation N to allow customers to request copies of:
        i. Ads or offers targeted to them
        ii. The categories of data used to generate those offers
    b. This mirrors the California Privacy Rights Act / California Privacy Protection Agency rights and ties them directly to mortgage advertising fairness.[2]
        i. Under California's data broker registration, regulators gain visibility into which data brokers are supplying data to advertisers. Regulation N could require mortgage advertisers to maintain and produce broker-supplier logs under a similarly enforceable standard.[3]
        ii. In the gross majority of States, data brokers operate under minimal regulatory constraints, absent robust privacy or registration laws. Adding the extended scope in Regulation N allows uniform coverage for the nation.
4. Address dynamic ads and Ai-driven marketing.
    a. Require archiving of dynamic or personalized ad variants, including representative samples by audience segment.
    b. Close the loophole where personalized digital ads escape scrutiny due to no "static copy" existing.

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[2] CPRA, Civil Code § 1798.100 et seq.; CPRA, Civil Code § 1798.110 / § 1798.115; CPPA Regulations, § 7000 et seq.; CPPA Regulations, Chapter 3: Data Broker Registration, § 7600; CPPA Regulations, enforcement / audit provisions § 7000/7001

[3] CPPA Regs § 7600

5. Strengthen enforcement synergy.
    a. If a Regulation N violation is linked to unlawful data use, refer to privacy regulators like FTC privacy enforcement and State Attorneys General.
    b. If a privacy law violation involves misleading mortgage marketing, refer to CFPB/FTC for Regulation N review.

Benefits

<u>Consumer Protection</u>: Reduces predatory targeting of vulnerable populations.

<u>Regulatory Efficiency</u>: Provides investigators with a full picture- not just the ad text, but the data ecosystem behind it.

<u>Market Fairness</u>: Levels the playing field between compliant mortgage advertisers and deceptive lead generators and data brokers.

<u>Futureproofing</u>: Ensures Regulation N remains effective in an era of algorithmic advertising and large-scale data brokerage.

Conclusion

Regulation N was designed to ensure mortgage advertising is honest and fair. Without attention to the data broker ecosystem, that powers modern advertising, the rule risks becoming incomplete. By integrating privacy rights and broker accountability into its framework, the FTC and CFPB can safeguard consumers and strengthen the integrity of the mortgage market.