

HOME MORTGAGE DISCLOSURE ACT (HMDA)

OVERVIEW

2018 Update: Section 104 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115-174 (May 24, 2018) amended Section 304 of the Home Mortgage Disclosure Act (12 U.S.C. 2803). The loan-volume threshold exemption for reporting mortgages applies to an insured depository institution or insured credit union that originated fewer than 500 closed-end mortgage loans in the two preceding calendar years. The exemption for reporting open-end lines of credit remains unchanged, and applies to an insured depository institution or insured credit union that originated fewer than 500 open-end lines of credit in the two preceding calendar years. **On September 7, 2018** the Consumer Financial Protection Bureau (CFPB) issued an interpretive and procedural rule to implement and clarify the requirements of section 104(a). The rule clarifies that insured depository institutions and insured credit unions covered by a partial exemption under the Act have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data; clarifies that only loans and lines of credit that are otherwise HMDA reportable count toward the thresholds for the partial exemptions; clarifies which of the data points in Regulation C are covered by the partial exemptions; designates a non-universal loan identifier for partially exempt transactions for institutions that choose not to report a universal loan identifier; and clarifies the Act's exception to the partial exemptions for negative Community Reinvestment Act examination history.

On December 20, 2017 the Bureau issued a statement indicating that, for HMDA data collected in 2018 and reported in 2019, the Bureau does not intend to require data resubmission unless data errors are material. The statement also indicated that collection and submission of the 2018 HMDA data will provide financial institutions an opportunity to identify any gaps in their implementation of amended Regulation C and make improvements in their HMDA compliance management systems for future years.

Background

The Home Mortgage Disclosure Act (HMDA) was enacted by the Congress in 1975 and is implemented by Regulation C (12 CFR Part 1003). The period of 1988 through 1992 saw substantial changes to HMDA. Especially significant were the amendments to the act resulting from the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Coverage was expanded in the FIRREA amendments to include many independent non-depository mortgage lenders, in addition to the previously covered banks, savings associations, and credit unions. Coverage of independent mortgage bankers was further expanded effective January 1, 1993, with the implementation of amendments contained in the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for HMDA to the Consumer Financial Protection

Bureau (Bureau), effective July 2011. On October 15, 2015 the Bureau issued a final rule (2015 HMDA Rule) amending Regulation C. The HMDA Final Rule takes effect in stages between January 1, 2017 and January 1, 2020, with most of the amendments included in the Final Rule taking effect on January 1, 2018.

HMDA grew out of public concern over credit shortages in certain urban neighborhoods. The Congress believed that some financial institutions had contributed to the decline of some geographic areas by their failure to provide adequate home financing to qualified applicants on reasonable terms and conditions. Thus, one purpose of HMDA and Regulation C is to provide the public with information that will help show whether financial institutions are serving the housing credit needs of the neighborhoods and communities in which they are located. A second purpose is to aid public officials in targeting public investments from the private sector to areas where they are needed. Finally, the FIRREA amendments of 1989 require the collection and disclosure of data about applicant and borrower characteristics to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

Financial institutions must report data regarding loan originations, applications, and loan purchases, as well as requests under a preapproval program (as defined in 12 CFR 1003.2) if the preapproval request is denied or results in the origination of a home purchase loan. HMDA requires lenders to report the ethnicity, race, gender, and gross income of mortgage applicants and borrowers. Lenders must also report information regarding the pricing of the loan and whether the loan is subject to the Home Ownership and Equity Protection Act, 15 U.S.C. 1639.

Regulation C requires institutions to report lending data to their supervisory agencies on a loan-by-loan and application-by-application basis by way of a “register” reporting format. The supervisory agencies compile this information in the form of individual disclosure statements for each institution, and in the form of aggregate reports for all covered institutions within each MSA. The FFIEC produces other aggregate reports that show lending patterns by median age of homes and by the central city or non-central city location of the property. The public may obtain the individual disclosures and aggregate reports from the FFIEC or from central depositories located in each MSA. Individual disclosure statements may also be obtained from financial institutions.

Starting in 2017, financial institutions which are not exempt from Regulation C must comply with the new data submission process and browser requirements for the CFPB’s HMDA platform. HMDA data will be submitted to the CFPB, rather than the Federal Reserve Board, starting in 2018. Institutions with small volumes of loans that manually enter each loan onto the current HMDA data entry software will need a software solution to create an electronic file that can be submitted to the new HMDA Platform.

Applicability

A 2018 HMDA institutional coverage chart illustrates how to determine whether an institution is covered by Regulation C and is available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfpb_2018-hmda-institutional-coverage.pdf

A 2018 HMDA transactional coverage chart illustrates how to determine whether an transaction is covered by Regulation C and is available at:

https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201709_cfbp_2018-hmda-transactional-coverage.pdf

Compilation of Loan Data

For each calendar year, a financial institution must report data regarding its applications, originations, and purchases of home purchase loans, home improvement loans, and refinancings. Loans secured by real estate that are neither refinancings nor made for home purchase or home improvements are not reported. Data must also be given for loan applications that did not result in originations: applications approved by the institution but not accepted by the applicant, denied, withdrawn, or closed for incompleteness. Required reporting also includes certain denials of requests for preapproval of a home purchase loan under a program in which a lender issues a written commitment to lend to a creditworthy borrower up to a specific amount for a specific time.

Among other changes, the Dodd-Frank Act expands the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA. The 48 data fields are summarized in the Reportable HMDA Data Overview Reference Chart. See References below.

Reporting Format

Financial institutions are required to record data regarding each application for, and each origination and purchase of, home purchase loans, home improvement loans, and refinancings on a Loan/Application Register, also known as the HMDA-LAR. Financial institutions are also required to record data regarding requests under a preapproval program (as defined in 12 CFR 1003.2), but only if the preapproval request is denied or results in the origination of a home purchase loan. Transactions are to be reported for the year in which final action was taken. If a loan application is pending at the end of the calendar year, it will be reported on the HMDA-LAR for the following year, when the final disposition is made. Loans originated or purchased during the calendar year must be reported for the calendar year of origination even if they were subsequently sold.

The HMDA-LAR is accompanied by a listing of codes to be used for each entry on the form. Detailed instructions and guidance on the requirements for the register are contained in Appendix A to Regulation C. Additional information is available in the FFIEC publication, “A Guide to HMDA Reporting: Getting it Right!” and on the FFIEC website. Financial institutions must record data on their HMDA-LAR within 30 calendar days of the end of the calendar quarter in which final action was taken.

For each calendar year, a financial institution must submit to its supervisory agency its HMDA-LAR, accompanied by a Transmittal Sheet. Unless it has 25 or fewer reportable transactions, an institution is required to submit its data in automated form. For registers submitted in paper form, two copies must be mailed to the institution’s supervisory agency. For both automated and hard-copy submissions, the layout of the register that is used must

conform exactly to that of the register published by the Consumer Financial Protection Bureau as Appendix A to Regulation C.

The HMDA-LAR must be submitted to the financial institution's regulatory agency by March 1 following the calendar year covered by the data. The FFIEC then will produce a disclosure statement for each institution, cross-tabulating the individual loan data in various groupings, as well as an aggregate report for each MSA. The FFIEC posts these disclosure statements at www.ffiec.gov/hmda. Disclosure statements are no longer mailed to financial institutions.

Disclosure

HMDA requires financial institutions must make available to the public, upon request, the loan application register information in the form required by Regulation C and requires the Bureau to determine if deletions from the information are appropriate to protect applicants' privacy interests or to protect financial institutions from liability under privacy laws. Prior to being disclosed to the public, LARs must be modified to remove loan application register information that the Bureau determines should be deleted.

The 2015 HMDA Rule replaces Regulation C's requirements to provide a disclosure statement and modified LAR to the public upon request with new requirements to provide notices that the institution's disclosure statement and modified LAR are available on the Bureau's website. 12 CFR 1003.5(b)(2) and (c).

A financial institution must retain its full (unmodified) HMDA-LAR for at least three years for examination purposes. It must also be prepared to make each modified HMDA-LAR available for three years and each FFIEC disclosure statement available for five years. Institutions may impose reasonable fees for costs incurred in providing or producing the data for public release.

Finally, institutions must post a notice at their home office and at each branch in an MSA, to advise the public of the availability of the disclosure statements.

Enforcement

As set forth in Section 305 of HMDA (12 U.S.C. 2804), compliance with the act and regulation is enforced by the CFPB, Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the U.S. Department of Housing and Urban Development. Administrative sanctions, including civil money penalties, may be imposed by the supervisory agencies. An error in compiling or recording loan data is not a violation of the act or the regulation if it was unintentional and occurred despite the maintenance of procedures reasonably adopted to avoid such errors.

REFERENCES

12 U.S.C. 2801 et seq. Home Mortgage Disclosure Act

Regulations

12 CFR Part 1003

Home Mortgage Disclosure (Regulation C) CFPB Small Entity Compliance Guide, October 2017.

https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_hmda_small-entity-compliance-guide.pdf

2015 HMDA Rule

https://files.consumerfinance.gov/f/201510_cfpb_final-rule_home-mortgage-disclosure_regulation-c.pdf

FDIC Compliance Examination Manual – February 2018