

Bureau of Consumer Financial Protection
1700 G Street NW
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August 31, 2018

Executive Summary of the 2018 HMDA Interpretive and Procedural Rule

On August 31, 2018, the Bureau of Consumer Financial Protection (Bureau) issued an interpretive and procedural rule to implement and clarify changes made by section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act) to the Home Mortgage Disclosure Act (HMDA). The rule is effective immediately upon publication in the *Federal Register*.

This executive summary provides an overview of the 2018 HMDA Interpretive and Procedural Rule (2018 Rule), but it is not a substitute for the 2018 Rule itself.

Background Information

HMDA requires certain institutions to collect, report, and disclose specified information about their mortgage lending activity.

In October 2015, the Bureau issued a final rule amending Regulation C (2015 HMDA Final Rule) in order to implement the Dodd-Frank Act (Dodd-Frank) amendments to HMDA.¹ The 2015 HMDA Final Rule established transactional thresholds to determine whether a financial institution is required to collect and report data on open-end lines of credit or closed-end

¹ Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015).

mortgage loans, implemented the new data points specified in Dodd-Frank, added additional data points using the Bureau’s Dodd-Frank authority, and made revisions to pre-existing data points, among other changes. The Bureau further amended Regulation C in August 2017 (2017 HMDA Final Rule) to temporarily increase the threshold for open-end lines of credit to 500 for calendar years 2018 and 2019 and make certain clarifications and other changes.²

On May 24, 2018, the President signed the Act into law.³ The Act amended HMDA by adding partial exemptions from HMDA’s requirements for certain transactions made by certain insured depository institutions and insured credit unions. The Act provides that an insured depository institution or insured credit union does not need to collect or report certain data with respect to closed-end mortgage loans if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. Similarly, the Act provides that an insured depository institution or insured credit union does not need to collect or report certain data with respect to open-end lines of credit if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. The Act further provides that these partial exemptions are unavailable to an insured depository institution if it received a rating of “needs to improve record of meeting community credit needs” during each of its two most recent Community Reinvestment Act (CRA) examinations or a rating of “substantial noncompliance in meeting community credit needs” on its most recent CRA examination.

Summary

The 2018 Rule:

1. Clarifies which data points in Regulation C are covered by the partial exemptions.
2. Clarifies that only loans and lines of credit that are otherwise reportable under Regulation C count toward the thresholds for the partial exemptions.
3. Clarifies the exception to the partial exemptions for negative CRA examination history.

² Home Mortgage Disclosure (Regulation C), 82 FR 43088 (Sept. 13, 2017). The rule also established a new reporting exclusion and optional reporting for certain transactions and data points, and clarified certain key terms defined in the 2015 HMDA Final Rule.

³ Public Law No. 115-174, 132 Stat. 1296 (2018).

4. Designates a non-universal loan identifier for certain partially exempt transactions.
5. Clarifies that insured depository institutions and insured credit unions that qualify for a partial exemption may optionally report exempt data points so long as they report all data fields that the data point comprises.

Partial Exemptions

The 2018 Rule specifies the data points that do not need to be collected and reported if a transaction qualifies for a partial exemption, as well as those data points that must be collected and reported even if a transaction qualifies for a partial exemption.⁴ There are a total of 48 data points currently required by Regulation C. Under the Act, 26 of the 48 data points do not need to be collected and reported if the transaction qualifies for a partial exemption.

The 2018 Rule clarifies that, for purposes of the partial exemptions, “closed-end mortgage loan” and “open-end line of credit” mean only those loans or lines of credit that would otherwise be reportable under HMDA. The 2018 Rule specifies that a “closed-end mortgage loan” is any closed-end mortgage loan as defined in 12 CFR § 1003.2(d) that is not excluded under § 1003.3(c)(1) through (10) or (13), and that “open-end line of credit” is any open-end line of credit as defined in § 1003.2(o) that is not excluded under § 1003.3(c)(1) through (10). Such loans are counted towards the respective thresholds to determine whether an insured depository institution or insured credit union’s closed-end mortgage loans or open-end lines of credit qualify for a partial exemption. An insured depository institution or insured credit union must have originated fewer than 500 closed-end mortgage loans in *each* of the two preceding calendar years for its closed-end mortgage transactions to qualify for the partial exemption. Likewise, an insured depository institution or insured credit union must have originated fewer than 500 open-end lines of credit in *each* of the two preceding calendar years for its open-end lines of credit transactions to qualify for the partial exemption.

The 2018 Rule also clarifies that, for the purposes of determining whether the CRA exception applies to an insured depository that would otherwise qualify for a partial exemption, the CRA examination assessment must be made as of December 31 of the preceding calendar year. For

⁴ See Attachment for the data points.

example, an insured depository institution that received a rating of “substantial noncompliance” on its most recent CRA examination, which occurred on or before December 31, 2019 would not be eligible for the partial exemptions in 2020. Likewise, an insured depository institution that received a rating of “needs to improve record of meeting community credit needs” on each of its two most recent CRA examinations that occurred on or before December 31, 2019 would not be eligible for the partial exemptions in 2020.

Non-Universal Loan Identifier

The 2018 Rule provides that, if a transaction qualifies for a partial exemption and the insured depository institution or insured credit union opts not to report a universal loan identifier, the institution must report a non-universal loan identifier for the loan or application that complies with requirements specified in the 2018 Rule so that each loan and application reported for HMDA purposes is identifiable. A non-universal loan identifier does not need to be unique within the industry, but it still must be unique within the insured depository institution or insured credit union and meet other requirements specified in the 2018 Rule. It does not need to include a Legal Entity Identifier or a check digit.

Voluntary Reporting

An insured depository institution or insured credit union has the option to voluntarily report exempt data points for transactions that qualify for a partial exemption. An insured depository institution or insured credit union that opts to voluntarily report an exempt data point must report all data fields that the specific data point comprises.⁵

Transition Issues

The 2018 Rule applies to data collected or reported under HMDA on or after May 24, 2018. An insured depository institution or insured credit union that is eligible for a partial exemption for a transaction does not need to collect exempt data points on or after May 24, 2018. In addition,

⁵ Data fields associated with each data point are outlined in the Filing Instructions Guide. The Filing Instructions Guide for HMDA Data Collected in 2018 is available at <https://www.consumerfinance.gov/data-research/hmda/for-filers>.

such institutions are not required to report certain data that may have been collected on or before May 24, 2018. For example, if an insured depository institution is eligible for a partial exemption for its closed-end mortgage loans and the institution collected data for its closed-end mortgage loans prior to May 24, 2018, the institution is not required to report in 2019 any data covered by the partial exemption for its closed-end mortgage loans. As discussed above, however, an insured depository institution or insured credit union may opt to voluntarily report data that are covered by a partial exemption.

ATTACHMENT

HMDA Data Points

TABLE 1: DATA POINTS (WITH REGULATION C REFERENCE) COVERED BY PARTIAL EXEMPTIONS

Covered by Partial Exemptions
§ 1003.4(a)(1)(i) – Universal Loan Identifier
§ 1003.4(a)(9)(i) – Property Address
§ 1003.4(a)(12) – Rate Spread
§ 1003.4(a)(15) – Credit Score
§ 1003.4(a)(16) – Reasons for Denial
§ 1003.4(a)(17) – Total Loan Costs or Total Points and Fees
§ 1003.4(a)(18) – Origination Charges
§ 1003.4(a)(19) – Discount Points
§ 1003.4(a)(20) – Lender Credits
§ 1003.4(a)(21) – Interest Rate
§ 1003.4(a)(22) – Prepayment Penalty Term
§ 1003.4(a)(23) – Debt-to-Income Ratio
§ 1003.4(a)(24) – Combined-Loan-to-Value Ratio
§ 1003.4(a)(25) – Loan Term
§ 1003.4(a)(26) – Introductory Rate Period
§ 1003.4(a)(27) – Non-Amortizing Features
§ 1003.4(a)(28) – Property Value
§ 1003.4(a)(29) – Manufactured Home Secured Property Type

Covered by Partial Exemptions

§ 1003.4(a)(30) – Manufactured Home Land Property Interest

§ 1003.4(a)(32) – Multifamily Affordable Units

§ 1003.4(a)(33) – Application Channel

§ 1003.4(a)(34) – Mortgage Loan Originator Identifier

§ 1003.4(a)(35) – Automated Underwriting System

§ 1003.4(a)(36) – Reverse Mortgage Flag

§ 1003.4(a)(37) – Open-End Line of Credit Flag

§ 1003.4(a)(38) – Business or Commercial Purpose Flag

TABLE 2: DATA POINTS (WITH REGULATION C REFERENCE) *NOT COVERED BY PARTIAL EXEMPTIONS*⁶

Not Covered by Partial Exemptions

§ 1003.4(a)(1)(ii) – Application Date

§ 1003.4(a)(2) – Loan Type

§ 1003.4(a)(3) – Loan Purpose

§ 1003.4(a)(4) – Preapproval

§ 1003.4(a)(5) – Construction Method

§ 1003.4(a)(6) – Occupancy Type

§ 1003.4(a)(7) – Loan Amount

§ 1003.4(a)(8)(i) – Action Taken

§ 1003.4(a)(8)(ii) – Action Taken Date

⁶ The reporting requirements under Regulation C, as amended by the 2015 HMDA Final Rule and 2017 HMDA Final Rule, remain unchanged for these data points.

Not Covered by Partial Exemptions

§ 1003.4(a)(9)(ii)(A) – State

§ 1003.4(a)(9)(ii)(B) – County

§ 1003.4(a)(9)(ii)(C) – Census Tract

§ 1003.4(a)(10)(i) – Ethnicity

§ 1003.4(a)(10)(i) – Race

§ 1003.4(a)(10)(i) – Sex

§ 1003.4(a)(10)(ii) – Age

§ 1003.4(a)(10)(iii) – Income

§ 1003.4(a)(11) – Type of Purchaser

§ 1003.4(a)(13) – HOEPA Status

§ 1003.4(a)(14) – Lien Status

§ 1003.4(a)(31) – Number of Units

§ 1003.5(a)(3) – Legal Entity Identifier