Insights: Alerts

CFPB Finalizes Amendments to Mortgage Data Rule

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Includes Temporary Increase in Reporting Threshold for Community Banks & Credit Unions

On August 24, the Consumer Financial Protection Bureau (CFPB or Bureau) issued a final rule to adopt amendments to the 2015 Home Mortgage Disclosure Act (HMDA) Rule. The Bureau has temporarily changed reporting requirements for banks and credit unions that issue open-end lines of credit and clarified the information that financial institutions are required to collect and report about their mortgage lending. The amendments also make technical corrections to and clarify certain requirements adopted by the Bureau's 2015 HMDA Rule.

Background

On April 13, the Bureau issued a proposed rule to amend the 2015 HMDA Rule to address technical errors, ease the burden of certain reporting requirements, and clarify certain key terms.[1] On July 14, the Bureau issued a second proposed rule that addressed temporary increases to the institutional and transactional coverage thresholds for open-end lines of credit.[2] The Bureau is issuing these amendments to Regulation C pursuant to both of these proposals.

Highlights

Reporting Threshold

The final rule temporarily increases the open-end threshold to 500 or more open-end lines of credit for two years (calendar years 2018 and 2019). In addition, the final rule corrects a drafting error by clarifying both the open-end and closed-end thresholds so that only financial institutions that meet the threshold for two years in a row are required to collect data in the following calendar years. With these amendments, financial institutions that originated between 100 and 499 open-end lines of credit in either of the two preceding calendar years will not require data collection on their open-end lending until January 1, 2020.

This temporary increase in the open-end threshold will provide time for the CFPB to consider whether to initiate another rulemaking to address the appropriate level for the open-end threshold for data collected beginning January 1, 2020. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will revert to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at this time.

Optional Reporting for Certain Transactions & Data Points & New Reporting Exception

The final rule establishes transition rules for two data points, loan purpose, and the unique identifier for the loan originator. The transition rules require, in the case of loan purpose, or permit, in the case of the unique identifier for

the loan originator, financial institutions to report "not applicable" for these data points when reporting certain loans that they purchased and that were originated before certain regulatory requirements took effect.

The final rule creates a new reporting exception for certain transactions associated with New York State consolidation, extension, and modification agreements.

Reporting of Census Tract

In addition, the final rule facilitates reporting the census tract of the property securing or, in the case of an application, proposed to secure a covered loan that is required to be reported by Regulation C (HMDA's implementing regulation). The Bureau plans to make available on its website a geocoding tool that financial institutions may use to identify the census tract of a property's location. The final rule establishes that a financial institution would not violate Regulation C by reporting an incorrect census tract for a particular property if the financial institution obtained the incorrect census tract number from the geocoding tool on the Bureau's website, provided that the financial institution entered an accurate property address into the tool and the tool returned a census tract for the address entered.

Clarifications

The Bureau has made additional amendments to clarify certain key terms, such as "multifamily dwelling," "temporary financing," and "automated underwriting system," and clarifies three aspects of collecting and reporting race and ethnicity information.

Effective Date

This rule is effective on January 1, 2018, except for certain amendments, which take effect on January 1, 2020.

Compliance Considerations

The clarifications and technical corrections contained in the final rule do not change the compliance requirements of the 2015 HMDA Rule but should ease the burden of compliance. The Bureau believes that the temporary increase in the open-end line of credit transactional coverage threshold generally will benefit financial institutions that originate between 100 and 499 open-end lines of credit in either of the two preceding calendar years by, at a minimum, allowing them to delay incurring one-time costs and to delay the start of ongoing compliance costs associated with collecting and reporting data on open-end lines of credit. The Bureau estimates that roughly 690 such institutions will be able to take advantage of the two-year temporary increase in the open-end line of credit transactional coverage threshold. The Bureau estimates that the savings on the ongoing costs from the collection and reporting of open-end lines of credit by financial institutions temporarily exempted under this final rule will total at least $6 million per year for two years.

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[1]Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure (Regulation C) October 2015 Final Rule; 82 Fed. Reg. 19,142 (Apr. 25, 2017) (April 2017 HMDA Proposal).

[2]Home Mortgage Disclosure (Regulation C) Temporary Increase in Institutional and Transactional Coverage Thresholds for Open-End Lines of Credit, 82 Fed. Reg. 33455 (July 20, 2017) (July 2017 HMDA Proposal).

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