Insights: Alerts

CFPB Issues Proposed Amendments to Clarify Mortgage Data Rule

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On April 13, the Consumer Financial Protection Bureau (CFPB) issued proposed amendments[1] to Regulation C (the implementing regulation for the Home Mortgage Disclosure Act), to make technical corrections and to clarify certain requirements adopted by the Bureau's Home Mortgage Disclosure final rule (2015 HMDA Final Rule).[2] Through outreach, the CFPB has identified a number of areas in which implementation of the 2015 HMDA Final Rule could be facilitated through clarifications, technical corrections, or minor changes.

Background

As directed by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the CFPB revised the HMDA regulation in 2015 to improve the quality and type of data reported by financial institutions. On October 15, 2015, the CFPB issued a final rule to implement amendments to HMDA made by the Dodd-Frank Act.[3] Specifically, the Bureau added several new reporting requirements and clarified several existing requirements. The Bureau also modified the institutional and transactional coverage of Regulation C, in addition to modifying existing disclosure and reporting requirements. Most of the updated requirements take effect in January 2018.

Summary of Proposed Amendments

- The proposed amendments would establish transition rules for two data points: loan purpose and the unique identifier for the loan originator. The transition rules would permit financial institutions to report "not applicable" for these data points when reporting certain purchased loans that originated before certain regulatory requirements took effect.
- The Bureau has also proposed to make additional amendments to clarify certain key terms, such as "temporary financing" and "automated underwriting system," and to create a new reporting exception for certain transactions associated with New York State consolidation, extension, and modification agreements.
- In addition, the proposed amendments would facilitate reporting the census tract of the property securing, or in the case of an application, proposed to secure the covered loan required by Regulation C. The Bureau plans to make available on its website a geocoding tool that financial institutions may use to identify the census tract in which a property is located. Under the proposed amendments, 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 Bureau’s geocoding tool, provided that the financial institution entered an accurate property address into the tool and the tool returned a census tract for the address entered.

- The Bureau also has proposed to make certain technical corrections.

Compliance Considerations

The Bureau does not deem most of the proposed amendments to be substantive changes to the 2015 HMDA Final Rule. The amendments are largely clarifications and technical corrections that do not change the compliance requirements of the Final Rule, but should reduce burden by avoiding confusion on how to comply. According to the Bureau, those few proposed amendments that do make minor substantive changes should all reduce the burden on industry and have either a positive or neutral effect on consumers. The Bureau states that the proposed changes “would help financial institutions comply with the 2015 HMDA Final Rule by clarifying the information they are required to collect and report about their mortgage lending.”[4] CFPB Director Richard Cordray stated that the proposed rule “reflects the Bureau’s ongoing and substantive engagement with stakeholders in the marketplace, and will help industry meet its new reporting obligations.”[5]

The CFPB seeks input from a wide range of stakeholders and invites the public to submit written comments on the proposed rule, which will be open for public comment for 30 days after its publication in the *Federal Register*.

Effective Date

The Bureau recommends that the proposed amendments take effect when the related amendments to Regulation C adopted by the 2015 HMDA Final Rule take effect. 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. Accordingly, the Bureau recommends that most of the proposed amendments take effect on January 1, 2018.[6] According to the Bureau, “[f]or the proposed amendments to have the intended effect, the proposed amendments’ effective dates should be synchronized with the related effective dates in the HMDA Final Rule.”[7]

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[1] Consumer Financial Protection Bureau, Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure (Regulation C) October 2015 Final Rule (Apr. 13, 2017), *available at* https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-proposal-clarify-mortgage-data-rule/.

[2] HMDA (12 U.S.C. §§ 2801-2810), which was originally enacted in 1975, requires many lenders to report information about the home loans for which they receive applications or that they originate or purchase. The public and regulators can use the information to monitor whether financial institutions are serving the housing needs of their communities, to assist in distributing public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns.

[3] Consumer Financial Protection Bureau, Home Mortgage Disclosure Act (Regulation C) Final Rule, 80 Fed. Reg. 66128 (Oct. 28, 2015).

[4] Consumer Financial Protection Bureau, “CFPB Issues Proposal to Clarify Mortgage Data Rule,” (Apr. 13, 2017), available at https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-proposal-clarify-

mortgage-data-rule/.

[5] *Id*.

[6] Some proposed amendments would take effect on January 1, 2019 or January 1, 2020, respectively, to correspond to related effective dates for amendments included in the Final Rule.

[7] 2017 HMDA Proposed Rule, at p. 11.

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