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CFPB Proposes Changes to Home Mortgage Disclosure Act (HMDA) Reporting Threshold for Community Banks and Credit Unions

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On July 14, the Consumer Financial Protection Bureau (CFPB or Bureau) issued a proposed rule on HMDA reporting requirements for banks and credit unions that issue home-equity lines of credit (HELOCs).[1] Under rules scheduled to take effect in January 2018, financial institutions will be required to report HELOCs if they made 100 such loans in each of the last two years. The new proposal would increase that threshold to 500 loans through calendar years 2018 and 2019 so that the Bureau can consider whether to make a permanent adjustment.

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.[2] 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 (HMDA's implementing regulation), in addition to modifying existing disclosure and reporting requirements. In April 2017, the CFPB proposed certain amendments and technical corrections to the HMDA final rule.[3] Most of the updated requirements take effect in January 2018.

One of the significant changes to begin in 2018 will require some lenders to collect, report, and disclose data on certain dwelling-secured open-end lines of credit, including HELOCs.[4] The CFPB states that, when adopting the rule, it "recognized that reporting these loans represents a new and, in some cases, significant compliance burden for smaller institutions."[5] To avoid imposing those burdens on small-volume lenders where the benefits of the data do not justify the costs, the Bureau states that it limited this new requirement to lenders that originated at least 100 dwelling-secured open-end lines of credit in each of the two preceding calendar years. However, through outreach, the Bureau has heard increasing concerns from community banks and credit unions that the challenges and costs of reporting open-end lending may be greater than the Bureau had estimated when adopting the 100-loan threshold. Additionally, the Bureau states that its analysis of more recent data suggests changes in open-end origination trends that may result in more institutions reporting open-end lines of credit than was initially estimated.

Summary of Proposed Changes

Accordingly, the CFPB is seeking comment on whether to postpone collection of this information for smaller-volume institutions so that the Bureau can study whether the threshold should be adjusted permanently. Specifically, the Bureau proposes amendments to Regulation C that would, for a period of two years, increase the threshold for collecting and reporting data with respect to open-end lines of credit so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding two years would not be required to begin collecting such

data until January 1, 2020. The Bureau estimates that the temporary 500-loan threshold would still capture about three-quarters of the home-equity lending market, down from about 88 percent at the 100-loan threshold.

The public comment period is open until July 31, 2017. The Bureau will issue a separate proposal with a longer notice and comment process to consider adjustments to the permanent threshold at a later date.

Compliance Considerations

The proposed temporary increase in the open-end transactional coverage threshold would generally 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 delay the start of ongoing compliance costs associated with collecting and reporting data on open-end lines of credit. The Bureau estimates that approximately 690 such institutions would be able to take advantage of the two-year temporary increase in the open-end transactional coverage threshold. The CFPB acknowledges that some institutions may incur costs because they have already planned to report open-end lines of credit and now will not be required to and will need to change their systems.[6]

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[1] Consumer Financial Protection Bureau, Home Mortgage Disclosure (Regulation C) Temporary Increase in Institutional and Transactional Coverage Thresholds for Open-End Lines of Credit (July 14, 2017) (HMDA July 2017 Amendment), available at http://files.consumerfinance.gov/f/documents/201707_cfpb_NPRM_HMDA-temporary-threshold-increases.pdf.

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

[3] Consumer Financial Protection Bureau, Technical Corrections and Clarifying Amendments to the Home Mortgage Disclosure (Regulation C) October 2015 Final Rule, 82 Fed. Reg. 19142 (Apr. 25, 2017).

[4] 2 CFR 1003.2(e). Prior to this amendment, reporting with respect to open-end lines of credit was voluntary.

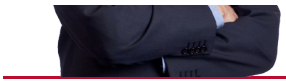
[5] Consumer Financial Protection Bureau, "CFPB Proposes Changes to Mortgage Data Rule Reporting Threshold for Community Banks and Credit Unions," (July 14, 2017), available at https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-changes-mortgage-data-rule-reporting-threshold-community-banks-and-credit-unions/.

[6] The Bureau notes, however, that it previously proposed to clarify that financial institutions may voluntarily report open-end lines of credit or closed-end mortgage loans even if the institution may exclude those loans pursuant to the transactional thresholds included in § 1003.3(c)(11) or (12) under the 2015 HMDA Final Rule.

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