



Regulation C (HMDA) Final Amendments Issued

On October 15, 2015 the CFPB released final amendments to Regulation C to implement the changes made to the Home Mortgage Disclosure Act (HMDA) under the Dodd-Frank Reform Act. Recall that the Reform Act increased the types of data that must be reported by banks, credit unions and other financial institutions and authorized the Bureau to require additional information as it deems appropriate. Of course in the Bureau's consistent fashion, the final rule requires lenders to report additional information beyond that required by the Reform Act.

The following is a brief summary of key provisions of the final rule. A more detailed discussion of the provisions adopted under the final rule will be provided at an upcoming BCG Monthly Telephone Briefing (most likely at the January 2016 Telephone Briefing).

Effective dates. The final rule provides a number of different effective dates for different parts of the final rule. The Bureau actually provided a somewhat helpful chart to explain the dates on which different provisions of the final rule become effective, which can be accessed from its website at www.consumerfinance.gov/regulatory-implementation/hmda/. In general, the various effective dates are as follows.

- January 1, 2017 – effective date of the amendment to the definition of financial institution, which is used in determining HMDA coverage. In essence, effective January 1, 2017 the final rule narrows the scope of depository institutions subject to the rule by excluding from coverage depository institutions that originated less than 25 home purchase loans, including refinancings of home purchase loans, during 2015 and 2016. Thus, even if an institution meets the existing criteria for coverage, if the institution's makes less than 25 home purchase loans (and refis of home purchase loans) in 2015 and 2016, the institution will not be subject to HMDA and Regulation C.
- January 1, 2018 – the following changes are effective January 1, 2018:

First, the loan-volume threshold becomes effective for all institutions, including both non-depository institutions (such as mortgage bankers) as well as depository institutions, and the types of loans considered in determining whether the volume threshold is met will be different. Thus, beginning January 1, 2018, an institution will be subject to HMDA if it meets the existing criteria and during the prior two calendar years (CY), the institution originated at least 25 covered closed-end mortgage loans or at least 100 covered open-end lines of credit.

Second, beginning January 1, 2018 institutions are required to electronically submit data that was collected during 2017. More specifically, covered institutions will report CY 2017 data required under the current provisions of Regulation C by March 1, 2018 using a new electronic submission tool that will be made available on the CFBP's website at www.consumerfinance.gov/hmda.

Third, the new rule, including the new data that must be collected, becomes effective on January 1, 2018. Thus, institutions will collect the new data during CY 2018 and report that data electronically and, as is currently required, the data must be reported by March 1, 2019.

- January 1, 2020 – beginning on this date, large volume lenders must begin reporting data quarterly. In particular, covered institutions that reported a combined total of at least 60,000 applications and covered loans in the preceding calendar year will be required to submit data on a quarterly basis.

Covered lenders under Regulation C. Currently, federally insured banks, savings associations and credit unions are subject to the data collection and reporting requirements if, among other criteria, the institution originated in the preceding calendar year one home purchase loan (other than temporary financing such as a construction loan), including a refinancing of a home purchase loan, secured by a first lien on a one-to four-family dwelling. Other specified criteria include having a home or branch office in a metropolitan statistical area and having assets above a specified threshold.

Non-depository mortgage lenders (such as mortgage bankers and mortgage brokers) are currently subject to HMDA if, in general, their home purchase loan originations (including refinancings of home purchase loans) equal or exceed 10 percent of the lender's total loan origination volume or if the lender makes at least 100 HMDA-covered loans.

Final rule. The final rule provides some uniformity in determining coverage by adopting a uniform threshold for reporting based on whether a lender made 25 or more covered loans. The final rule, however, implements coverage in two phases.

Effective January 1, 2017, a depository institution will be subject to Regulation C if:

- It meets the current asset size, home and branch location and federally insured criteria; and

- In the preceding calendar year it originated one home purchase loan (other than temporary financing such as a construction loan), including a refinancing of a home purchase loan, secured by a first lien on a one- to four-family dwelling (as is currently provided under the regulation); and
- It originated at least 25 home purchase loans, including refinancings of home purchase loans, in both 2015 and 2016 – this is the new criterion.

Note that for purposes of determining the 25-home purchase loan threshold, the following loans are not included: (i) loans made or purchased in a fiduciary capacity; (ii) loans on unimproved land; (iii) temporary financing (such as bridge or construction loans); (iv) the purchase of an interest in a pool of mortgages; (v) the purchase solely of loan servicing rights; and (vi) loans originated prior to the current reporting year and acquired as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office.

Effective January 1, 2018, an institution will be subject to the data collection and reporting requirements if:

- It meets the first two criteria above (asset size, location, federally insured and first-lien loan activity tests); and
- It originated at least 25 covered closed-end mortgage loans in each of the two preceding calendar years or at least 100 covered open-end lines of credit in each of the two preceding calendar years.

Covered loans under Regulation C. Currently, HMDA reporting is essentially linked to the “purpose” of the loan – that is, home purchase, home improvement and refinancing. The final rule links HMDA reporting to the type of collateral securing a loan. More specifically, the rule expands the types of loans to be reported by requiring data to be collected and reported on all dwelling-secured loans, including both closed-end loans and open-end lines of credit.

The Bureau had proposed to require reporting data on dwelling secured loans regardless of whether the loan was for consumer or business purpose. However, it decided to curb the rule with respect to dwelling secured business-purpose loans. Specifically, loans or lines of credit that are made primarily for a business or commercial purpose that are secured by a dwelling are covered only if the loan or line of credit is for home purchase, home improvement or refinancing.

Expansion of reportable data. As noted above, the Reform Act specifically expanded the types of information to be reported and also gave the Bureau discretion to require other information it deems relevant. Beginning on January 1, 2018 and thereafter, in addition to data currently required to be collected and reported, additional information that must be collected and reported include: (i) the age of the applicant or borrower; (ii) credit score; (iii) automated underwriting system information; (iv) a unique loan identifier; (v) property value; (vi) application channel; (vii) points and fees;

(viii) borrower-paid origination charges; (ix) discount points; (x) lender credits; (xi) loan term; (xii) prepayment penalty; (xiii) non-amortizing loan features; (xiv) interest rate; and (xv) loan originator identifier.

Disclosure requirements. The final rule permits covered lenders to make their HMDA disclosure statements available by referring the requestor to a publicly available website where the disclosure statement can be downloaded. The final rule includes sample language that covered institutions can use for this purpose. This provision will apply to data collected on or after January 1, 2017 and reported in or after 2018.

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For more information or advice regarding the final rule, contact Janet M. Bonnefin, Principal, or Claudia Noel, CRCM, paralegal, with Aldrich & Bonnefin, PLC, at 949-474-1944 or JBonnefin@ABLAWYERS.COM or CNoel@ABLAWYERS.COM.