



HMDA Data Collection Relief is Finally Here!

In May of this year, the Economic Growth, Regulatory Relief and Consumer Protection Act (Relief Act) became law. Section 104(a) of the Relief Act amended HMDA by adding “partial exemptions” from HMDA’s collection and reporting requirements for certain types of lenders. Under the Relief Act certain “insured depository institutions and insured credit unions” (referred to as “small volume lenders” for purposes of this article) will not have to report specified HMDA data points. On August 31, 2018, the Consumer Financial Protection Bureau (CFPB or Bureau) issued an “interpretive and procedural rule” to implement the Relief Act amendments to HMDA (2018 HMDA Final Rule), which will be effective immediately upon publication in the Federal Register (since the final rule is so short (only 31 pages which is extremely short for the CFPB), it will probably be published in the Federal Register in the next week or two).

Small Volume Lender Defined. Recall that the Relief Act amended HMDA to provide partial exemptions from the data collection and reporting requirements for small volume lenders, which are those insured depository institutions and insured credit unions that make fewer than 500 closed-end mortgage loans or fewer than 500 open-end lines of credit in each of the two preceding calendar years. These small volume lenders do not have to report certain data points primarily dealing with loan pricing and loan terms that the Dodd-Frank Reform Act added to HMDA. These small volume lenders will report fewer data points on their closed-end mortgage or open-end lines of credit applications and loans than HMDA and Regulation C currently require. The attached table sets forth the data points covered by the partial exemptions, as well as those that small volume lenders are still required to collect and report.

2018 HMDA Final Rule Clarifications and Guidance. The 2018 HMDA Final Rule provides the following clarifications and guidance:

- Section 104(a) of the Relief Act took effect upon enactment on May 24, 2018;
- The Bureau interprets the Relief Act to apply to data that are collected or reported under HMDA on or after May 24, 2018. However, because data collected from January 1, 2018, to May 23, 2018, would not be reported until early in 2019, the Bureau has taken the position that small volume lenders are not obligated to report in 2019 those data points that are no longer required even if they were collected before May 24, 2018.
- Small volume lenders are not required to report any of the data points indicated in the attached table (except they still must report a unique non-universal loan identifier if they don't report a ULI);

- Small volume lenders may voluntarily report data points covered by the partial exemptions as long as they report all data fields within any exempt data point for which they report data. The Bureau provided the following example: *If a [small volume lender] reports a data field that is part of the property address data point (such as street address) for a partially exempt loan or application, it will report all other data fields that are part of the property address data point (including zip code, city, and state) for that transaction in accordance with the 2018 FIG; and*
- The terms “closed-end mortgage loan” and “open-end lines of credit” include only loans and lines of credit that are otherwise reportable under HMDA.

Lenders Ineligible for Partial Exemptions. Note that the Relief Act provides that these partial exemptions are not available to a small volume lender if it received a rating of “needs to improve” (NI) during each of its two most recent Community Reinvestment Act (CRA) examinations or a rating of “substantial noncompliance” (SN) on its most recent CRA examination (in other words, a two-exam lookback for NTI lenders and a one-exam lookback for a SN lender). Since the Relief Act doesn’t specify as of what date a small volume lender’s two most recent CRA exams must be assessed for purposes of this exception, the 2018 HMDA Final Rule provides that this assessment is to be made as of December 31 of the preceding calendar year. For example, in determining whether a lender is not eligible for the partial exemptions in 2018, assume a small volume lender received a “needs to improve” rating during each of its two most recent CRA exams that occurred on or before December 31, 2017. That would mean the small volume lender would not be eligible in 2018 for the Relief Act’s partial exemptions.

Agencies’ Previous Joint Statement. In July 2018, the CFPB, FDIC, OCC, NCUA and FRB issued a joint statement regarding the Relief Act’s HMDA amendments. In the joint statement, the agencies emphasized that for HMDA data collected during calendar year 2018, the Relief Act does not impact the Loan/Application Register (LAR) format. Institutions must continue to follow the LAR guidance set out in the CFPB’s Filing Instructions Guide for HMDA Data Collected in 2018 (2018 FIG) which is available at <https://www.consumerfinance.gov/data-research/hmda/static/for-filers/2018/2018-hmda-fig.pdf>.

All HMDA-covered lenders, including small volume lenders, must submit their 2018 HMDA data via the Bureau’s HMDA Platform. The Bureau previously announced that it expects to release a beta version of the HMDA Platform later this year for HMDA-covered lenders to test before the next filing deadline on March 1, 2019. The Bureau also indicated in the 2018 HMDA Final Rule that it anticipates that it will initiate a notice-and-comment rulemaking at a later date to incorporate these interpretations and procedures into Regulation C and further implement the Relief Act.

BCG members should contact Janet Bonnefin with Aldrich & Bonnefin, PLC for specific guidance.

EFFECT OF THE RELIEF ACT'S PARTIAL EXEMPTIONS ON HMDA DATA POINTS

Covered by the Act's Partial Exemptions	Unchanged by the Act
<ul style="list-style-type: none"> • Universal Loan Identifier (ULI) (1003.4(a)(1)(i))¹ • Property Address (1003.4(a)(9)(i)) • Rate Spread (1003.4(a)(12)) • Credit Score (1003.4(a)(15)) • Reasons for Denial (1003.4(a)(16)) • Total Loan Costs or Total Points and Fees (1003.4(a)(17)) • Origination Charges (1003.4(a)(18)) • Discount Points (1003.4(a)(19)) • Lender Credits (1003.4(a)(20)) • Interest Rate (1003.4(a)(21)) • Prepayment Penalty Term (1003.4(a)(22)) • Debt-to-Income Ratio (1003.4(a)(23)) • Combined Loan-to-Value Ratio (1003.4(a)(24)) • Loan Term (1003.4(a)(25)) • Introductory Rate Period (1003.4(a)(26)) • Non-Amortizing Features (1003.4(a)(27)) • Property Value (1003.4(a)(28)) • Manufactured Home Secured Property Type (1003.4(a)(29)) • Manufactured Home Land Property Interest (1003.4(a)(30)) • Multifamily Affordable Units (1003.4(a)(32)) • Application Channel (1003.4(a)(33)) • Mortgage Loan Originator Identifier (1003.4(a)(34)) • Automated Underwriting System (1003.4(a)(35)) • Reverse Mortgage Flag (1003.4(a)(36)) • Open-End Line of Credit Flag (1003.4(a)(37)) • Business or Commercial Purpose Flag (1003.4(a)(38)) 	<ul style="list-style-type: none"> • Application Date (1003.4(a)(1)(ii)) • Loan Type (1003.4(a)(2)) • Loan Purpose (1003.4(a)(3)) • Preapproval (1003.4(a)(4)) • Construction Method (1003.4(a)(5)) • Occupancy Type (1003.4(a)(6)) • Loan Amount (1003.4(a)(7)) • Action Taken (1003.4(a)(8)(i)) • Action Taken Date (1003.4(a)(8)(ii)) • State (1003.4(a)(9)(ii)(A)) • County (1003.4(a)(9)(ii)(B)) • Census Tract (1003.4(a)(9)(ii)(C)) • Ethnicity (1003.4(a)(10)(i)) • Race (1003.4(a)(10)(i)) • Sex (1003.4(a)(10)(i)) • Age (1003.4(a)(10)(ii)) • Income (1003.4(a)(10)(iii)) • Type of Purchaser (1003.4(a)(11)) • HOEPA Status (1003.4(a)(13)) • Lien Status (1003.4(a)(14)) • Number of Units (1003.4(a)(31)) • Legal Entity Identifier (1003.5(a)(3))

¹ Voluntary reporting of ULIs is permitted; otherwise small volume lenders must report a unique "non-universal loan identifier."