



HMDA Challenges – 2018 and Beyond

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Before we get started...

- Today's presentation slides can be downloaded at www.wolfandco.com/webinars/2019
- The session will last about 1 hour, and we will be taking questions at the end of the webinar the presentation.
- Our audience will be muted during the session.
- Please send your questions in using the "Questions Box" located on the webinar's control panel.

About Wolf & Company, P.C.

- Established in 1911
- Offer Audit, Tax, and Risk Management services to over 250 financial institutions
- Offices located in:
 - Boston, Massachusetts
 - Springfield, Massachusetts
 - Albany, New York
 - Livingston, NJ
- Over 250 professionals



As a leading regional firm founded in 1911, we provide our clients with specialized industry expertise and responsive service.

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 - IT Assurance Services Group
 - Internal Audit Services Group
 - Regulatory Compliance Services Group
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- Provide services to over 250 financial institutions:
 - Approximately 90 FIs with assets > \$1B
 - Approximately 25 publicly traded FIs
 - Constant regulatory review of our deliverables
- Provide Risk Management Services in 27 states and 2 U.S. territories

Introduction



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Agenda

- Overview and Summary of 2018 HMDA Changes
- Transactional Coverage Review
- Common Errors
- 2018 Developments
- Compliance Management



Overview

- CFPB issued a final rule amending Regulation C on October 15, 2015. As a result of the Final Rule, the following elements of HMDA reporting have changed:
 - Types of covered institutions
 - Types of covered transactions
 - Information that institutions are required to collect and report
 - Processes for reporting and disclosing this information

Summary of HMDA Changes

- Changes impact data collection starting in 2018, reporting in 2019
- Purpose of changes is to report more helpful HMDA information and make reporting process more uniform
- Key changes to data reporting include:
 - Changes to types of loans subject to reporting
 - Increased data fields (25 are new)
 - Adjustments to other data fields
- Public availability of LAR data will shift to CFPB web site

Data Collection Changes

- Increased number of data points:
 - Includes additional applicant information such as age and credit score, as well as expanded government monitoring information fields
 - Additional loan information such as term, points/fees, borrower-paid origination charges, discount points, lender credits, prepayment penalty, application channel and others
 - Also includes additional underwriting information such as property value, debt-to-income ratio, automated underwriting system used and other info

Institutional Coverage



2019 Institutional Coverage



- On 12/31/2018, evaluate if:
 - Assets greater than asset threshold
 - Home or branch office in a Metropolitan Statistical Area (MSA)
 - Federally insured or regulated
 - Originated at least 25 closed-end mortgage loans in each of the two preceding calendar years; OR
 - Originated at least 500 open-end lines of credit in each of the two preceding calendar years*

*The threshold will revert to 100 open-end lines of credit beginning in 2020.

2019 Institutional Coverage



- For nondepository institutions evaluate if:
 - On 12/31/18, had a location in a Metropolitan Statistical Area (MSA) AND
 - Originated at least 25 closed-end mortgage loans in each of the two preceding calendar years; OR
 - Originated at least 500 open-end lines of credit in each of the two preceding calendar years*

*The threshold will revert to 100 open-end lines of credit beginning in 2020.

Reportable Transaction Types

- Applies to consumer-purpose, closed-end loans and open-end lines of credit that are:
 - Dwelling secured
 - Reporting is required regardless of whether the purpose is for home purchase, home improvement or refinancing
- Applies to business-purpose, closed-end loans and open-end lines of credit that are:
 - Dwelling secured AND
 - Home purchase, home improvement or refinancing's



Reportable Transaction Types

- Applies to preapproval requests that are approved but not accepted
 - Excludes prequalification requests
- New Rule applies to extension of credit involving a new debt obligation – 2 exceptions to this rule:
 - CEMAs pursuant to Section 255 of the New York Tax Law
 - Loan Assumptions – even if no new debt obligation is created

Non Reportable Transaction Types



- Loans originated or purchased in a fiduciary capacity
- Secured by a lien on unimproved land
- Purchase of an interest in a pool of loans
- Purchase of only servicing rights
- Purchase as part of a merger or acquisition.

Non Reportable Transaction Types

- Transactions for which the total dollar amount is less than \$500
- Purchase of a partial interest in a covered transaction
- Credit primarily for agricultural purposes
- Business credit unless the transaction is a
 - Home Purchase Loan
 - Refinancing
 - Home Improvement Loan
- Loans providing new funds in advance of being consolidated into a New York CEMA*



Non Reportable Transaction Types

- A closed-end mortgage loan if the institution originated fewer than 25 closed-end mortgages loans in each of the 2 preceding calendar years.
- An open-end line of credit, if the institution originated fewer than 500* open-end lines of credit in each of the 2 preceding calendar years.

*Reverts to 100 in 2020.

Temporary Financing

- Exemption applies to both closed-end loans and open-end lines of credit.
- Must be designed to be replaced by separate permanent financing extended by any financial institution to the same borrower at a later time.
- Short term financing is not necessarily temporary financing.



Is it Truly Temporary Financing?

- Loan extended to finance the construction of a dwelling. Borrower will obtain separate permanent financing from either the initial lender or another lender. 
- Loan extended to finance the construction of a dwelling. Loan will automatically convert to permanent financing. 
- Loan extended for borrower to purchase, remodel and sell home when loan matures. 

Is it Truly Temporary Financing?

A construction-only loan extended exclusively to construct a dwelling for sale is considered temporary financing and is excluded from reporting.



What is a Dwelling?

- Principal residence
- Second homes and vacation homes
- Investment properties
- Residential structures attached to real properties
- Detached residential structures
- Individual condominium or cooperative units
- Manufactured homes
- Multi-family residential structures or communities, i.e. apartment buildings, condo complexes, cooperative buildings/complexes, and manufactured home communities

What is NOT a Dwelling?

- Recreational vehicles
- Houseboats or floating homes or mobile homes constructed before 6/15/1976
- Transitory residences*
- Structures originally designed as a dwelling but used exclusively for commercial purposes
 - mixed use properties are still reportable if the property's primary use is residential



Common Errors

- **Loan Purpose: Refinancing vs Cash-out Refinancing**
 - Both must meet HMDA definition of Refinance
 - Use of the cash-out refinancing purpose will vary based on the institution's underwriting processes and investor requirements.
 - Process must be documented in written procedures.



Common Errors

- **Action Taken: Withdrawn vs. Approved, but Not Accepted**
 - Approved, but Not Accepted should only be used if the application has been approved subject solely to customary commitment or closing conditions and the loan is not originated.
 - Withdrawn should be used if the applicant requests to withdraw before a credit decision is made or if the withdrawal request is received before all underwriting or creditworthiness decisions are satisfied.
 - Pay special attention to conditional approvals.

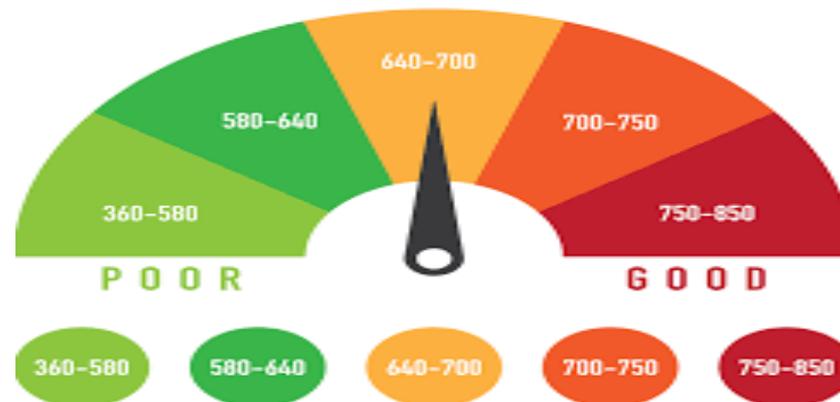
Common Errors

- **Rate Spread: Difference between APR and APOR**
 - Calculation requires an APR, Term in Years and a Rate Set Date.
 - APR is the value in effect at the time of account opening.
 - Rate Set Date is the date the rate is set for the final time before action is taken.
 - Loan files should document the rate set date.
 - For adjustable rate products, the Loan Term is based on the number of years until the first rate adjustment.

Common Errors

- **Credit Score**

- Lenders must consider which scores are obtained and which scores are relied on in making the credit decision.
- Document process regarding joint applications in written procedures.
- Must be reported if the score was a factor in the decision.
- Report as NA if application is withdrawn or closed for incompleteness prior to a credit decision being made.



Common Errors

- **Multiple properties**
 - If a loan is secured by multiple properties, lenders must select one property for the purposes of certain data points. (i.e. Construction Method, Occupancy Type and Street Address)
 - For other data fields, lenders must consider all dwellings considered in rendering a credit decision. (i.e. Property Value, Combined Loan-to-Value Ratio, Total Units and Multi-family Affordable Units)

Other Errors

- Lack of documented process to determine Application Date and Action Taken Date.
- Commercial loan applications not updated to reflect race and ethnicity subcategories and method of collection.
- Inconsistency with Introductory Rate Period
 - Must take into account the first interest rate change date regardless of whether the product has an initial discounted rate.

Other Errors

- **Multifamily Affordable Units incorrectly reported as NA.**
 - Data point must be completed if the loan will be secured by a multifamily property.
 - File should substantiate how the number of units was determined.
- **Business or Commercial Purpose**
 - Loans to purchase investment property originated through Consumer Lending departments.
 - Determination should be based on Regulation Z criteria.
 - Could potentially impact several data fields.

2018 Developments

- 12/21/17: CFPB issued a statement on HMDA Compliance
 - Bureau does not intend to require resubmission unless data errors are material.
 - Bureau does not intend to assess penalties with respect to errors for data collected in 2018 and reported in 2019.
 - Bureau intends to reopen rulemaking to reconsider certain aspects of the 2015 rule including:
 - Institutional and transaction coverage tests
 - Discretionary data points



Partial Exemption

- **Economic Growth, Regulatory Relief and Consumer Protection Act (S.2155)**
 - Signed by President Trump on May 24, 2018.
 - Exempts certain depository institutions and credit unions from the enhanced data collection and reporting requirements.
 - Qualification for exemption is based on origination volume and CRA performance.



Partial Exemption

- On September 7, 2018, the CFPB issued a Final Rule implementing the HMDA provisions of S.2155
 - Institutions qualifying for the exemption do not revert to the pre-2017 reporting requirements.
 - Institutions are not required to report certain data fields, but may instead report these fields using an “Exempt” code.
 - Exempt codes are “Exempt” or 1111 based on the Filing Instructions Guide.
 - Institutions may optionally report data fields covered by the exemption, but must report all individual data fields within a particular data point.

Partial Exemption Eligibility

- Exemption applies to closed-end mortgage loans if fewer than 500 such loans were originated in each of the two preceding calendar years.
- Exemption applies to open-end lines of credit if fewer than 500 such loans were originated in each of the two preceding calendar years.
- Only HMDA reportable transactions are counted toward these thresholds.

CRA Performance

- A lender is not eligible for the partial exemption if as of December 31 of the preceding calendar year the lender received:
 - A rating of “needs to improve record of meeting community credit needs” during each of its two most recent CRA Examinations **OR**
 - A rating of “substantial noncompliance in meeting community credit needs” on its most recent CRA Examination



Data Points Covered by Exemption

- Universal Loan Identifier
- Property Address
- Rate Spread*
- Credit Score
- Total Loan Costs/Total Points and Fees
- Origination Charges
- Discount Points
- Lender Credits
- Interest Rate
- Prepayment Penalty Term
- DTI and LTV Ratios
- Loan Term
- Introductory Rate Period
- Non-Amortizing Features
- Property Value
- Manufactured Home Secured Property Type and Land Interest
- Multifamily Affordable Units
- Application Channel
- Mortgage Loan Originator Identifier
- Automated Underwriting System
- Reverse Mortgage Flag
- Open-End Line of Credit Flag
- Business or Commercial Purpose Flag

Caveats

- CFPB may propose in a future rule a requirement that the Rate Spread be reported for Higher Priced Mortgage Loans (HPMLs) covered by the partial exemption.
- Age is not covered by the partial exemption even though the data point was introduced in 2018.
- Institutions may use a Non-Universal Loan Identifier in lieu of the Universal Loan Identifier (ULI)

Non-Universal Loan Identifier

- Need not contain the Legal Entity Identifier (LEI) or Check Digit
- May include up to 22 letters or numerals
- Must be unique within the institution
- Must not include any information that could directly identify the applicant or the consumer



Compliance Management

- Continue training for all affected staff
 - Mortgage Loan Originators
 - Residential Lenders
 - Commercial Lenders
 - Underwriting/Processing Personnel/Closers
- Monitoring and Audit
- Robust policies and procedures



Monitoring and Audit

- Must include both originated and non-originated files.
- All loan types (mortgages, home equity loans, HELOCs and commercial) should be included.
- Commercial review should include omissions testing.
- Data fields should be traced to source documents, not LOS data.



Effective Policies and Procedures

- Should identify the applicable roles and responsibilities within the organization.
- Should discuss general reporting requirements (i.e. covered transactions, excluded transactions and definitions of key terms)
- Should identify the specific source document used to complete each data fields.
- Should detail the processes and controls used to maintain integrity of HMDA data.

Vendor Management

- What is the status of any anticipated system upgrades?
- Determine any manual workarounds that need to be implemented.
- Validate integrity of data in both the LOS and in any software used for HMDA reporting.
- What about commercial loans?
- Document system glitches.



Resources

- Regulation C 1003 and the Official Staff Commentary
- Small Entity Compliance Guide
- Filing Instructions Guide (FIG)
- CFPB HMDA Implementation Page
- Partial Exemption Final Rule

Quick References:

[Institutional](#) and [Transactional](#) Coverage Charts

[Regulatory and Reporting Overview Reference Chart](#)

Questions



Thank you!



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