



HMDA Reporting... *just around the corner*

It's that time again! The HMDA reporting deadline is almost here.

As Compliance Officers and HMDA Staff are putting their final touches on their 2018 LAR, they are also reviewing "edits." Edits are the result of systemic checks that are provided to HMDA filers to help with LAR accuracy. The four types of edits include:

- Syntactical edits – covers *formatting and filing year issues*
- Validity edits – checks *whether valid values are in each data field*
- Quality edits – checks *whether individual data fields conform to expected values*
- Macro Quality edits – checks *whether the LAR, as a whole, conforms to expected values*

HMDA filers can find more information on edits within the Bureau's Filing Instructions Guide, which may be found [here](#).

HMDA and Builder Loans

Recently, the Online Compliance Consulting Team have received multiple questions on the HMDA reportability of builder loans. The questions are generally focused on the two following scenarios:

- A builder applies for a loan to construct a dwelling for sale.
- A builder applies for a loan to purchase a dwelling, tear it down and rebuild a house for sale.

With regard to the first scenario, the Reg. C definition of "home purchase" contains staff interpretations clarifying that such a loan would not be reportable. In part, the interpretations state...

"A home purchase loan does not include a construction-only loan or line of credit that is designed to be replaced by separate permanent

Online Compliance Consulting Update!

The Online Compliance Consulting Dashboard has been enhanced!

- New Compliance Alert – Final Rule on Private Flood Insurance
- Updated 2019 Compliance Program Checklists
- Updated Compliance Calendar
- Updated Regulatory Deadlines Workbook
- January 2019 News

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financing extended by any financial institution to the same borrower at a later time or that is extended to a person exclusively to construct a dwelling for sale, which are excluded from Regulation C as temporary financing under § 1003.3(c)(3)."

With regard to the second scenario, we see that the situation involves constructing a dwelling for sale, but also includes the purchase of a dwelling that would be torn down. This adds a complexity that has been the focus of differing industry interpretations. Fortunately, the Bureau has addressed this situation in their HMDA Self Service Knowledge Portal that clarifies their expectation, as follows:

Question

My financial institution originated a loan to a builder to construct a dwelling for sale. The proceeds of the loan will be used to buy a house, demolish it, and rebuild a house for sale immediately after closing. Is this transaction excluded from HMDA reporting?

Answer

No. In the scenario described, part of the loan will be used for purchasing a dwelling in addition to constructing a dwelling for sale. Therefore, the transaction described above is not excluded from HMDA and should be reported as a home purchase loan. A construction-only loan or line of credit is considered temporary financing and excluded from collection and reporting requirements under comment 3(c)(3)-2 if the loan or line of credit is extended to a person exclusively to construct a dwelling for sale. Comment 3(c)(3)-2 to Regulation C, 12 CFR § 1003.3(c)(3)."

HMDA and Rate Spread

Another topic we've received inquiries on is related to the HMDA reporting of rate spread, which involves determining the difference between the APR and the average prime offer rate for a comparable transaction. Questions have arisen with regard to what "rate-set date" to use, which can be complex in a variety of situations that can involve rate lock agreements, changes in loan program and brokered loans. While the Reg. C commentary to 1003.4(a)(12) provides a great deal of clarity, the section on rate lock agreements provides the following:

*"i. **Rate-lock agreement.** If an interest rate is set pursuant to a "lock-in" agreement between the financial institution and the borrower, then the date on which the agreement fixes the interest rate is the date the rate was set. Except as provided in comment 4(a)(12)-5.ii, if a rate is reset after a lock-in agreement is executed (for example, because the borrower exercises a float-down option or the agreement expires), then the relevant date is the date the financial institution exercises discretion in setting the rate for the final time before final action is taken. The same rule applies when a rate-lock agreement is extended and the rate is reset at the same rate, regardless of whether market rates have increased, decreased, or remained the same since the initial rate was set. If no lock-in agreement is executed, then the relevant date is the date on which the institution sets the rate for the final time before final action is taken. "*

The Bureau provides a wide variety of resources to assist with accurate HMDA reporting. Interested persons may find the Bureau's HMDA resources, including the Self Service Knowledge Portal, [here](#).



Mark your calendar for our next **Be Prepared!** Compliance Update webinar. It is scheduled for **March 28, 2019**.

When available, details may be found on BankersWEB, [here](#).

Payday Lending Rule

In November 2017, the CFPB issued a new regulation (12 CFR 1041) for Payday, Vehicle Title, and Certain High-Cost Installment Loans" (aka Payday Lending Rule). That rule reflected a compliance date of August 19, 2019, and created consumer protections for certain consumer credit products.

Breaking News

On **February 14**, the Bureau published **two notices of proposed rulemaking** in the Federal Register. One amendment proposes to rescind certain provisions related to underwriting of certain loans. The other amendment proposes a delay in the compliance date for the mandatory underwriting provisions.

Interested persons may find the proposed rules [here](#) and [here](#).

Private Flood Insurance Mandate

Recently, five federal agencies (Federal Reserve, FDIC, OCC, NCUA and the Farm Credit Administration) have amended their flood regulations to include a mandate for the acceptance of **private flood insurance**.

When effective on July 1, 2019, institutions must accept "private flood insurance" as defined in the regulation. A determination that the policy meets the definition may be made, without further review, if it states "*This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation.*" The rule also contains flexibility, whereby an institution may accept a private policy that does not meet the definition, if certain other qualifiers are met.

Institutions are encouraged to review their supervisory agency's final rule, which may be found [here](#).

Convenient and Affordable Compliance Assistance

Do you need help preparing for the upcoming regulatory requirements? SC+S can help with our Online Compliance Consulting services, which combines the ease of online tools with the guidance of a compliance expert.

You will have access to an online compliance expert who will:

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You will also receive access to our online tools, including:

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- Our Dashboard Feature and Progress List, that enables you to determine what steps you will need to take to comply with the requirements and track your progress as you implement them;
- Our exclusive Knowledge Base of compliance Q&As; and
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For more information or a free demo, contact Rhonda Coggins at 512-703-1509.

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