

CFPB Proposes Significant Changes to HMDA Reporting Requirements

July 29, 2014

The Consumer Financial Protection Bureau (“CFPB”) has issued proposed amendments to Regulation C, the regulation that implements the Home Mortgage Disclosure Act (“HMDA”). The proposed amendments would revise the tests for determining which institutions and loans are subject to Regulation C, significantly increase the information that must be reported on mortgage loans, require institutions which report a large number of loans to submit HMDA data quarterly instead of annually, allow institutions to make data available to the public through a website rather than at physical locations, and clarify certain unclear and confusing aspects of the regulation. Comments on the proposal must be received by the CFPB on or before October 22, 2014.

HMDA is a federal statute that requires financial institutions to collect and submit information on dwelling-secured loans to the federal government and to make certain related information available to the public. The intent of HMDA is to provide the public with information about how lenders are serving the housing needs of their communities, and to promote access to fair credit in the housing market. The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) amended HMDA to try and improve the utility of HMDA data. This proposal by the CFPB implements the amendment made by the Dodd-Frank Act but also contains significant other changes deemed advisable by the CFPB.

The following is a summary of the key elements of the proposal.

- Depository and nondepository institutions that meet all other criteria for a financial institution under Regulation C would be required to report HMDA data if they originated 25 covered loans, excluding open-end lines of credit, in the previous calendar year. Currently, Regulation C contains different coverage criteria for depository institutions and nondepository institutions.
- Financial institutions generally would be required to report all closed-end loans, open-end lines of credit, and reverse mortgages secured by a dwelling. Currently, financial institutions must determine whether the loan is for home purchase, home improvement, or refinancing in order to report the loan, and reporting of home equity lines of credit is optional. Unsecured home improvement loans, which currently must be reported, would no longer be reported.
 - Information about applicants, borrowers, and the underwriting process, such as age, credit score, debt-to-income ratio, reasons for denial if the application was denied, the application channel, an automated underwriting system results;
 - Information about the property securing the loan, such as construction method, property value, lien priority, the number of individual dwelling units in the property, and additional information about

manufactured and multifamily housing;

- Information about the features of the loan, such as additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan; and The following additional information would have to be reported under Regulation C for covered loans:

- Certain unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution.
- Financial institutions that report large volumes of HMDA data would be required to submit their data to the appropriate federal agency on a quarterly basis, rather than on the annual basis currently required. This requirement would apply to a financial institution that reported at least 75,000 covered loans, applications, and purchased covered loans, combined, for the preceding calendar year.
- Financial institutions would be allowed to make their HMDA disclosure statements available by referring members of the public that request a disclosure statement to a publicly-available website. Currently, a financial institution is required to make its disclosure statement available to the public in its home office and, in addition, to either make it available in certain branch offices or to post a notice of its availability and provide it in response to a written request.
- The proposed regulations seek to clarify certain aspects of Regulation C that the CFPB has identified as being unclear or confusing. Examples of these clarifications include guidance on what types of residential structures are considered dwellings; the treatment of manufactured and modular homes and multiple properties; coverage of preapproval programs and temporary financing; how to report a transaction that involved multiple financial institutions; reporting the action taken on an application; and reporting the type of purchaser for a covered loan.

As noted above, comments on the proposal must be received by the CFPB on or before October 22, 2014.

Comments may be submitted electronically to the CFPB by going to <http://www.regulations.gov> and following the instructions on that site. Comments should identify Docket No. CFPB-2014-0019 or RIN 3170-AA10.

If you have any questions regarding these proposed amendments or HMDA in general, please feel free to contact Joseph D. Simon at 516-357-3710 or via email at jsimon@cullenllp.com, or Elizabeth A. Murphy at 516-296-9154 or via email at emurphy@cullenllp.com.

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