

# OCC, FDIC and CFPB Announce No Penalties for Data Errors in 2018 Submissions

December 26, 2017

As the long-awaited revisions to Home Mortgage Disclosure Act (“HMDA”) compliance requirements are slated to take effect on January 1, 2018, several federal banking agencies have issued important HMDA guidance and updates.

## No Penalties for Data Errors in 2018 Submissions

The Consumer Financial Protection Bureau (“CFPB”), the Office of the Comptroller of the Currency (“OCC”), and the Federal Deposit Insurance Corporation (“FDIC”) have announced that the agencies will not assess any penalties relating to data errors in 2018 HMDA submissions (which are due in 2019). In addition, the agencies announced that they will not require financial institutions to resubmit data for 2018 unless data errors are material.

The agencies have taken this action in recognition of the “significant systems and operational challenges” needed to adjust to the new HMDA compliance requirements. The agencies have said they will give credit to institutions’ “good faith compliance efforts,” and that examinations of 2018 HMDA data will be diagnostic to help institutions “identify compliance weaknesses.”

## CFPB to Reconsider Certain HMDA Requirements

The CFPB also announced that it intends to reconsider various aspects of the sweeping changes it issued in 2015 to Regulation C, the regulation implementing HMDA. The 2015 amendments to Regulation C made significant changes to the coverage of HMDA as well as the data required to be collected and reported under HMDA. The majority of those changes take effect on January 1, 2018.

The CFPB’s December 21, 2017 announcement states that the agency will be looking specifically at the rules on (a) what institutions are covered by HMDA, (b) what transactions are covered by HMDA, and (c) what information needs to be reported for each application and loan. The CFPB said it may specifically look at the lending-activity criteria that determine whether institutions are required to report mortgage data.

## CFPB Raises Asset Threshold for HMDA Coverage

The CFPB has raised the asset threshold for banks, savings associations and credit unions to be subject to HMDA. Effective January 1, 2018, a depository institution with assets of \$45 million or less will not be subject to HMDA reporting in 2018. The asset threshold is tied to changes in the Consumer Price Index (“CPI”). Based on changes to the CPI, the HMDA threshold was raised from \$44 million to \$45 million.

Please note that even if an institution has more than \$45 million in assets, the institution still has to meet certain other requirements in order to be subject to HMDA reporting, including meeting a loan-volume threshold.

If you have any questions regarding these HMDA developments or HMDA compliance in general, please feel free to contact Joseph D. Simon at 516-357-3710 or via email at [jsimon@cullenanddykman.com](mailto:jsimon@cullenanddykman.com), Kevin Patterson at 516-296-9196 or via email at [kpatterson@cullenanddykman.com](mailto:kpatterson@cullenanddykman.com), or Mandy Xu at 516-357-3850 or via email at [mxu@cullenanddykman.com](mailto:mxu@cullenanddykman.com).

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