HMDA Relief Issued
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On August 31, 2018, the Bureau of Consumer Financial Protection (CFPB) issued an interpretive and procedural rule to implement and clarify the requirements of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) that amends provisions of the Home Mortgage Disclosure Act (HMDA).

This is good news for many community bankers, and the industry as a whole. Community banks that are subject to HMDA reporting will be able to report far less information if they originate more than 25 mortgage loans, but less than 500. The industry as a whole should rejoice, because this rulemaking by the CFPB reflects an agency that is interested in working with banks, rather than the adversarial posture of the past.

The new rule clarifies that institutions covered by the partial exemption have the option of reporting the exempt data fields as long as the entire data point is reported, clarifies that only loans that are HMDA-reportable are counted when determining reporting status, clarifies which data points are covered by the partial exemption, designates a non-universal loan identifier for institutions that chose not to report one, and clarifies how the Community Reinvestment Act effects the partial exemptions. The notice also indicates that the Bureau will put the amendments through the formal rulemaking process at a later date.

Optional Reporting – The Bureau realizes that many institutions have already begun to collect data covered by the partial exemptions in 2018. Therefore, the new rule makes it clear that the EGRRCPA, while allowing certain institutions to cease reporting certain data points, does not mandate that the reporting cease. If you choose to report data points, you will be required to report any related data fields within that data point. For example, if a bank opts to report the street address (data field) as part of the property address (data point), it must also report the remaining data fields such as zip code, city, and state.

Counting Loans – The EGRRCPA did not define "closed-end mortgage loans" nor "open-end line of credit." Therefore, the Bureau is defining those terms to mean mortgage loans and lines that would be reportable for HMDA purposes. So, loans like agricultural loans do not count toward your 25 loan or 500 loan threshold.

Exempt Data Points – In an unusual moment of clarity, the CFPB included lists of the 26 data points that fall under the partial exemption, and the 22 remaining points that do not. Reporters will find that even some of the data points that used to be included in the previous version of HMDA are no longer required, such as Rate Spread. The complete lists are included herein as Table 1, as published by the CFPB.

Table 1: Effect of the Act's Partial Exemptions on HMDA Data Points

Covered by the Act's Partial Exemptions	Unchanged by the Act
• Universal Loan Identifier (ULI) (1003.4(a)(1)(i))[46] • 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))	• 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))

Universal Loan Identifier (ULI) – One of the optional data points covered by the new rule is the ULI. While the data point with all its rules is optional, banks who report will still need a means to identify each loan or application, and differentiate it from the other entries. The CFPB has indicated that banks opting not to use the ULI must use a non-universal loan identifier, and it must conform to certain rules. It can be comprised of letters or numbers, or a combination of the two. It must be unique in relation to all other entries, and it must not include any information that could be used to identify the applicant or borrower. Information that can be used to identify the applicant or borrower includes, but is not limited to, the borrower's name, date of birth, SSN, driver's license number, alien registration number, passport number, or EIN. Banks need to be very careful about the decisions they make in regards to the use of ULIs or non-ULIs.

CRA Ratings Effect – Unfortunately for some banks, regardless of their reporting volume, they may be required to report all the data points and will not be able to take advantage of the partial exemptions right away. Banks that have received "Needs to Improve" CRA ratings for the past two CRA examinations, or banks that have received a "Substantial Non-Compliance" rating at its last examination, are unable to take advantage of the partial exemptions, and must report all fields. The measurement for those tests should occur on December 31 along with all other HMDA applicability measurements.

Effective Date – Due to several factors, including the ongoing reporting components of HMDA, the effective date of the partial exemptions is the day the final rule is actually published in the Federal Register.

In summary, the EGRRCPA created a partial exemption from the "new" reporting requirements of HMDA for banks that originate 25-500 mortgage loans. For 2018, the trick for banks that can take advantage of the partial exemption will be deciding whether or not to do it. Much work has already gone into automatically mapping entries into software programs, and it might be easier to just continue doing so for the remainder of 2018. Banks with CRA issues will not be able to take advantage of the partial exemptions until their CRA rating is Satisfactory or better.