No. B017

# SUBJECT: Reg. C - Home Mortgage Disclosure Act


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## INTRODUCTION

This release applies to credit unions that meet certain tests, including having assets of more than $59 million as of Dec. 31, 2025 (up from $58 million the prior year). It summarizes the basic requirements of the Home Mortgage Disclosure Act (HMDA) and Consumer Financial Protection Bureau (CFPB) Regulation C. It also links to various sources for detailed information.

## EXECUTIVE SUMMARY

HMDA requires certain financial institutions to collect, record, report, and disclose information about their mortgage lending activity. The CFPB's Reg. C implements HMDA and sets out specific requirements for the collection, recording, reporting, and disclosure of mortgage lending information.

Rather than independently summarizing the HMDA and Reg. C, The League has chosen to attach to this release (as Exhibit A) a copy of the CFPB's current "Small Entity Compliance Guide" on the rule. The guide effectively summarizes the rule, highlighting issues that credit unions, and those that work with them, should find useful.

Reg. C applies to credit unions that meet certain tests. For example, the credit union is only covered if (among other things) it was of a certain asset size on the preceding Dec. 31; if it had an office in a metropolitan statistical area (MSA); and if it met "certain loan-volume thresholds" for closed-end mortgage loans or open-end lines of credit in each of the two preceding calendar years.

If the credit union is subject to HMDA and Reg. C, then it must collect and report a variety of information for actions it takes on applications involving "covered loans," as well as originations and purchases of covered loans. "Covered loan" generally means a closed- or open-end extension of credit that is secured by a lien on a "dwelling," though various exceptions can apply. The credit union must notify applicants that it is requesting information about ethnicity, race, sex, age and income for applicants, and in some cases collect that information based on visual observation or surname.

The required data points, including applicant information, must be recorded quarterly on a Loan/Application Register (LAR) that must be sent to the National Credit Union Administration (NCUA) annually, no later than March 1 following the calendar year for which the credit union is reporting. (In some cases, credit unions are required to submit data quarterly.) The Federal Financial Institutions Examination Council (FFIEC) takes all data and prepares an annual disclosure statement. The credit union must make available to the public, upon request, a written notice that clearly conveys that the credit union's disclosure statement may be obtained on the CFPB's website. Also, upon request from a member of the public, a covered credit union must provide a written notice regarding the availability of its modified LAR. Finally, a covered credit union must post, in the lobby of its home office and each branch office physically

located in a Metropolitan Statistical Area or Metropolitan District (MSA or MD), a general notice about the availability of its HMDA data on the CFPB's website.

## CREDIT UNIONS COVERED

*Reg. C § 1003.2*

Not all credit unions are subject to HMDA and Reg. C. A credit union must comply with the HMDA rules if it meets all of the following tests and thresholds:

### Asset-Size Threshold

On the preceding Dec. 31, the credit union had assets in excess of the asset-size threshold. As of Dec. 31, 2025, that threshold is $59 million (up from $58 million the prior year). Every year, the CFPB announces the asset-size threshold, which may change from year to year.

### Location Test

On the preceding Dec. 31, the credit union had a home or branch office located in an MSA. The U.S. Office of Management and Budget (OMB) defines MSAs. For more information on MSAs, visit the *FFIEC Online Census Data System*, an online tool that can be used to access FFIEC census data by MSA/MD, county, and census tract. Also visit the *FFIEC's Geocoding System page*, which allows you to retrieve MSA, state, county, and census tract codes for street addresses.

For purposes of this location test, a branch office of a credit union is any office where member accounts are established or loans are made, whether or not an agency has approved the office as a branch.

### Loan Activity Test

During the preceding calendar year, the credit union originated at least one home purchase loan or refinancing of a home purchase loan secured by a first lien on a one-to-four-unit dwelling.

The next section of this release, "Transactions Covered," has more information on how Reg. C defines "dwelling," "home purchase loan," and "refinancing."

### Federally Related Test

The fourth test asks whether the credit union is federally insured, federally regulated, or originated at least one loan that (i) was insured, guaranteed or supplemented by a federal agency or (ii) was intended for sale to Fannie Mae or Freddie Mac. Since all Wisconsin credit unions are required to be federally insured through the National Credit Union Administration Share Insurance Fund, your credit union meets this fourth test.

### Loan-Volume Thresholds

The credit union meets or exceeds either the loan-volume threshold for closed-end mortgage loans or the loan volume threshold for open-end line of credits in each of the two preceding calendar years.

Closed-end coverage

In April 2020, the CFPB issued a final rule, amending Reg. C to increase the threshold for reporting data about closed-end mortgage loans. The 2020 HMDA Rule increased the closed-end mortgage loan reporting threshold from 25 loans to 100 loans in each of the two preceding calendar years, effective July 1, 2020.

However, on September 23, 2022, A U.S. District Court vacated the 2020 HMDA Rule as to the increased loan-volume reporting threshold for closed-end mortgage loans. As a result of the court's order, the threshold for reporting data about closed-end mortgage loans is 25, the threshold established under a prior version of Reg. C. Accordingly, the CFPB has amended Reg. C to reflect the closed-end mortgage loan reporting threshold of 25 mortgage loans in each of the two preceding calendar years.

Open-end coverage

The open-end coverage threshold is set at 200 open-end lines of credit effective January 1, 2022 (when a temporary threshold of 500 open-end lines of credit expires). Beginning in calendar year 2022, credit unions that originated at

least 200 open-end lines of credit in each of the two preceding calendar years must collect and record data on their open-end lines of credit and report that data by March 1 of the following calendar year.

As explained in the next section of this release, credit unions that meet only the closed-end mortgage loan threshold are not required to report their open-end lines of credit, and credit unions that meet only the open-end line of credit threshold are not required to report their closed-end mortgage loans.

When the credit union determines whether it meets these loan volume thresholds, it does not count "excluded transactions." The next section of this release, "Transactions Covered," has more information on "excluded transactions."

Although Reg. C is the definitive source regarding the institutional coverage criteria, a credit union should review a series of *HMDA coverage charts (for various calendar years) and other guidance* from the CFPB.

### HMDA partial exemptions

In 2018, HMDA was amended to give certain lenders partial exemptions from some HMDA requirements. The CFPB has amended Reg. C to implement and clarify the partial exemptions.

Qualifying for the partial exemptions

The partial exemptions are generally available:

- For closed-end mortgage loans, if the credit union originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years, and
- For open-end lines of credit, if the credit union originated fewer than 500 open-end lines of credit in each of the two preceding calendar years.

Credit unions need to look at the two thresholds (closed-end and open-end) separately. If a credit union is below the threshold for closed-end mortgages, then it only has to report a limited number of data points for closed-end loans. If it is under the threshold for HELOCs, then it only has to report a limited number of data points for HELOCs. A credit union could qualify for the partial exemptions on its closed-end mortgages but not its HELOCs, or vice versa.

The CFPB's has said that, for purposes of the partial exemptions, "closed-end mortgage loan" and "open-end line of credit" mean only those loans or lines of credit that would otherwise be reportable under HMDA. The CFPB explained:

> Such loans are counted towards the respective thresholds to determine whether an insured depository institution or insured credit union's closed-end mortgage loans or open-end lines of credit qualify for a partial exemption. An insured depository institution or insured credit union must have originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years for its closed-end mortgage transactions to qualify for the partial exemption. Likewise, an insured depository institution or insured credit union must have originated fewer than 500 open-end lines of credit in each of the two preceding calendar years for its open-end lines of credit transactions to qualify for the partial exemption.

Limited impact on HELOC reporting from 2018 through 2021

If a credit union originated fewer than 500 HMDA-reportable HELOCs in each of the past two years, it's actually exempt from HMDA reporting on HELOCs completely – at least until 2022. That's because, for 2018 through 2021, a temporary reporting threshold is in place (explained previously), under which a lender is not required to report HELOCs at all if it made 500 or fewer of them in the preceding two calendar years.

The partial exemption for HELOCs does not affect HELOC reporting until Jan. 1, 2022, because the threshold to report HELOCs is 500 transactions in each of the preceding two calendar years under the temporary CFPB rule. Starting in 2022, though, the loan volume threshold for HMDA reporting on HELOCs will fall to 100, though credit unions originated fewer than 500 HELOCs in each of the two preceding calendar years will be partially exempt.

Partial exemptions for certain data points

The partial exemptions do not completely eliminate all HMDA reporting obligations. Instead, lenders who are partially exempt do not have to report all of the data points about loans that were added to HMDA reporting obligations in 2018.

In other words, if a credit union is subject to HMDA (because it meets the thresholds explained previously), then it still has to collect, record, report, and disclose information about its mortgages; however, if it qualifies for a partial exemption, it does not have to collect *all* of the data points added by the Dodd-Frank Act.

The rule spells out which data points do not need to be collected and reported if a transaction qualifies for a partial exemption, as well as those data points that still must be collected and reported even if a transaction qualifies for a partial exemption.

For lists of the data points that credit unions do & do not need to collect and report under the partial exemption, please see the CFPB's "HMDA Small Entity Compliance Guide," attached as Exhibit A to this release, in the subsection titled, "Collecting, recording, and reporting for transactions covered by a partial exemption."

Non-universal loan identifier

The CFPB's interpretive rule says that if a transaction qualifies for a partial exemption and the credit union opts not to report a universal loan identifier, it must report a non-universal loan identifier for the loan or application that complies with requirements in the rule. This is so that each loan and application reported for HMDA purposes is identifiable. The CFPB explained:

> A non-universal loan identifier does not need to be unique within the industry, but it still must be unique within the insured depository institution or insured credit union and meet other requirements specified in the 2018 Rule. It does not need to include a Legal Entity Identifier or a check digit.

Voluntary reporting

A credit union has the option to voluntarily report exempt data points for transactions that qualify for a partial exemption. A credit union that opts to voluntarily report an exempt data point must report all data fields that the specific data point comprises.

## TRANSACTIONS COVERED

A credit union that is subject to Reg. C must collect, record, and report information only for "covered loans."

### Consumer purposes v. business purpose

*Reg. C § 1003.3(c)(10)*

Reg. C generally applies to consumer-purpose, closed-end loans and open-end lines of credit that are secured by a dwelling. A consumer home improvement loan is not subject to Reg. C unless it is secured by a dwelling.

However, Reg. C also applies to business-purpose, closed-end loans and open-end lines of credit that are dwelling-secured and are home purchase loans, home improvement loans, or refinancings. In other words, for business-purpose transactions, Reg. C may apply depending on whether the loan is 1) dwelling-secured and 2) is for certain purposes.

### Covered loans

*Reg. C § 1003.2*

A *"covered loan"* can be either a closed-end mortgage loan or an open-end line of credit, but an "excluded transaction" is not a covered loan

The term *"closed-end mortgage loan"* means an extension of credit that is secured by a lien on a "dwelling" and is not an open-end line of credit.

The term *"open-end line of credit"* means an extension of credit that is secured by a lien on a "dwelling" and involves an open-end credit plan (that is, a HELOC) for which:

- The credit union reasonably contemplates repeated transactions;
- The credit union may impose a finance charge from time-to-time on an outstanding unpaid balance; and
- The amount of credit that may be extended to the borrower during the term of the plan (up to any limit set by the lender) is generally made available to the extent that any outstanding balance is repaid.

An *"extension of credit"* generally requires a new debt obligation. For example, a loan modification where the existing debt obligation is not satisfied and replaced is not generally a "covered loan." With two narrow exceptions (for loan assumptions and loans covered by a New York law) if a transaction modifies, renews, extends, or amends the terms of an existing debt obligation, but the existing debt obligation is not satisfied and replaced, the transaction is not a "covered loan" that is subject to Reg. C.

It is important to note that Reg. C defines the phrase "extension of credit" differently than Reg. B, the Equal Credit Opportunity Act regulation. For information on Reg. B, see The League's *ii Release No. B041.*

A *"dwelling"* is a residential structure. There is no requirement that the structure be attached to real property or that it be the applicant's or borrower's residence. Examples of "dwellings" include:

- Principal residences;
- Second homes and vacation homes;
- Investment properties;
- Residential structures attached to real property;
- Detached residential structures;
- Individual condominium and cooperative units;
- Manufactured homes or other factory-built homes; and
- Multifamily residential structures or communities, such as apartment buildings, condominium complexes, cooperative buildings or housing complexes, and manufactured home communities.

Excluded transactions

Reg. C does not apply to transactions that are specifically excluded from coverage. The attached Small Entity Guide has details about the 14 categories of excluded transactions. For example, a transaction is excluded if it is or was:

- Originated or purchased by the credit union acting in a fiduciary capacity;
- Secured by a lien on unimproved land;
- Temporary financing designed to be replaced by permanent financing at a later time;
- The purchase of an interest in a pool of otherwise covered loans, such as mortgage-participation certificates, mortgage-backed securities, or real estate mortgage investment conduits;
- The purchase solely of the right to service an otherwise covered loan;
- A purchase as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office;
- For a total dollar amount that is less than $500; or
- A purchase of a partial interest in an otherwise covered loan.

See the attached Small Entity Guide for other types of excluded transactions.

### Reportable activity
*Reg. C § 1003.2*

Once a credit union has determined whether a transaction involves a "covered loan," it must determine whether it has engaged in activity that requires it to report information about the transaction.

Generally, a credit union has to report information for actions taken on applications involving covered loans, as well as originations and purchases of covered loans. (It the credit union receives an application which results in it originating a covered loan, the credit union reports the origination and does not separately report the application.)

Under Reg. C, an *"application"* means: a) an oral or written request b) for a covered loan (c) that is made in accordance with procedures the credit union uses for the type of credit requested. This is similar to the definition of "application" under Reg. B, except prequalification requests are not "applications" under HMDA and Reg. C.

Under Reg. C, a request for a preapproval may be treated differently than a request for a prequalification for certain types of loans. The determination of whether a request is a prequalification request (which is not an "application") or a preapproval request (which might be an "application") is based on Reg. C, not on the labels that a credit union uses or interpretations of other regulations, such as Reg. B.

A preapproval request is an "application" under Reg. C and HMDA if the request is:

- For a home purchase loan;
- Not secured by a multifamily dwelling;
- Not for an open-end line credit or for a reverse mortgage;
- Reviewed under a credit union's preapproval program. (See the attached Small Entity Guide for information on the definition of a "preapproval program.")

## REQUIRED DATA POINTS

*Reg. C § 1003.4*

Under Reg. C and HMDA, a credit union must collect, record and report certain data about covered loans and applications.

For details about all of the reportable data points, see the attached Small Entity Compliance Guide.

## COLLECTING APPLICANT INFORMATION

*Reg. C § 1003.4*

Credit unions must report information about ethnicity, race, sex, age and income for applicants who are natural persons (that is, human beings as opposed to organizations). This can be broken down into three components: Requesting information, notifying applicants, and collecting information based on visual observation or surname.

### Requesting information

Among the many data points a credit union must collect, Reg. C also requires a credit union to ask an applicant for ethnicity, race, and sex information regardless of whether the application is taken in person, by mail, by telephone, or on the internet. It cannot require the applicant to provide this information.

When a credit union requests ethnicity and race information from an applicant, it must offer the applicant the option of selecting more than one ethnicity and race and must permit the applicant to self-identify using "aggregate categories" which are broken down into "disaggregated subcategories." For example, the aggregate category of Hispanic or Latino must be broken down into the disaggregated subcategories of Mexican, Puerto Rican, Cuban, or Other Hispanic or Latino.

An applicant must be permitted to select one or more race or ethnicity subcategories even if the applicant has not selected a race or ethnicity aggregate category. For example, an applicant could select Mexican even if the applicant has not selected Hispanic or Latino.

The applicant must also be permitted to provide certain additional information, such as a particular Hispanic or Latino ethnicity that is not provided on the collection form even if the applicant has not selected the Other Hispanic or Latino category.

For an illustration of the information that a financial institution must ask about an applicant's ethnicity, race, and sex, see the sample data collection form in Attachment A to the "Small Entity Compliance Guide," which is attached to this Release.

### Notifying applicants

A credit union subject to Reg. C must inform the applicant that:

- Federal law requires the information be collected in order to protect consumers and to monitor compliance with federal statutes that prohibit discrimination against applicants; and
- If the information is not provided where the application is taken in person, the credit union is required to note the information on the basis of visual observation or surname.

### Forms

A covered credit union may collect the required information about ethnicity, race, and sex on an application form or on a separate form that refers to the application (sometimes called a collection form). (For applications taken by phone, a credit union must state the information in the collection form orally.)

Prior to 2018, Reg. C did not address "disaggregated" subcategories, so credit unions must be sure they are using up-to-date application or collection forms. Under Reg. C, a credit union must use a revised collection or application form that includes the disaggregated categories for applications received on or after Jan. 1, 2018.

For applications taken in late 2017, a transition rule lets the credit union report the applicant's ethnicity, race, and sex under the Reg. C requirements in effect at the time that it collects the information, not when it takes final action on the application.

Note: Do not use the Reg. B "Voluntary Information for Government Monitoring Purposes" form, found in *ii Release No. B041 Exhibit A*, for compliance with Reg. C, since it does not comply with HMDA on or after Jan. 1, 2018. As of that date, HMDA requires a more extensive data collection form for demographic information of applicant and co-applicant. For information on Reg. B, see The League's *ii Release No. B041- Reg. B – Equal Credit Opportunity.*

## RECORDING & REPORTING

*Reg. C § 1003.4 & .5*

Reg. C requires covered credit unions to record the data about a covered loan or application on a HMDA LAR within 30 calendar days after the end of the calendar quarter in which it takes final action on the application or covered loan.

The credit union can record data on a single LAR or on one or more LARs for different branches or different loan types. It can maintain its quarterly records in electronic or any other format, provided it can make the information available to regulatory agencies in a timely manner upon request.

### Reporting

In addition to the required data discussed earlier, effective Jan. 1, 2019, a covered credit union must include the following when it submits its HMDA data:

- Its name;
- The calendar year and, effective Jan. 1, 2020, if applicable, the calendar quarter to which the data relate (as described in the material below in quarterly reporting);
- The name and contact information for a person who can be contacted with questions about the submission;
- The credit union's appropriate federal agency;
- The total number of entries in the submission;
- The credit union's federal Taxpayer Identification Number (TIN); and
- The credit union's Legal Entity Identifier (LEI). (The LEI is a unique, 20-digit alphanumeric identifier. Visit the *Global LEI Foundation website* for information or to obtain an LEI.)

### Annual reporting

Reg. C require annual HMDA data reporting, with covered credit unions to submit data electronically in accordance with the procedures published by the CFPB and posted at *http://www.consumerfinance.gov/hmda*.

A covered credit union must submit its annual LAR in electronic format to its appropriate Federal agency (NCUA) by March 1 of the year following the calendar year for which data are collected.

It must retain a copy of its submitted annual LAR for at least three years, in either paper or electronic form.

For more information on reporting under Reg. C or on the electronic submission of data, please see *http://www.consumerfinance.gov/hmda*.

### Quarterly reporting

Reg. C requires some covered credit unions and other financial institutions to report data on a quarterly basis as well as on an annual basis. The quarterly reporting requirement is effective Jan. 1, 2020, and it applies to a financial institution that reported at least 60,000 originated covered loans and applications (combined) for the preceding calendar year. (Do not count purchased covered loans when determining whether the quarterly reporting requirement applies.)

If quarterly reporting is required, the credit union must report all data required to be recorded for the calendar quarter within 60 calendar days after the end of the calendar quarter. The quarterly reporting requirement does not apply, however, to the fourth quarter of the year, since fourth quarter data is part of the annual submission. In its annual submission, a quarterly reporter resubmits the data previously submitted for the first three calendar quarters of the year, including any corrections to the data, as well as its fourth quarter data.

## DISCLOSURE OF DATA

*Reg. C § 1003.5*

### Disclosure statement

The Federal Financial Institutions Examination Council (FFIEC) notifies a covered credit union that its disclosure statement (based on data submitted for the prior calendar year) is available. No later than three business days (any calendar day other than a Saturday, Sunday, or legal public holiday) after receiving notice from the FFIEC, the credit union must make available to the public, upon request, a written notice that clearly conveys that the credit union's disclosure statement may be obtained on the CFPB's website at *www.consumerfinance.gov/hmda.*

To satisfy the Reg. C disclosure statement requirement, a credit union can, but is not required to, use the first sample notice in Attachment C to the CFPB's Small Entity Compliance Guide for HMDA, which is attached as an exhibit to this release.

The notice may be made available in paper or electronic form. It must be made available to the public for a period of five years.

### Modified LAR

Upon request from a member of the public, a covered credit union must provide a written notice regarding the availability of its modified LAR. The written notice (in paper or electronic format) must clearly convey that the credit union's LAR, as modified by the CFPB to protect borrower and applicant privacy, may be obtained on the CFPB's website at *www.consumerfinance.gov/hmda.*

To satisfy this notice requirement, a credit union can, but is not required to, use the first sample notice in Attachment C to the CFPB's Small Entity Compliance Guide for HMDA, which is attached as an exhibit to this release. (It also may use the same notice for the disclosure statement requirement discussed previously.)

The notice must be made available in the calendar year following the calendar year for which the credit union collected data, and it must be made available for three years.

### Posted notices

A covered credit union must post, in the lobby of its home office and each branch office physically located in an MSA or MD, a general notice about the availability of its HMDA data on the CFPB's website.

A credit union can, but is not required to, use the second sample notice in Attachment C to the CFPB's Small Entity Compliance Guide for HMDA, which is attached as an exhibit to this release. The League also has a sample you can download on the *"Reg. C – Home Mortgage Disclosure" topics A-Z page*.

Note: The HMDA notice required as of Jan. 1, 2018 contains different language from the HMDA notice required before that date. All credit unions subject to HMDA should update their posted notices and discontinue use of the old notice language.

## ADDITIONAL RESOURCES

This ii Release summarizes only the basic requirements of HMDA and Reg. C. For details on HMDA compliance, the credit union should look to the CFPB's many useful resources. *The CFPB's HMDA Resources Page* includes links to FAQs, webinars, guides, and much more. In particular, credit unions may want to review:

**Rule**

- *Home Mortgage Disclosure Act rule*

**Guides**

- *Small entity compliance guide* (a copy of which is attached to this Release).

**Supervision and examination materials**

- *CFPB Supervision and Examination manual* – Guide to how the CFPB will supervise and examine entities under its jurisdiction for compliance with Federal consumer financial law.
- *Supervisory highlights*

**Additional materials**

- *Sample data collection form* – Demographic information of applicant or co-applicant.
- *Data submission resources for HMDA filers.* These resources include:
  - The *HMDA Platform,* which allows financial institutions to upload HMDA files, perform validation on the data, review edits, submit HMDA data, and complete the HMDA filing process;
  - The *Technology Preview*, which provides resources for financial institutions preparing their systems to file HMDA data with the CFPB.
  - The *Loan/Application Register Formatting Tool,* to help financial institutions, typically those with small volumes of covered loans and applications, to create an electronic file that can be submitted to the HMDA Platform;
  - The *rate spread calculator*, which calculates rate spread on loans and applications with an action taken date on or after January 1, 2018.
  - The *check digit tool*, which 1) generates a two-character check digit when you enter a Legal Entity Identifier (LEI) and loan or application ID, and 2) validates that a check digit is calculated correctly for any complete Universal Loan Identifier (ULI) you enter;
  - The *HMDA Loan Scenarios*, which provide an illustrative aid to help HMDA filers prepare their loan/application register;
  - The *HMDA Self Service Knowledge Portal*, a repository of common questions received via HMDA Help, which you can search by typing your question or other key words;
  - *A set of Frequently Asked Questions;* and
  - The *File Format Verification Tool*, for filers who wish to confirm that a LAR file is formatted in the required pipe delimited text file format, and meets certain formatting requirements specified in the Filing Instructions Guide. Section 3 of the *HMDA Tools Instructions* guide provides further information on using the FFVT.

- The *LAR Formatting Tool* is intended to help financial institutions, typically those with small volumes of covered loans and applications, to create an electronic file that can be submitted to the HMDA Platform.

### "Getting it Right" HMDA guide

The 2024 edition of the *"A Guide to HMDA Reporting: Getting it Right!"* give credit unions valuable information about HMDA reporting, including a summary of responsibilities and requirements, directions for assembling the necessary tools, and instructions for reporting HMDA data.

The guide is published by the Federal Financial Institutions Examination Council (FFIEC), a group of federal banking regulators that includes the NCUA. (Previous years' editions are available *on the FFIEC website*.)

Appendices include:

- Overview of Data Requirements Chart;
- HMDA Small Entity Compliance Guide;
- Instructions on Collection of Data on Ethnicity, Race, and Sex;
- Step-by-step charts summarizing transactional and institutional coverage;
- Partial Exemptions Charts;
- Data Fields and Data Points Chart;
- Regulation C, 12 CFR Part 1003;
- Official Interpretations to Regulation C, 12 CFR Part 1003;
- Federal HMDA Reporting Agencies; and
- HMDA Poster.

### Questions?

A person who has a specific regulatory interpretation question about the HMDA Rule (after reviewing the resources at the CFPB's *HMDA Rule Implementation site*) may submit the question to the CFPB *online here*. A person may also leave his or her question in a voicemail at 202-435-7700.

CFPB staff provides only informal responses to regulatory inquiries, and the responses do not constitute official interpretations or legal advice. Generally, CFPB staff is not able to respond to specific inquiries the same business day or within a particular requested timeframe. Actual response times will vary based on the number of questions CFPB staff is handling and the amount of research needed to respond to a specific question.

Technical questions about collecting HMDA data for 2017 and later years or reporting HMDA data in 2018 and later years should be directed to *hmdahelp@cfpb.gov*.

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League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that the League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department

PEG/jb

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## EXHIBIT A - HOME MORTGAGE DISCLOSURE (REGULATION C) SMALL ENTITY COMPLIANCE GUIDE

CONSUMER FINANCIAL PROTECTION BUREAU | FEBRUARY 2023
OMB CONTROL NO. 3170-0008

# Home Mortgage Disclosure (Regulation C)

Small Entity Compliance Guide

cfpb Consumer Financial Protection Bureau

# Version Log

The Bureau updates this guide on a periodic basis. Below is a version log noting the history of this document and its updates:

| Date | Version | Summary of Changes |
|---|---|---|
| February 15, 2023 | 5.2 | Updates to incorporate the *NCRC v. CFPB* order that vacated the closed-end mortgage loan threshold for institutional and transactional coverage set in the 2020 HMDA Final Rule. (Sections 1, 2.1, 2.2, 3.1, 4.1.2, 6.1, and 9.1). |
| April 1, 2021 | 5.1 | Deletes text related to the Bureau's Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act because the Bureau rescinded it. (Sections 2.6 and 6.2). |
| May 26, 2020 | 5.0 | Updates to incorporate the content of the 2020 HMDA Thresholds Final Rule issued on April 16, 2020, including:<br>• Institutional coverage and the uniform loan-volume threshold for closed-end mortgage loans and open-end lines of credit (Sections 2.1, 3.1, and 9.1)<br>• Transactional coverage for closed-end mortgage loans and open-end lines of credit (Sections 2.2, 4.1.1, 4.1.2, and 9.1)<br><br>Updates to incorporate the Bureau's Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act (Sections 2.6, and 6.2)<br><br>Miscellaneous administrative changes in various sections. |
| January 23, 2020 | 4.0 | Updates to incorporate the content of the final rule issued on October 10, 2019, including:<br>• Effective date (Section 2)<br>• Institutional coverage for open-end lines of credit (Sections 2.1, 3.1, 3.1.1, 3.1.2, 9.1)<br>• Transactional coverage for open-end lines of credit (Sections 2.2, 4.1.2, 4.3, 4.3.2)<br>• Partial exemptions (Sections 4.3, 4.3.1, 8.5)<br>• Non-universal loan identifier (Sections 5.2) |

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| | | Information about the Bureau's policy guidance on disclosure of loan-level HMDA data (Section 2.7).<br><br>Deletes text related to 2017 institutional coverage because it is no longer in effect (Section 2.1, 2.3, 2.5, 5.1.1, 9.1).<br>Deletes text regarding the collection of race, ethnicity, and sex for applications taken in 2017 (Section 2.3, 5.1).<br>Deletes text related to Appendix A of Regulation C because it was removed from Regulation C in 2019 (Section 2.5).<br>Miscellaneous administrative changes in various sections. |
| October 2018 | 3.0 | Updates to reflect Section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (2018 Act) and the interpretive and procedural rule issued on August 31, 2018 (2018 HMDA Rule), including:<br><br>• General information about Section 104(a) of the 2018 Act and the 2018 HMDA Rule (Section 1)<br>• Key changes and effective date of Section 104(a) of the 2018 Act (Sections 2.1, 2.3, and 4.3)<br>• Institutions eligible to rely upon the partial exemptions created by Section 104(a) of the 2018 Act (Section 4.3.1)<br>• Loan-volume thresholds for the partial exemptions (Section 4.3.2)<br>• Collecting, recording, and reporting data points if a partial exemption applies (Sections 4.3.3)<br>• Reporting a non-universal loan identifier if a partial exemption applies (Section 5.2)<br>• Reporting other data points affected by the partial exemptions (Sections 5.4, 5.9, 5.11, 5.12, 5.16, 5.17, and 5.19 through 5.30)<br><br>Additional information about which transactions a financial institution must count when determining if a loan-volume threshold has been met (Section 4.1.2).<br><br>Revisions to the portion of the table describing the loan amount reported for a counteroffer for an amount different from the amount for which the applicant applied, if the applicant did not accept or failed to respond. Also, revisions to the portion of the same table describing the loan amount reported for an Application that was denied, closed for incompleteness, or withdrawn (Section 5.8).<br><br>Miscellaneous administrative changes in various sections. |

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| October 2017 | 2.0 | Updates to incorporate the content of the final rule issued on August 24, 2017, including changes and clarification regarding:<br><br>• Institutional coverage and the uniform loan-volume threshold for open-end lines of credit (Sections 2.1, 3.2, and 9.1)<br>• Transactional coverage for open-end lines of credit (Sections 2.2, 4.1.2, and 9.1)<br>• Collection and reporting of applicant information (Sections 2.4, 5.1, 9.2.1, and Attachment A)<br>• Effective date of enforcement provisions for larger volume reporters (Sections 2.8 and 7)<br>• Whether certain installment sales contracts are extensions of credit for purposes of the HMDA Rule (Section 4.1.1.1)<br>• An exclusion from coverage for certain preliminary transactions that consolidate new funds into a New York CEMA (Sections 4.1.1.1. and 4.1.2)<br>• What constitutes a loan secured by a multifamily dwelling under the HMDA Rule (Sections 4.1.1.2)<br>• The exclusion from coverage for temporary financing (Section 4.1.2)<br>• Including certain distributions from retirement and other asset accounts when reporting income (Section 5.1.2)<br>• Reporting the ULI and use of check digit tool provided by the Bureau (Section 5.2)<br>• Reporting loan purpose (Section 5.7)<br>• Reporting property address and location when certain information is unknown or unavailable (Section 5.12)<br>• Reporting census tract using the geocoding tool provided by the Bureau (Sections 5.12 and 7)<br>• Reporting CLTV when the calculation includes property other than the Identified Property (Section 5.21) |

| | | |
|---|---|---|
| | | • Reporting credit score when there are multiple scores or multiple applicants (Section 5.22)<br>• Securitizers and automated underwriting systems (Section 5.23)<br>• Reporting interest rate, rate spread, and certain other data points when revised or corrected disclosures are provided (Sections 5.24, 5.26, and 5.28)<br>• Reporting the introductory rate (Section 5.25)<br>• Reporting rate spread, including for applications that are approved but not accepted (Section 5.26)<br>• Reporting mortgage loan originator identifier for certain purchased covered loans (Section 5.30)<br>• Reporting action taken if there is a counteroffer (Attachment B)<br><br>Also, makes miscellaneous administrative changes to various sections |
| December 2015 | 1.0 | Original Document |

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**PAPERWORK REDUCTION ACT**

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a valid OMB control number. The OMB control number for this collection is 3170-0008. It expires on November 30, 2022. The information collections created by the Final Rule published October 28, 2015 at 80 FR 66127 will not become effective until either three years from the date of publication of the rule or 2020 in the case of certain information collections. The time required to complete this information collection is estimated to average between 161 hours and 9,000 hours per response depending on the size of the institution. The obligation to respond to this collection of information is mandatory per the Home Mortgage Disclosure Act, 12 U.S.C. 2801-2810, as implemented by the Bureau's Regulation C, 12 CFR part 1003. Comments regarding this collection of information, including the estimated response time, suggestions for improving the usefulness of the information, or suggestions for reducing the burden to respond to this collection should be submitted to the Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552, or by email to PRA@cfpb.gov. The other agencies collecting information under this regulation maintain OMB control numbers for their collections as follows: Office of the Comptroller of the Currency (1557–0159), the Federal Deposit Insurance Corporation (3064–0046), the Federal Reserve System (7100–0247), the Department of Housing and Urban Development (2502–0529), and the National Credit Union Administration (3133–0166).

# 1. Introduction

The Home Mortgage Disclosure Act (HMDA), which Congress enacted in 1975, requires certain financial institutions to collect, record, report, and disclose information about their mortgage lending activity. Regulation C implements HMDA and sets out specific requirements for the collection, recording, reporting, and disclosure of mortgage lending information. The data-related requirements in HMDA and Regulation C serve three primary purposes: (1) to help determine whether financial institutions are serving their communities' housing needs; (2) to assist public officials in distributing public investment to attract private investment; and (3) to assist in identifying potential discriminatory lending patterns and enforcing antidiscrimination statutes.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for HMDA to the Bureau of Consumer Financial Protection (Bureau), effective July 2011. It also amended HMDA to require financial institutions to report new data points and authorized the Bureau to require financial institutions to collect, record, and report additional information. On August 29, 2014, the Bureau published proposed amendments to Regulation C to implement the Dodd-Frank Act changes and to make additional changes. The Bureau carefully reviewed and considered the comments it received on its proposed amendments. On October 15, 2015, the Bureau issued a final rule (2015 HMDA Rule) amending Regulation C. The 2015 HMDA Rule was published in the *Federal Register* on October 28, 2015. On August 24, 2017, the Bureau issued a final rule (2017 HMDA Rule) further amending Regulation C to make technical corrections and to clarify and amend certain requirements adopted by the 2015 HMDA Rule. The 2017 HMDA Rule was published in the *Federal Register* on September 13, 2017. On May 24, 2018, the President signed the Economic Growth, Regulatory Relief, and Consumer Protection Act (2018 Act) into law. Effective May 24, 2018, Section 104(a) of the 2018 Act created partial exemptions from some of HMDA's requirements for certain covered institutions. On August 31, 2018, the Bureau issued an interpretive and procedural rule (2018 HMDA Rule) to implement and clarify Section 104(a) of the 2018 Act. The 2018 HMDA Rule was published in the *Federal Register* on September 7, 2018. On October 10, 2019, the Bureau issued a final rule (2019 Rule) to extend until January 1, 2022 the current temporary loan-volume threshold for reporting data about open-end lines of credit and incorporate the 2018 HMDA Rule into Regulation C and implement further the 2018 Act. The 2019 HMDA Rule was published in the *Federal Register* on October 29, 2019. On

April 16, 2020, the Bureau issued a final rule (2020 HMDA Thresholds Rule) amending Regulation C's institutional and transactional coverage thresholds for closed-end mortgage loans and open-end lines of credit. The 2020 HMDA Thresholds Rule was published in the *Federal Register* on May 12, 2020. On September 23, 2022, the United States District Court for the District of Columbia issued an order that vacated the closed-end mortgage loan threshold for institutional and transactional coverage set in the 2020 HMDA Final Rule.[1] In this guide, the 2015 HMDA Rule, 2017 HMDA Rule, 2018 HMDA Rule, 2019 HMDA Rule, and 2020 HMDA Thresholds Rule are collectively referred to as the HMDA Rule.

Certain terms that are defined in Regulation C are capitalized in this guide for ease of reference. The definitions for these terms are found in 12 CFR 1003.2.

## 1.1 Purpose of this guide

The purpose of this guide is to provide an easy-to-use summary of Regulation C to highlight information that financial institutions and those that work with them might find helpful when implementing the HMDA Rule.

This guide meets the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, which requires the Bureau to issue a small entity compliance guide to help small entities comply with new regulations. Larger entities may also find this guide useful.

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/, that explains the Bureau's approach to Compliance Aids. Regulation C, the 2015 HMDA Rule, the 2017 HMDA Rule, the 2018 HMDA Rule, the 2019 HMDA Rule, the 2020 HMDA Thresholds Rule, and the Official Interpretations (also known as the commentary) are the definitive sources of information regarding their requirements. The 2015 HMDA Rule, the 2017 HMDA Rule, the 2018 HMDA Rule, the 2019 HMDA Rule, and the

[1] *See NCRC v. CFPB*, Case No. 20-cv-2074, 2022 U.S. Dist. LEXIS 174183 (D.D.C. Sept. 23, 2022).

2020 HMDA Thresholds Rule are available at http://www.consumerfinance.gov/regulatory-implementation/hmda/.

The focus of this guide is Regulation C and the HMDA Rule. Except when specifically needed to explain a provision of amended Regulation C, this guide does not discuss other Federal or State laws that may apply to mortgage lending.

This guide has examples to illustrate some portions of the HMDA Rule. The examples do not include all possible factual situations that could illustrate a particular provision, trigger a particular obligation, or satisfy a particular requirement. Even though an example may identify a fictitious financial institution as, for example, "Ficus Bank" or "Ficus Mortgage Company," the provision or obligation being illustrated in the example may apply to all financial institutions, including both depository and nondepository financial institutions.

Sometimes this guide will distinguish between the requirements of the HMDA Rule and the requirements of Regulation C as they apply before a specific part of the HMDA Rule goes into effect. When making these distinctions, the guide generally refers to the requirements of Regulation C as they apply before a specific part of the HMDA Rule goes into effect as "current Regulation C." However, it should be understood that this means the requirements of Regulation C as they are before the specific part of the HMDA Rule being discussed goes into effect, not Regulation C as of any specific date (such as the date the guide is being read).

## 1.2 Additional implementation resources

Additional resources to help institutions understand and comply with the HMDA Rule are available on the Bureau's website at http://www.consumerfinance.gov/regulatory-implementation/hmda/. These resources include a list of frequently asked questions and answers on particular topics to assist in understanding and complying with HMDA and Regulation C.

A person who has a specific regulatory interpretation question about the HMDA Rule after reviewing these materials may submit the question on the Bureau's website at https://reginquiries.consumerfinance.gov/. Bureau staff provide only informal responses to regulatory inquiries, and the responses do not constitute official interpretations or legal advice.

Generally, Bureau staff is not able to respond to specific inquiries the same business day or within a particular requested timeframe. Actual response times will vary based on the number of questions Bureau staff is handling and the amount of research needed to respond to a specific question.

**Technical questions about the HMDA Platform, or the publication of HMDA data should be directed to hmdahelp@cfpb.gov.**

# 2. Key changes and effective dates

The HMDA Rule changes: (1) the types of financial institutions that are subject to Regulation C; (2) the types of transactions that are subject to Regulation C; (3) the data that financial institutions are required to collect, record, and report; and (4) the processes for reporting and disclosing HMDA data.

Most provisions of the HMDA Rule took effect on January 1, 2018 and apply to data collected in 2018 and reported in 2019 or later years. The partial exemptions created by the 2018 Act became effective when the Act was signed into law on May 24, 2018. Further implementation of the 2018 Act, such as the application of partial exemptions after a merger or acquisition, is effective January 1, 2020. Certain changes regarding reporting and changes to the enforcement provisions regarding good faith efforts are effective January 1, 2019. The new quarterly reporting requirement and changes to the enforcement provisions for larger-volume reporters are effective January 1, 2020. Additionally, there are institutional and transactional coverage changes for open-end lines of credit that are effective January 1, 2022.[2] This section summarizes these key changes and provides the effective date for each key change. For more detailed information on the HMDA Rule's specific requirements, see Sections 3 through 8.

[2] On April 16, 2020, the Bureau issued the 2020 HMDA Thresholds Rule adjusting Regulation C's institutional and transactional coverage thresholds for closed-end mortgage loans and open-end lines of credit. Effective January 1, 2022, when the temporary threshold of 500 open-end lines of credit expired, the final rule set the permanent open-end threshold at 200 open-end lines of credit in each of the two preceding calendar years. On September 23, 2022, the United States District Court for the District of Columbia issued an order in *NCRC v. CFPB* that vacated the closed-end mortgage loan threshold for institutional and transactional coverage set in the 2020 HMDA Final Rule.

# 2.1 Institutional coverage

*Effective January 1, 2018, for changes to institutional coverage; effective January 1, 2022, for a change to the loan-volume threshold for open-end lines of credit*

Effective January 1, 2018, the HMDA Rule adopts a uniform loan-volume threshold for all financial institutions. As described below, the loan-volume threshold for closed-end mortgage loans and open-end lines of credit has adjusted over two effective dates. First, from January 1, 2018, through December 31, 2021, a financial institution is not subject to Regulation C unless it originated at least 25 covered closed-end mortgage loans in each of the two preceding calendar years or at least 500 covered open-end lines of credit in each of the two preceding calendar years, and it meets other applicable coverage requirements. Second, effective January 1, 2022, a financial institution is not subject to Regulation C unless it originated at least 25 covered closed-end mortgage loans in each of the two preceding calendar years or at least 200 covered open-end lines of credit in each of the two preceding calendar years, and it meets other applicable coverage requirements.[3]

- The 2018 Act added partial exemptions to HMDA. As discussed in Section 4.3, certain financial institutions are eligible for these partial exemptions from some of the HMDA Rule's data collection and reporting requirements. Among other things, in order to be eligible for a partial exemption, a financial institution must be either an insured depository institution as defined in Section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in Section 101 of the Federal Credit Union Act. As discussed in Section 4.3, an insured depository institution with a less than satisfactory Community Reinvestment Act examination history is not eligible for a partial exemption.

For depository financial institution coverage, the HMDA Rule maintains Regulation C's asset-size threshold, location test, federally related test, and loan activity test. For nondepository financial institutions, the HMDA Rule retains the location test.

[3] As mentioned above, the 2020 HMDA Final Rule set the closed-end threshold at 100 closed-end mortgage loans effective July 1, 2020. However, on September 23, 2022, the United States District Court for the District of Columbia issued an order in *NCRC v. CFPB* that vacated the closed-end mortgage loan threshold for institutional and transactional coverage set in the 2020 HMDA Final Rule.

For more information regarding which financial institutions are subject to the HMDA Rule, see Section 3 and the HMDA Institutional Coverage Charts.

## 2.2 Transactional coverage

*Effective January 1, 2018 for data collected on or after January 1, 2018 (to be reported in or after 2019); effective January 1, 2022 for data collected on or after January 1, 2022 (to be reported in or after 2023) for a change to the exclusion for open-end lines of credit.*

The HMDA Rule modifies the types of transactions that are subject to Regulation C and generally adopts a dwelling-secured standard for transactional coverage.

Beginning on January 1, 2018, Regulation C generally applies to consumer-purpose, closed-end loans and open-end lines of credit that are secured by a dwelling. 12 CFR 1003.2(d), (e), and (o). A home improvement loan is not subject to Regulation C unless it is secured by a dwelling.

Beginning on January 1, 2018, Regulation C applies to business-purpose, closed-end loans and open-end lines of credit that are dwelling-secured and are home purchase loans, home improvement loans, or refinancings. 12 CFR 1003.3(c)(10). For business-purpose transactions, the HMDA Rule creates a dwelling-secured standard and maintains current Regulation C's purpose test.

The HMDA Rule retains existing categories of excluded transactions, clarifies some categories of excluded transactions, and expands the existing exclusion for agricultural-purpose transactions. 12 CFR 1003.3(c). It also adds new categories of excluded transactions that are designed to work in tandem with the HMDA Rule's other changes. For example, closed-end mortgage loans are excluded transactions for a financial institution that did not originate 25 or more of them in each of the two preceding calendar years. Similarly, open-end lines of credit are excluded transactions for a financial institution that did not originate a certain number of them in each of the two preceding calendar years. For 2018, 2019, 2020, and 2021, open-end lines of credit are excluded transactions for a financial institution that did not originate at least 500 of them in each of the two preceding calendar years. Effective January 1, 2022, open-end lines of credit are

excluded transactions for a financial institution that did not originate at least 200 of them in each of the two preceding calendar years.[4]

The HMDA Rule expands the types of preapproval requests that are reported, but also excludes requests regarding some types of loans from the scope of reportable preapproval requests. Under the HMDA Rule, reporting of preapproval requests that are approved but not accepted is required instead of optional. However, under the HMDA Rule, preapproval requests regarding home purchase loans to be secured by multifamily dwellings, preapproval requests for open-end lines of credit, and preapproval requests for reverse mortgages are not reportable.

- The 2018 Act created two partial exemptions: one for closed-end mortgage loans and one for open-end lines of credit. Transactions that are subject to the HMDA Rule and are covered by a partial exemption are still subject to some of the HMDA Rule's requirements, and certain data points must be collected, recorded, and reported for such transactions. For more information on the partial exemptions, see Section 4.3.

For more information regarding the transactions that are subject to the HMDA Rule, see Section 4 and the HMDA Transactional Coverage Chart.

## 2.3 Required data points

*Effective January 1, 2018 and applicable to data reported in or after 2019; partial exemptions effective May 24, 2018 and applicable for collection, recording, and reporting of data on or after May 24, 2018.*

The HMDA Rule adds the data points specified in the Dodd-Frank Act as well as data points that the Bureau determined will assist in carrying out HMDA's purposes. For example, the HMDA

[4] A financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for a closed-end mortgage loan excluded under § 1002.3(c)(11) or an open-end line of credit excluded under § 1002.3(c)(12) as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for closed-end mortgage loans or open-end lines of credit that it receives, originates, and purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan or open-end line of credit.

Rule adds new data points for age, credit score, automated underwriting information, debt-to-income ratio, unique loan identifier, property value, application channel, points and fees, borrower-paid origination charges, discount points, lender credits, loan term, prepayment penalty, and identification of other loan features. 12 CFR 1003.4(a). The HMDA Rule also modifies some existing data points.

Effective May 24, 2018, the 2018 Act created partial exemptions that permit certain financial institutions to exclude 26 data points when collecting, recording, and reporting HMDA data for certain transactions. If a partial exemption applies to a covered transaction, an insured depository institution or insured credit union may, but is not required to, collect, record, and report these 26 data points. However, the insured depository institution or insured credit union must collect, record, and report the remaining 22 data points as required by the HMDA Rule and otherwise comply with the HMDA Rule for such covered transactions.

Generally, a financial institution collects, records, and reports the new and modified data points under the HMDA Rule for applications on which final action is taken on or after January 1, 2018. However, if a partial exemption applies, an insured depository institution or insured credit union is not required to collect, record, or report many of these data points as discussed in Section 4.3.3.

A financial institution collects, records, and reports the new and modified data points, to the extent that they apply to purchased loans, for purchases of covered loans that occur on or after January 1, 2018.

For more information regarding the data points that must be reported under the HMDA Rule, see Section 5. For more information on the data points that must be reported if a partial exemption applies to a covered transaction, see Section 4.3.3.

## 2.4 Collection and reporting of applicant information

*Effective January 1, 2018 for data collected in or after 2018 (to be reported in or after 2019)*

For data collected in or after 2018, the HMDA Rule amends the requirements for collection and reporting of information regarding an applicant's or borrower's ethnicity, race, and sex.

First, the HMDA Rule adds a requirement to report how the institution collected the information about the applicant's or borrower's ethnicity, race, and sex. A financial institution reports whether or not it collected the information on the basis of visual observation or surname. 12 CFR 1003.4(a)(10)(i). Financial institutions are required to collect information about an applicant's ethnicity, race, and sex on the basis of visual observation or surname when an applicant chooses not to provide the information for an application taken in person.

Second, financial institutions must permit applicants to self-identify using disaggregated ethnic and racial subcategories and must report disaggregated information applicants provide. However, the HMDA Rule does not require or permit financial institutions to use the disaggregated subcategories when identifying the applicant's ethnicity and race based on visual observation or surname. The HMDA Rule includes a new sample data collection form in appendix B that provides the required aggregated categories and disaggregated subcategories for ethnicity and race. Appendix B to Part 1003.

For more information regarding the collection and reporting of applicant information under the HMDA Rule, see Section 5.1.

## 2.5 Annual reporting

*Effective January 1, 2019 for changes requiring electronic submission of HMDA data in 2019 and later years*

The HMDA Rule retains the requirement that a financial institution submit its HMDA data to its appropriate Federal agency by March 1 following the calendar year for which it collected the data, but requires electronic submission of the data.

The Bureau developed a new web-based tool for electronically submitting HMDA data. Financial institutions are required to submit data electronically using the web-based tool beginning in 2018 for data collected in 2017. For more information on the submission tool, see http://ffiec.cfpb.gov/.

Beginning in 2019, financial institutions are required to submit the new dataset electronically in accordance with the HMDA Rule, using the new web-based submission tool and revised procedures available at http://ffiec.cfpb.gov/.

For more information regarding annual reporting under the HMDA Rule, see Section 6.2.1.

## 2.6 Quarterly reporting

*Effective January 1, 2020 for data collected and reported in or after 2020*

The HMDA Rule imposes a new quarterly reporting requirement for larger-volume reporters. In addition to their annual data submission, these larger-volume reporters will also electronically submit their HMDA data for each of the first three quarters of the year on a quarterly basis beginning in 2020. 12 CFR 1003.5(a)(1)(ii).

For more information regarding quarterly reporting under the HMDA Rule, see Section 6.2.2.

## 2.7 Disclosure requirements

*Effective January 1, 2018 for data collected on or after January 1, 2017 (to be reported in or after 2018)*

The HMDA Rule replaces Regulation C's requirements to provide a disclosure statement and modified LAR[5] to the public upon request with new requirements to provide notices that the institution's disclosure statement and modified LAR are available on the Bureau's website. 12 CFR 1003.5(b)(2) and (c).

The HMDA Rule also modifies the content of the posting required under Regulation C.

The HMDA Rule includes sample language that financial institutions can use to provide notice that the institution's HMDA data are available on the Bureau's website and to comply with the

[5] HMDA requires a financial institution to make available to the public, upon request, "loan application register information" in the form required under Regulation C, and requires the Bureau to determine if deletions from the information are appropriate to protect applicants' and borrowers' privacy interests or to protect financial institutions from liability under privacy laws. 12 USC 304(j). Prior to being disclosed to the public, LARs must be modified to remove loan application register information that the Bureau determines should be deleted.

posting requirement. These revised disclosure requirements are effective January 1, 2018 and apply to data collected on or after January 1, 2017 and reported in or after 2018.

The Bureau's policy guidance on the disclosure of loan-level HMDA data[6] notes that for HMDA data collected by Financial Institutions in or after 2018 and made available to the public beginning in 2019, the Bureau intends to modify the public loan-level data to exclude certain fields and reduce the precision of most of the values reported for certain data fields.

For more information regarding the disclosure requirements under the HMDA Rule, see Section 6.3.

## 2.8 Enforcement provisions for larger-volume reporters

*Effective January 1, 2020*

The HMDA Rule provides that inaccuracies or omissions in quarterly reporting are not violations of HMDA or Regulation C if the financial institution makes a good-faith effort to report quarterly data timely, fully, and accurately, and then corrects or completes the data prior to its annual submission. 12 CFR 1003.6(c)(2). For more information regarding the enforcement provisions of the HMDA Rule, see Section 7.

[6] *See* Disclosure of Loan-Level HMDA Data, 84 FR 649 (Jan. 31, 2019)

# 3. Institutional coverage

An institution is required to comply with Regulation C only if it is a "financial institution" as that term is defined in Regulation C.

## 3.1 Institutional coverage on or after January 1, 2018

An institution uses two definitions, which are outlined below, as coverage tests to determine whether it is a financial institution that is required to comply with Regulation C, on or after January 1, 2018.

These coverage tests include loan-volume thresholds for closed-end mortgage loans and for open-end lines of credit. For closed-end mortgage loans, the HDMA Rule includes a threshold that is effective from January 1, 2018. While the Bureau issued a rule on April 16, 2020 raising the threshold, the U.S. District Court for the District of Columbia vacated the closed end threshold increase in a September 23, 2022 order.[7] For open-end lines of credit, the HMDA Rule includes both a temporary higher threshold that was effective January 1, 2018 and a lower threshold that took effect January 1, 2022. These thresholds are discussed in more detail below.

Although the HMDA Rule is the definitive source regarding the institutional coverage criteria, an institution may also find the Bureau's HMDA Institutional Coverage Charts helpful when it is determining whether it is subject to Regulation C, on or after January 1, 2018.

Throughout the remainder of this guide, an institution that meets the criteria set forth in the HMDA Rule's definition of depository financial institution is referred to as a Depository Financial Institution, and an institution that meets the criteria set forth in the HMDA Rule's definition of nondepository financial institution is referred to as a Nondepository Financial Institution. The capitalized term Financial Institution refers to an institution that is either a

[7] *See NCRC v. CFPB, Case No. 20-cv-2074, 2022 U.S. Dist. LEXIS 174183 (D.D.C. Sept. 23, 2022).*

Depository Financial Institution or a Nondepository Financial Institution and that is an institution that is subject to HMDA Rule.

### 3.1.1 Depository financial institutions

Under the HMDA Rule, effective January 1, 2018, a bank, savings association, or credit union is a Depository Financial Institution, a Financial Institution, and subject to Regulation C if it meets **ALL**[8] of the following:

1. **Asset-Size Threshold.** On the preceding December 31, the bank, savings association, or credit union had assets in excess of the asset-size threshold published annually in the *Federal Register* and posted on the Bureau's website. The phrase "preceding December 31" refers to the December 31 immediately preceding the current calendar year. For example, in 2018, the preceding December 31 is December 31, 2017. 12 CFR 1003.2(g)(1)(i).

2. **Location Test.** On the preceding December 31, the bank, savings association, or credit union had a home or Branch Office located in an MSA. 12 CFR 1003.2(g)(1)(ii).

   For purposes of this location test, a Branch Office for a bank, savings association, or credit union is an office: (a) of the bank, savings association, or credit union (b) that is considered a branch by the institution's Federal or State supervisory agency. For purposes of the HMDA Rule, an automated teller machine or other free-standing electronic terminal is not a Branch Office regardless of whether the supervisory agency would consider it a branch. 12 CFR 1003.2(c)(1). A Branch Office of a credit union is any office where member accounts are established or loans are made, whether or not an agency has approved the office as a branch. Comment 2(c)(1)-1.

3. **Loan Activity Test.** During the preceding calendar year, the bank, savings association, or credit union originated at least one Home Purchase Loan or Refinancing of a Home Purchase Loan secured by a first lien on a one-to-four-unit Dwelling. 12 CFR 1003.2(g)(1)(iii).

   For more information on whether a loan is secured by a Dwelling, is a Home Purchase Loan, or is a Refinancing of a Home Purchase Loan, see Sections 4.1.1.2 and 5.7.

[8] When determining whether it meets these criteria on or after January 1, 2018, a bank, savings association, or credit union relies on the definitions in the HMDA Rule.

4. **Federally Related Test.** The bank, savings association, or credit union:

   a. Is federally insured; or

   b. Is federally regulated; or

   c. Originated at least one Home Purchase Loan or Refinancing of a Home Purchase Loan that was secured by a first lien on a one-to-four-unit Dwelling and also (i) was insured, guaranteed or supplemented by a Federal agency or (ii) was intended for sale to Fannie Mae or Freddie Mac. 12 CFR 1003.2(g)(1)(iv).

5. **Loan-Volume Thresholds.** The bank, savings association, or credit union meets or exceeds either the loan-volume threshold for Closed-End Mortgage Loans or the loan-volume threshold for Open-End Lines of Credit in each of the two preceding calendar years. Effective January 1, 2018, the loan-volume threshold for Closed-End Mortgage Loans is 25 Closed-End Mortgage Loans. Effective January 1, 2018 through December 31, 2021, the loan-volume threshold for Open-End Lines of Credit was 500 Open-End Lines of Credit, and effective January 1, 2022, the loan-volume threshold for Open-End Lines of Credit is 200 Open-End Lines of Credit.

When the bank, savings association, or credit union determines whether it meets these loan-volume thresholds, it does not count transactions excluded by 12 CFR 1003.3(c)(1) through (10) and (13). 12 CFR 1003.2(g)(1)(v). These Excluded Transactions are discussed below in Section 4.1.2 in paragraphs 1 through 10 and in paragraph 13. For more information on Closed-End Mortgage Loans, Open-End Lines of Credit, and Excluded Transactions, see Section 4.1.

When determining if it meets the loan-volume thresholds, a bank, savings association, or credit union only counts Closed-End Mortgage Loans and Open-End Lines of Credit that it originated. Only one institution is deemed to have originated a specific Closed-End Mortgage Loan or Open-End Line of Credit under the HMDA Rule, even if two or more institutions are involved in the origination process. Only the institution that is deemed to have originated the transaction under the HMDA Rule counts it for purposes of the loan-volume threshold. Comments 2(g)-5; see also comments 4(a)-2 through -4. For more information on how to determine whether an institution is deemed to have originated a transaction under the HMDA Rule, see Section 4.2.3.

The HMDA Rule also includes a separate test to ensure that Financial Institutions that meet only the Closed-End Mortgage Loan threshold are not required to report their Open-End Lines of Credit, and that Financial Institutions that meet only the Open-End Line of Credit threshold are not required to report their Closed-End Mortgage Loans. 12 CFR 1003.3(c)(11) and (12). For more information, see Section 4.1.2.

### 3.1.2 Nondepository financial institutions

Under the HMDA Rule, effective January 1, 2018, a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) is a Nondepository Financial Institution, a Financial Institution, and subject to Regulation C if it meets **BOTH**[9] of the following:

1. **Location Test**. The mortgage-lending institution had a home or Branch Office in an MSA on the preceding December 31. The phrase "preceding December 31" refers to the December 31 immediately preceding the current calendar year. For example, in 2018, the preceding December 31 is December 31, 2017. 12 CFR 1003.2(g)(2)(i).

   For purposes of this location test, a Branch Office of a for-profit mortgage-lending institution is: (a) any one of the institution's offices (b) at which the institution takes from the public Applications for Covered Loans. A mortgage-lending institution is also deemed to have a Branch Office in an MSA if, in the preceding calendar year, it received Applications for, originated, or purchased five or more Covered Loans related to property located in that MSA. 12 CFR 1003.2(c)(2). For more information on Applications and Covered Loans, see Section 4.

2. **Loan-Volume Thresholds**. The mortgage-lending institution meets or exceeds either the Closed-End Mortgage Loan loan-volume threshold or the Open-End Line of Credit loan-volume threshold in each of the two preceding calendar years. Effective January 1, 2018, the loan-volume threshold for Closed-End Mortgage Loans is 25 Closed-End Mortgage Loans. Effective January 1, 2018 through December 31, 2021, the loan-volume threshold for Open-End Lines of Credit was 500 Open-End Lines of Credit, and effective January 1, 2022, the loan-volume threshold for Open-End Lines of Credit is 200 Open-End Lines of Credit.

When an institution determines whether it meets the loan-volume thresholds, it does not count transactions excluded by 12 CFR 1003.3(c)(1) through (10) and (13). 12 CFR 1003.2(g)(2)(ii). These Excluded Transactions are discussed below in Section 4.1.2 in paragraphs 1 through 10 and paragraph 13. For more information on Closed-End Mortgage Loans, Open-End Lines of Credit, and Excluded Transactions, see Section 4.1.

When determining if it meets the loan-volume thresholds, a mortgage-lending institution only counts Closed-End Mortgage Loans and Open-End Lines of Credit that it originated. Only one

[9] When determining whether it meets these criteria on or after January 1, 2018, a mortgage-lending institution relies on the definitions in the HMDA Rule.

institution is deemed to have originated a specific Closed-End Mortgage Loan or Open-End Line of Credit under the HMDA Rule, even if two or more institutions are involved in the origination process. Only the institution that is deemed to have originated the transaction under the HMDA Rule counts it for purposes of the loan-volume threshold. Comment 2(g)-5. See also comments 4(a)-2 through -4. For more information on how to determine whether an institution is deemed to have originated a transaction under the HMDA Rule, see Section 4.2.3. The HMDA Rule also includes a separate test to ensure that Financial Institutions that meet only the Closed-End Mortgage Loan threshold are not required to report their Open-End Lines of Credit, and that Financial Institutions that meet only the Open-End Line of Credit threshold are not required to report their Closed-End Mortgage Loans. 12 CFR 1003.3(c)(11) and (12). For more information, see Section 4.1.2.

## 3.2 Exempt institutions

Regulation C provides that Financial Institutions may apply for an exemption from coverage, and the HMDA Rule does not change this provision. Specifically, the Bureau may exempt a State-chartered or State-licensed Financial Institution if the Bureau determines that the Financial Institution is subject to a State disclosure law that contains requirements substantially similar to those imposed by Regulation C and adequate enforcement provisions. Any State-licensed or State-chartered Financial Institution or association of such institutions may apply to the Bureau for an exemption. An exempt institution shall submit the data required by State law to its State supervisory agency. 12 CFR 1003.3(a). A Financial Institution that loses its exemption must comply with Regulation C beginning with the calendar year following the year for which it last reported data under the State disclosure law. 12 CFR 1003.3(b).

# 4. Transactional coverage

A Financial Institution is required to collect, record, and report information only for transactions that are subject to Regulation C. Effective January 1, 2018, the HMDA Rule changes the types of transactions that are subject to Regulation C. This guide uses the capitalized term Covered Loan to refer to a loan or line of credit that is subject to Regulation C, effective January 1, 2018. As of that date, a Financial Institution is required to collect, record, and report information only for a transaction that involves a Covered Loan, such as the origination or purchase of a Covered Loan.

A Financial Institution can use Section 4.1 of this guide, below, for assistance in determining whether a transaction involves a Covered Loan.

After a Financial Institution has determined that a transaction involves a Covered Loan, it can use Section 4.2 for assistance in determining whether the HMDA Rule requires it to collect, record, and report information related to the transaction. A Financial Institution can use Section 4.3 to help it determine if a transaction that involves a Covered Loan is partially exempt from some of the HMDA Rule's requirements for collecting, recording, and reporting information.

## 4.1 Covered loans

A Covered Loan can be either a Closed-End Mortgage Loan or an Open-End Line of Credit (see Section 4.1.1), but an Excluded Transaction cannot be a Covered Loan (see Section 4.1.2).
12 CFR 1003.2(e).

To determine if a transaction is subject to amended Regulation C, effective January 1, 2018, a Financial Institution should first determine whether the loan or line of credit involved in the transaction is either a Closed-End Mortgage Loan or an Open-End Line of Credit. See Section 4.1.1. If the loan or line of credit is neither a Closed-End Mortgage Loan nor an Open-End Line of Credit, the transaction does not involve a Covered Loan, and the Financial Institution is not required to report the transaction. If the loan or line of credit is either a Closed-End Mortgage Loan or an Open-End Line of Credit, the Financial Institution must determine if the Closed-End Mortgage Loan or Open-End Line of Credit is an Excluded Transaction. See Section 4.1.2. If the

Closed-End Mortgage Loan or an Open-End Line of Credit is an Excluded Transaction, it is not a Covered Loan, and the Financial Institution is not required to report the transaction. If the loan or line of credit is a Closed-End Mortgage Loan or an Open-End Line of Credit and is not an Excluded Transaction, the Financial Institution may be required to report information related to the transaction. See Sections 4.2 and 4.3.

### 4.1.1 Closed-end mortgage loans and open-end lines of credit

A Closed-End Mortgage Loan is:

1. An extension of credit;
2. Secured by a lien on a Dwelling; and
3. Not an Open-End Line of Credit. 12 CFR 1003.2(d).

An Open-End Line of Credit is:

1. An extension of credit;
2. Secured by a lien on a Dwelling; and
3. An open-end credit plan for which:
   a. The lender reasonably contemplates repeated transactions;
   b. The lender may impose a finance charge from time-to-time on an outstanding unpaid balance; and
   c. The amount of credit that may be extended to the borrower during the term of the plan (up to any limit set by the lender) is generally made available to the extent that any outstanding balance is repaid. 12 CFR 1003.2(o); 12 CFR 1026.2(a)(20).

Financial Institutions may rely on Regulation Z, 12 CFR 1026.2(a)(20),[10] and its official commentary when determining whether a transaction is extended under a plan for which the lender reasonably contemplates repeated transactions, the lender may impose a finance charge from time-to-time on an outstanding unpaid balance, and the amount of credit that may be extended to the borrower during the term of the plan is generally made available to the extent that any outstanding balance is repaid.

A business-purpose transaction that is exempt from Regulation Z but is otherwise open-end credit under Regulation Z, 12 CFR 1026.2(a)(20), would be an Open-End Line of Credit under the HMDA Rule if it is an extension of credit secured by a lien on a Dwelling and is not an Excluded Transaction. Comment 2(o)-1.

#### 4.1.1.1 Extension of credit

A closed-end loan or open-end line of credit is not a Closed-End Mortgage Loan or an Open-End Line of Credit under the HMDA Rule unless it involves an extension of credit. Depending on the facts and circumstances, some transactions completed pursuant to installment sales contracts, such as some land contracts, may not be Closed-End Mortgage Loans because no credit is extended. Comment 2(d)-2. Individual draws on an Open-End Line of Credit are not separate extensions of credit. Comment 2(o)-2.

Under the HMDA Rule, an "extension of credit" generally requires a new debt obligation. Comment 2(d)-2. Thus, for example, a loan modification where the existing debt obligation is not satisfied and replaced is not generally a Covered Loan (*i.e.*, Closed-End Mortgage Loan or Open-End Line of Credit) under the HMDA Rule. Except as described below, if a transaction modifies, renews, extends, or amends the terms of an existing debt obligation, but the existing debt obligation is not satisfied and replaced, the transaction is not a Covered Loan. It is important to note that the HMDA Rule defines the phrase "extension of credit" differently than Regulation B, 12 CFR part 1002.[11] Comment 2(d)-2 and 2(o)-2.

The HMDA Rule provides two narrow exceptions to the requirement that an "extension of credit" involve a new debt obligation. The exceptions are designed to capture transactions that

[10] Regulation Z, 12 CFR part 1026, implements the Truth in Lending Act.

[11] Regulation B, 12 CFR part 1002, implements the Equal Credit Opportunity Act.

the Bureau believes are substantially similar to new debt obligations and should be treated as such.

First, the HMDA Rule maintains Regulation C's coverage of loan assumptions, even if no new debt obligation is created. A loan assumption is a transaction in which a Financial Institution enters into a written agreement accepting a new borrower in place of an existing borrower as the obligor on an existing debt obligation. The HMDA Rule clarifies that, under Regulation C, assumptions include successor-in-interest transactions in which an individual succeeds the prior owner as the property owner and then assumes the existing debt secured by the property. Assumptions are extensions of credit under the HMDA Rule even if the new borrower merely assumes the existing debt obligation and no new debt obligation is created. Comment 2(d)-2.i.

Second, the HMDA Rule provides that a transaction completed pursuant to a New York State consolidation, extension, and modification agreement and classified as a supplemental mortgage under New York Tax Law Section 255, such that the borrower owes reduced or no mortgage recording taxes, (New York CEMA) is an extension of credit under the HMDA Rule. However, the HMDA Rule also provides that certain transactions providing new funds that are consolidated into a New York CEMA are excluded from the HMDA reporting requirements. Comment 2(d)-2.ii. See Section 4.1.2 for additional information on the exclusion for certain transactions consolidated into a New York CEMA.

#### 4.1.1.2 Secured by a lien on a dwelling

A loan is not a Closed-End Mortgage Loan and a line of credit is not an Open-End Line of Credit unless it is secured by a lien on a Dwelling.

A Dwelling is a residential structure. There is no requirement that the structure be attached to real property or that it be the applicant's or borrower's residence. Examples of Dwellings include:

1. Principal residences;
2. Second homes and vacation homes;
3. Investment properties;
4. Residential structures attached to real property;
5. Detached residential structures;

6. Individual condominium and cooperative units;
7. Manufactured Homes[12] or other factory-built homes; and
8. Multifamily residential structures or communities, such as apartment buildings, condominium complexes, cooperative buildings or housing complexes, and Manufactured Home communities. 12 CFR 1003.2(f); comments 2(f)-1 and -2.

A Dwelling is not limited to a structure that has four or fewer units and includes a Multifamily Dwelling, which is a Dwelling that contains five or more individual dwelling units. A Multifamily Dwelling includes a Manufactured Home community.

- A loan is not secured by a Multifamily Dwelling for purposes of the HMDA Rule merely because it is secured by five or more individual units. In order for a loan to be secured by a Multifamily Dwelling, the Dwelling must contain five or more individual units. See comment 2(n)-3 for examples of when a loan is and is not secured by a Multifamily Dwelling.

An investor obtains a closed-end mortgage loan from a Financial Institution and uses the proceeds to purchase ten individual condominium units in a 100-unit condominium complex. The loan is secured by the ten individual units, but not by the entire condominium complex. The loan is secured by the ten separate Dwellings, but is not secured by a Multifamily Dwelling.

A loan related to a Manufactured Home community is secured by a Dwelling even if it is not secured by any individual Manufactured Homes, but is secured only by the land that constitutes

[12] A Manufactured Home is a residential structure that satisfies the definition of "manufactured home" in the U.S. Department of Housing and Urban Development's (HUD's) regulations, 24 CFR 3280.2, for establishing manufactured home construction and safety standards. 12 CFR 1003.2(l). A modular home or factory-built home that does not meet HUD's regulations is not a Manufactured Home under the HMDA Rule. A Manufactured Home will generally bear a HUD Certification Label and data plate noting compliance with the Federal standards. Comment 2(l)-2.

the Manufactured Home community. However, a loan related to a multifamily residential structure or community other than a Manufactured Home community is not secured by a Dwelling unless it is secured by one or more individual dwelling units. For example, a loan that is secured only by the common areas of a condominium complex or only by an assignment of rents from an apartment building is not secured by a Dwelling. Comment 2(f)-2.

The following are not Dwellings:

1. Recreational vehicles, such as boats, campers, travel trailers, or park model recreational vehicles;
2. Houseboats, floating homes, or mobile homes constructed before June 15, 1976;
3. Transitory residences, such as hotels, hospitals, college dormitories, or recreational vehicle parks; and
4. Structures originally designed as a Dwelling but used exclusively for commercial purposes, such as a home converted to a daycare facility or professional office. Comment 2(f)-3.

A property that is used for both residential and commercial purposes, such as a building that has apartment and retail units, is a Dwelling if the property's primary use is residential. Comment 2(f)-4.

A property used for both long-term housing and to provide assisted living or supportive housing services is a Dwelling. However, transitory residences used to provide such services are not Dwellings. Properties used to provide medical care, such as skilled nursing, rehabilitation, or long-term medical care, are not Dwellings. If a property is used for long-term housing, to provide related services (such as assisted living) and to provide medical care, the property is a Dwelling if its primary use is residential. Comment 2(f)-5.

A Financial Institution may use any reasonable standard to determine a property's primary use, such as square footage, income generated, or number of beds or units allocated for each use. It may select the standard on a case-by-case basis. Comments 2(f)-4 and -5.

### 4.1.2 Excluded transactions

Regulation C does not apply to transactions that are specifically excluded from coverage. 12 CFR 1003.3(c). Therefore, an Excluded Transaction is not a Covered Loan. The HMDA Rule

retains and clarifies existing categories of transactions that are excluded from coverage. It also expands the existing exclusion for agricultural loans, and adds new categories of transactions that are excluded from coverage. Effective January 1, 2018, the following are Excluded Transactions:

1. A Closed-End Mortgage Loan or an Open-End Line of Credit that a Financial Institution originates or purchases in a fiduciary capacity, such as a Closed-End Mortgage Loan or an Open-End Line of Credit that a Financial Institution originates or purchases as a trustee. 12 CFR 1003.3(c)(1); comment 3(c)(1).

2. A Closed-End Mortgage Loan or an Open-End Line of Credit secured by a lien on unimproved land. 12 CFR 1003.3(c)(2). Generally, a loan or line of credit must be secured by a Dwelling to be a Covered Loan. The HMDA Rule also lists Closed-End Mortgage Loans and Open-End Lines of Credit secured only by vacant or unimproved land as Excluded Transactions. However, a loan or line of credit secured by a lien on unimproved land is deemed to be secured by a Dwelling (and might not be excluded) if the Financial Institution knows, based on information that it receives from the applicant or borrower at the time the Application is received or the credit decision is made, that the proceeds of that loan or credit line will be used within two years after closing or account opening to construct a Dwelling on, or to purchase a Dwelling to be placed on, the land. Comment 3(c)(2)-1.

3. A Closed-End Mortgage Loan or an Open-End Line of Credit that is temporary financing. A transaction is excluded as temporary financing if it is designed to be replaced by separate permanent financing extended to the same borrower at a later time. The separate permanent financing may be extended by any lender (*i.e.*, by either the lender that extended the temporary financing or another lender). A construction-only loan or line of credit is considered temporary financing and excluded under the HMDA Rule if the loan or line of credit is extended to a person exclusively to construct a Dwelling for sale. Comment 3(c)(3)-2.

**Examples:** Ficus Bank extends a bridge or swing loan to finance a borrower's down payment for a home purchase. The borrower will pay off the bridge or swing loan with funds from the sale of his or her existing home and obtain permanent financing from Ficus Bank at that time. The bridge or swing loan is excluded as temporary financing.

Ficus Bank extends a construction loan to a borrower to finance construction of the borrower's Dwelling. The borrower will obtain a new extension of credit for permanent financing of the Dwelling from either Ficus Bank or another lender. Ficus Bank renews the construction loan several times before the borrower obtains a new extension of credit from another lender for permanent financing. The construction loan is excluded as temporary financing.

Ficus Bank extends a construction loan to a borrower to finance construction of the borrower's Dwelling. The construction loan will automatically convert to permanent financing after the construction phase is complete. The construction loan is not temporary financing because it is not designed to be "replaced by" separate permanent financing.

Ficus Bank extends a nine-month loan to an investor, who uses the loan proceeds to purchase a home, renovate it, and sell it before the loan term expires. The loan is not temporary financing because it is not designed to be "replaced by" separate permanent financing.

4. The purchase of an interest in a pool of Closed-End Mortgage Loans or Open-End Lines of Credit, such as mortgage-participation certificates, mortgage-backed securities, or real estate mortgage investment conduits. 12 CFR 1003.3(c)(4); comment 3(c)(4)-1.

5. The purchase solely of the right to service Closed-End Mortgage Loans or Open-End Lines of Credit. 12 CFR 1003.3(c)(5).

6. The purchase of a Closed-End Mortgage Loan or an Open-End Line of Credit as part of a merger or acquisition or as part of the acquisition of all of a Branch Office's assets and liabilities. 12 CFR 1003.3(c)(6); comment 3(c)(6)-1. For more information on mergers and acquisitions under the HMDA Rule, see Section 8.

7. A Closed-End Mortgage Loan or an Open-End Line of Credit, or an Application for a Closed-End Mortgage Loan or Open-End Line of Credit, for which the total dollar amount is less than $500. 12 CFR 1003.3(c)(7).

8. The purchase of a partial interest in a Closed-End Mortgage Loan or an Open-End Line of Credit. 12 CFR 1003.3(c)(8); comment 3(c)(8)-1.

9. A Closed-End Mortgage Loan or an Open-End Line of Credit if the proceeds are used primarily for agricultural purposes or if the Closed-End Mortgage Loan or Open-End Line of Credit is secured by a Dwelling that is located on real property that is used primarily for agricultural purposes. 12 CFR 1003.3(c)(9); comment 3(c)(9)-1. The HMDA Rule directs Financial Institutions to Regulation Z's official commentary for guidance on what is an agricultural purpose. Regulation Z's official commentary states that agricultural purposes include planting, propagating, nurturing, harvesting, catching, storing, exhibiting, marketing, transporting, processing, or manufacturing food, beverages, flowers, trees, livestock, poultry, bees, wildlife, fish or shellfish by a natural person engaged in farming, fishing, or growing crops, flowers, trees, livestock, poultry, bees or wildlife. See comment 3(a)-8 in the official interpretations of Regulation Z, 12 CFR part 1026. A Financial Institution may use any reasonable standard to determine the primary use of the property, and may select the standard to apply on a case-by-case basis. Comment 3(c)(9)-1.

10. A Closed-End Mortgage Loan or an Open-End Line of Credit that is or will be made primarily for business or commercial purposes, unless it is a Home Improvement Loan, a Home Purchase Loan, or a Refinancing. 12 CFR 1003.3(c)(10). Not all transactions that are primarily for a business purpose are Excluded Transactions. Thus, a Financial Institution must collect, record, and report data for Dwelling-secured, business-purpose loans and lines of credit that are Home Improvement Loans, Home Purchase Loans, or Refinancings if no other exclusion applies. For more information on determining whether a loan or line of credit is a Home Purchase Loan, Home Improvement Loan, or Refinancing, see Section 5.7.

    The HMDA Rule provides that, if a Closed-End Mortgage Loan or an Open-End Line of Credit is deemed to be primarily for a business, commercial, or organizational purposes

under Regulation Z, 12 CFR 1026.3(a) and its official commentary, then the loan or line of credit also is deemed to be primarily for a business or commercial purpose under the HMDA Rule. Comment 3(c)(10)-2. For more information and examples of business-purpose or commercial-purpose transactions that are Covered Loans, see comment 3(c)(10)-3 and -4.

11. A Closed-End Mortgage Loan if the Financial Institution originated fewer than the applicable threshold forClosed-End Mortgage Loans in either of the two preceding calendar years. 12 CFR 1003.3(c)(11); comment 3(c)(11)-1. Effective January 1, 2018 the applicable threshold is 25 Closed-End Mortgage Loans. A Financial Institution is not required to collect, record, or report Closed-End Mortgage Loans if it originated fewer than the applicable theshold in either of the two preceding calendar years. However, the Financial Institution may still be required to collect and report information regarding Open-End Lines of Credit, depending on the number of Open-End Lines of Credit it originates in each of the preceding two calendar years. For more information on how to determine if a Financial Institution "originated" a particular loan when multiple entities are involved in the transaction, see Section 4.2.3.

A Financial Institution may report applications for, originations of, and purchases of Closed-End Mortgage Loans that are excluded transactions under 12 CFR 1003.3(c)(11). However a Financial Institution that chooses to report such excluded applications, originations, and purchases must report all such applications it received for Closed-End Mortgage Loans, all Closed-End Mortgage Loans it originates, and all Closed-End Mortgage Loans it purchases that would otherwise be Covered Loans for a given calendar year. 12 CFR 1003.3(c)(11). Effective January 1, 2018, Regulation B permits a Financial Institution to collect information regarding the ethnicity, race, and sex of an applicant for a Closed-End Mortgage Loan that is an excluded transaction under 12 CFR 1003.3(c)(11), if the Financial Institution submits HMDA data concerning such Closed-End Mortgage Loans and applications or if it submitted such HMDA data for any of the preceding five calendar years. See the final rule issued on September 20, 2017.

- When an institution determines whether it meets the loan-volume thresholds, it does not count transactions excluded by 12 CFR 1003.3(c)(1) through (10) and (13). 12 CFR 1003.2(g)(2)(ii). These Excluded Transactions are discussed in this Section 4.1.2 in paragraphs 1 through 10 and paragraph 13. When determining if it meets the loan-volume thresholds, a Financial Institution only counts Closed-End Mortgage Loans or Open-End Lines of Credit, as applicable, that it originated.

12. An Open-End Line of Credit if the number of Open-End Lines of Credit that the Financial Institution originated in either of the two preceding calendar years does not meet or exceed the applicable threshold. 12 CFR 1003.3(c)(12); comment 3(c)(12)-1. Effective January 1, 2018 until December 31, 2021, the applicable threshold was 500 Open-End Lines of Credit. During this time period, a Financial Institution was not required to collect, record, or report Open-End Lines of Credit if it originated fewer than 500 of them in either of the two preceding calendar years. Effective January 1, 2022, the applicable threshold is 200 Open-End Lines of Credit. Effective January 1, 2022, a Financial Institution is not required to collect, record, or report Open-End Lines of Credit if it originated fewer than 200 of them in either of the two preceding calendar years. Comment 3(c)(12)-1. However, the Financial Institution will still be required to collect and report information regarding Closed-End Mortgage Loans, depending on the number of Closed-End Mortgage Loans it originates in each of the preceding two calendar years. For more information on how to determine if a Financial Institution "originated" a particular line of credit when multiple entities are involved in the transaction, see Section 4.2.3.

    A Financial Institution may report applications for, originations of, or purchases of Open-End Lines of Credit that are excluded transactions under 12 CFR 1003.3(c)(12). However, a Financial Institution that chooses to report such excluded applications, originations, or purchases must report all applications for Open-End Lines of Credit that it receives, all Open-End Lines of Credit it originates, and all Open-End Lines of Credit it purchases that would otherwise be Covered Loans for a given calendar year. 12 CFR 1003.3(c)(12); comment 3(c)(12)-2. Effective January 1, 2018, Regulation B permits a Financial Institution to collect information regarding the ethnicity, race, and sex of an applicant for an Open-End Line of Credit that is an excluded transaction under 12 CFR 1003.3(c)(12), if it submits HMDA data concerning such Open-End Lines of Credits and applications or if it submitted such HMDA data for any of the preceding five calendar years. See the final rule issued on September 20 2017.

13. A transaction that provided (or, in the case of an application, proposed to provide) new funds to the borrower in advance of being consolidated in a New York CEMA classified as a supplemental mortgage under New York Tax Law section 255. However, the transaction is excluded only if final action on the consolidation was taken in the same calendar year as the final action on the new funds transaction. 12 CFR 1003.3(13). Additionally, the transaction is excluded only if, at the time that it originated the transaction providing the new funds, the Financial Institution intended to consolidate the loan into a New York CEMA. This exclusion does not apply to similar preliminary transactions that are consolidated pursuant to laws other than New York Tax Law section 255. Such preliminary transactions under

other laws must be reported if they are Covered Loans and are not subject to another exclusion. Comment 3(c)(13)-1.

New funds provided in advance of being consolidated into a New York CEMA classified as a supplemental mortgage under New York Tax Law section 255 are reported only insofar as they form part of the total amount of the reported New York CEMA. They are not reported as a separate amount. If a New York CEMA that consolidates an excluded preliminary transaction is carried out in a transaction involving an assumption, the Financial Institution reports the New York CEMA and does not report the preliminary transaction separately. Comment 3(c)(13)-1.

# 4.2 Reportable activity

Once a Financial Institution has determined whether a transaction involves a Covered Loan, it must determine whether it has engaged in activity that obligates it to report information about the transaction. Generally, a Financial Institution is required to report information for actions taken on Applications (as that term is defined below) for Covered Loans, originations of Covered Loans, and purchases of Covered Loans. If a Financial Institution receives an Application and that Application results in the Financial Institution originating a Covered Loan, the Financial Institution reports the origination of the Covered Loan, and does not separately report the Application. For more information on when to report information regarding Applications and Covered Loans, see Sections 4.2.1 and 4.2.2. There are special rules that apply if multiple entities are involved in the transaction. These special rules are discussed in Section 4.2.3. There are also partial exemptions that reduce the amount of information that certain Financial Institutions are required to report for a transaction involving a Covered Loan (*i.e.*, an Application for, an origination of, or a purchase of a Covered Loan). These partial exemptions are discussed in Section 4.3.

## 4.2.1 Applications

For purposes of the HMDA Rule, an Application is: (a) an oral or written request (b) for a Covered Loan (c) that is made in accordance with procedures the Financial Institution uses for the type of credit requested. 12 CFR 1003.2(b)(1).

This definition of Application is similar to the Regulation B definition, except that prequalification requests[13] are not Applications under the HMDA Rule. Interpretations that appear in the official commentary to Regulation B are generally applicable to the definition of Application under the HMDA Rule, except for those interpretations that include a prequalification request within the definition of Application. Comment 2(b)-1.

Under the HMDA Rule, a request for a preapproval may be treated differently than a request for a prequalification for certain types of loans. The determination of whether a request is a prequalification request (which is not an Application) or a preapproval request (which might be an Application) is based on the HMDA Rule, not on the labels that an institution uses or interpretations of other regulations, such as Regulation B.

A preapproval request is an Application under the HMDA Rule if the request is:

1. For a Home Purchase Loan;
2. Not secured by a Multifamily Dwelling;
3. Not for an Open-End Line Credit or for a Reverse Mortgage;[14] and
4. Reviewed under a Preapproval Program (see definition of Preapproval Program immediately below). 12 CFR 1003.2(b)(2).

A Preapproval Program for purposes of the HMDA Rule is a program in which the Financial Institution:

1. Conducts a comprehensive analysis of the applicant's creditworthiness (including income verification), resources, and other matters typically reviewed as part of the Financial Institution's normal credit evaluation program; and then

[13] Generally, a prequalification request is a request (other than a preapproval request) by a prospective loan applicant for a preliminary determination of whether the prospective loan applicant would likely qualify for credit under the Financial Institution's standards, or for a determination of the amount of credit for which the prospective applicant would likely qualify. The HMDA Rule does not require a Financial Institution to report prequalification requests, even though these requests may constitute "applications" under Regulation B. Comment 2(b)-2.

[14] A Reverse Mortgage is a Closed-End Mortgage Loan or an Open-End Line of Credit that is a reverse mortgage transaction as defined in Regulation Z, but without regard to whether the loan or line is secured by a principal dwelling. 12 CFR 1003.2(q).

2. Issues a written commitment that: (a) is for a Home Purchase Loan; (b) is valid for a designated period of time and up to a specified amount, and (c) is subject only to specifically permitted conditions. 12 CFR 1003.2(b)(2).

The written commitment issued as part of the Preapproval Program can be subject to only the following types of conditions:

1. Conditions that require the identification of a suitable property;
2. Conditions that require that no material change occur regarding the applicant's financial condition or creditworthiness prior to closing; and
3. Limited conditions that (a) are not related to the applicant's financial condition or creditworthiness and (b) the Financial Institution ordinarily attaches to a traditional home mortgage application. Examples of conditions ordinarily attached to a traditional home mortgage application include requiring an acceptable title insurance binder or a certificate indicating clear termite inspection and, if the applicant plans to use the proceeds from the sale of the applicant's present home to purchase a new home, a settlement statement showing adequate proceeds from the sale of the present home. 12 CFR 1003.2(b)(2); comment 2(b)-3.

A program that a Financial Institution describes as a "preapproval program" but that does not satisfy the HMDA Rule definition is not a Preapproval Program for purposes of the HMDA Rule. Comment 2(b)-3.

If a Financial Institution does not regularly use procedures to consider requests but instead considers requests on an ad hoc basis, the Financial Institution is not required to treat the ad hoc requests as having been reviewed under a Preapproval Program. However, a Financial Institution should be generally consistent in following uniform procedures for considering such ad hoc requests. Comment 2(b)-3.

Under the HMDA Rule, a Financial Institution must collect, record, and report data regarding an Application it receives if: (1) the Application did not result in the Financial Institution originating a Covered Loan; and (2) the Financial Institution took action on the Application or the applicant withdrew the Application while the Financial Institution was reviewing it. For example, a Financial Institution reports information regarding an Application that it denied, that it approved but the applicant did not accept, or that it closed for incompleteness. 12 CFR 1003.4(a) and 1003.5(a); comment 4(a)-1. If the Application results in the Financial Institution originating a Covered Loan, the Financial Institution reports the Covered Loan, not

the Application itself. For more information on reporting Applications when multiple entities are involved, see Section 4.2.3.

Although requests under Preapproval Programs are Applications, a Financial Institution reports data regarding a request under a Preapproval Program only if the preapproval request is denied or approved but not accepted. A Financial Institution will also report a request under a Preapproval Program that results in the Financial Institution originating a Home Purchase Loan, but it will be reported as an originated Covered Loan. Comment 4(a)-1.ii.

A Financial Institution reports the data for an Application, including a reportable preapproval request, on the LAR for the calendar year during which it takes action even if the Financial Institution received the Application in a previous calendar year. Comment 4(a)-1.iv.

### 4.2.2 Originations and purchases of covered loans

A Financial Institution must collect, record, and report information regarding originations and purchases of Covered Loans. For more information on when a Financial Institution reports the origination or purchase of a Covered Loan when multiple entities are involved, see Section 4.2.3.

A purchase includes a repurchase of a Covered Loan, regardless of whether the Financial Institution chose to repurchase the Covered Loan or was required to repurchase it because of a contractual obligation, and regardless of whether the repurchase occurred within the same calendar year that the Covered Loan was originated or in a different calendar year. Comment 4(a)-5.

A purchase does not include a temporary transfer of a Covered Loan to an interim funder or warehouse creditor as part of an interim funding agreement under which the Financial Institution that originated the Covered Loan is obligated to repurchase it for sale to a subsequent investor. Such funding agreements are often referred to as "repurchase agreements" and are sometimes used as the functional equivalents of warehouse lines of credit. Comment 4(a)-5.

### 4.2.3 Transactions involving multiple entities

Only one Financial Institution reports the origination of a Covered Loan. If more than one institution is involved in the origination of a Covered Loan, the institution that makes the credit decision approving the Application before loan closing or account opening is responsible for

reporting the origination of the Covered Loan. It is not relevant whether the loan closed in the reporting Financial Institution's name. If more than one institution approved an Application prior to loan closing or account opening and one of those institutions purchased the Covered Loan after closing or account opening, the institution that purchased the Covered Loan after closing or account opening is responsible for reporting the origination of the Covered Loan. Comment 4(a)-2.

If a Financial Institution reports a Covered Loan as an origination, it reports all of the information required to be reported for the origination of a Covered Loan, even if the Covered Loan was not initially payable to the Financial Institution that is reporting the Covered Loan as an origination. Comment 4(a)-2. When reporting a Covered Loan as an origination, a Financial Institution cannot rely on exceptions or exclusions that apply to purchased Covered Loans, but that do not apply to originations of Covered Loans.

If a Financial Institution and other parties review the same Application and the Financial Institution is not responsible for reporting the origination of the resulting Covered Loan, the Financial Institution reports the actions that the Financial Institution took on the Application. For example, the Financial Institution is still required to report the Application if the Financial Institution denied the Application or if the Financial Institution approved the Application but the applicant did not accept the loan. The Financial Institution is also required to report the Application if the Financial Institution was reviewing the Application when it was withdrawn or the file was closed for incompleteness. Comment 4(a)-2.ii.

If a Financial Institution makes a credit decision on a Covered Loan or Application through the actions of an agent, the Financial Institution reports the Application or Covered Loan. State law determines whether one party is the agent of another party. Comment 4(a)-4.

The following examples illustrate when a Financial Institution reports certain transactions related to Covered Loans involving multiple entities.

**Examples:** Ficus Bank receives an Application for a Covered Loan from an applicant and forwards that Application to Pine Bank, which reviews and approves the Application prior to closing. The loan closes in Ficus Bank's name. Pine Bank purchases the loan from Ficus Bank after closing. Pine Bank is not acting as Ficus Bank's agent when it reviews and approves the Application. Because Pine Bank made the credit decision prior to closing, Pine Bank reports the transaction as an originated Covered Loan, not as a purchased Covered Loan. Ficus Bank does not report the transaction.

Ficus Mortgage Company receives an Application for a Covered Loan from an applicant and forwards that Application to Pine Bank, which reviews and denies the Application before the loan would have closed. Pine Bank is not acting as Ficus Mortgage Company's agent when it reviews and denies the Application. Because Pine Bank makes the credit decision, Pine Bank reports the Application as denied. Ficus Mortgage Company does not report the Application. If, under the same facts, the Application is withdrawn before Pine Bank makes a credit decision, Pine Bank reports the Application as withdrawn, and Ficus Mortgage Company does not report the Application.

Ficus Bank receives an Application for a Covered Loan from an applicant and approves the Application. Ficus Bank closes the loan in its name. Ficus Bank is not acting as Pine Bank's agent when it approves the Application or closes the loan. Pine Bank does not review the Application before closing. Pine Bank purchases the Covered Loan from Ficus Bank. Ficus Bank reports the loan as an originated Covered Loan. Pine Bank reports the loan as a purchased Covered Loan.

Pine Bank reviews an Application and makes a credit decision to approve a Covered Loan using the underwriting criteria provided by Ficus Mortgage Company. Pine Bank is not acting as Ficus Mortgage Company's agent, and no one acting on behalf of Ficus Mortgage Company reviews the Application or makes a credit decision prior to closing. Pine Bank reports the Application or, if the Application results in a Covered Loan, it reports the loan as an originated Covered Loan. If the Application results in a Covered Loan and Ficus Mortgage Company purchases it after closing, Ficus Mortgage Company reports the loan as a purchased Covered Loan.

**Examples (cont'd)**: Ficus Bank receives an Application for a Covered Loan and forwards it to Aspen Bank and Pine Bank. Ficus Bank makes a credit decision, acting as Elm Bank's agent, and approves the Application. Pine Bank makes a credit decision and denies the Application. Aspen Bank makes a credit decision approving the Application. The applicant does not accept the loan from Elm Bank. The applicant accepts the loan from Aspen Bank and credit is extended. Aspen Bank reports the loan as an originated Covered Loan. Pine Bank reports the Application as denied. Elm Bank reports the Application as approved but not accepted. Ficus Bank does not report the Application.

## 4.3 Partial exemptions

The 2018 Act created partial exemptions from some of the HMDA Rule's requirements. Only certain Financial Institutions are eligible for these partial exemptions, and only certain Covered Loans and Applications are covered under each of the two partial exemptions. If a Covered Loan or Application is covered by a partial exemption, the Financial Institution is not required to collect, record, and report specific data points. The partial exemptions were effective May 24, 2018, and apply to the collection, recording, and reporting of HMDA data on or after that date.

- Because the partial exemptions were not effective at the beginning of 2018, it is possible that a Financial Institution may have collected and recorded information that it was not required to report with its 2018 HMDA data. If a Financial Institution that is eligible for a partial exemption collected and recorded data points that it is not required to report due to a partial exemption, the institution may choose to report all, some, or none of those data points for a Covered Loan or Application covered by a partial exemption. If the institution opts to voluntarily report a data point for a transaction covered by a partial exemption, it must report all data fields that are part of that data point.

As discussed in Section 4.3.1, only a Financial Institution that is an insured credit union or an insured depository institution is eligible for the partial exemptions. Additionally, as discussed in Section 4.3.1., an insured depository institution must not have a less than satisfactory examination history under the Community Reinvestment Act (CRA) to be eligible for the partial exemptions.

As discussed in Section 4.3.2, each of the partial exemptions applies only to certain Covered Loans and Applications and only if an applicable loan-volume threshold is met. An insured depository institution or insured credit union must meet the applicable loan-volume threshold for Closed-End Mortgage Loans in order for a partial exemption to apply to its Closed-End Mortgage Loan transactions, and the applicable loan-volume threshold for Open-End Lines of Credit in order for a partial exemption to apply to its Open-End Line of Credit transactions.

The 2018 Act created partial exemptions, not complete exclusions. Therefore, if a Covered Loan or Application is covered by a partial exemption, the Financial Institution is required to collect, record, and report 22 data points, but is exempt from collecting, recording, and reporting 26 data points for that transaction. Additionally, the Financial Institution may voluntarily report any or all of these 26 data points for a Covered Loan or Application covered by a partial exemption. Section 4.3.3 discusses the scope of the partial exemptions and includes tables that list the data points that are and are not required to be collected, recorded, and reported if a partial exemption applies to a Covered Loan or Application.

## 4.3.1 Eligible Financial Institutions

In order to be eligible for a partial exemption, a Financial Institution must be an:

1. "Insured credit union" as defined in Section 101 of the Federal Credit Union Act, 12 U.S.C. 1752; or

2. "Insured depository institution" as defined in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813. 12 C.F.R. 1003.3(d)(1)(i) and (ii).

Additionally, a Financial Institution that satisfies the definition of "insured depository institution" must not have a negative CRA examination history in order to be eligible for a partial exemption. More specifically, an insured depository institution must not have received either of the following:

1. A rating of "need to improve record of meeting community credit needs" during each of its two most recent examinations under Section 807(b)(2) of the CRA; or

2. A rating of "substantial noncompliance in meeting community credit needs" on its most recent examination under Section 807(b)(2) of the CRA.

The CRA ratings used to determine if an insured depository institution is eligible for a partial exemption are the institution's two most recent ratings as of December 31 of the preceding year.

A Financial Institution that does not satisfy either the definition of an "insured credit union" or an "insured depository institution" may not rely on either of the partial exemptions, even if it satisfies the loan-volume thresholds discussed in Section 4.3.2. Similarly, an insured depository institution that does not satisfy the criteria regarding CRA examination history cannot rely on either of the partial exemptions.

## 4.3.2 Loan-volume thresholds

In order for a partial exemption to apply to an Application or Covered Loan (including a purchased Covered Loan), an eligible Financial Institution (*i.e.*, an insured depository institution that does not have a negative CRA examination history or an insured credit union) must also meet the applicable loan-volume threshold.

A partial exemption applies to an eligible Financial Institution's Applications for, originations of, and purchases of Closed-End Mortgage Loans if the institution originated fewer than 500 Closed-End Mortgage Loans in each of the two preceding calendar years.

- When a Financial Institution determines whether it meets the loan-volume thresholds, it does not count transactions excluded by 12 CFR 1003.3(c)(1) through (10) and (13). 12 CFR 1003.2(g)(2)(ii). These Excluded Transactions are discussed in Section 4.1.2 in paragraphs 1 through 10 and paragraph 13. When determining if it meets either of the loan-volume thresholds, a Financial Institution only counts Closed-End Mortgage Loans or Open-End Lines of Credit, as applicable, that it originated.

A partial exemption applies to an eligible Financial Institution's Applications for, originations of, and purchases of Open-End Lines of Credit if the institution originated fewer than 500 Open-End Lines of Credit in each of the two preceding calendar years. However, during 2018, 2019, 2020, and 2021, a Financial Institution is not required to collect or report any information for Open-End Lines of Credit if the institution originated fewer than 500 Open-End Lines of Credit during either of the two preceding calendar years. This is because, during 2018, 2019, 2020, and 2021, Open-End Lines of Credit are Excluded Transactions for a Financial Institution that originated fewer than 500 of them during either of the two preceding calendar years. See the discussion regarding Excluded Transactions in Section 4.1.2.

The partial exemption for Closed-End Mortgage Loans and the partial exemption for Open-End Lines of Credit operate independently of one another. Thus, in a given calendar year, an eligible Financial Institution may be able to rely on one partial exemption but not the other.

**Example:** Ficus Bank is an insured depository institution as defined in Section 3 of the Federal Deposit Insurance Act, and it received satisfactory ratings in its two most recent CRA examinations as of December 31, 2017. In 2016, Ficus Bank originated 400 Closed-End Mortgage Loans and 510 Open-End Lines of Credit. In 2017, Ficus Bank originated 490 Closed-End Mortgage Loans and 515 Open-End Lines of Credit. In 2018, a partial exemption applies to Ficus Bank's Closed-End Mortgage Loan transactions, but a partial exemption does not apply to Ficus Bank's Open-End Line of Credit transactions. Additionally, because Ficus Bank originated at least 500 Open-End Lines of Credit in both 2016 and 2017, Ficus Bank cannot exclude Open-End Lines of Credit from its reportable transactions in 2018 (*i.e.*, they are not Excluded Transactions as discussed in Section 4.1.2).

### 4.3.3 Collecting, recording, and reporting for transactions covered by a partial exemption

If a partial exemption applies to a Covered Loan or Application (as discussed above), the HMDA Rule does not require the Financial Institution to collect, record, and report some of the data points that the HMDA Rule would otherwise require the institution to collect, record, and report for that transaction. More specifically, if a partial exemption applies to a Covered Loan or Application, a Financial Institution is not required under the HMDA Rule to collect, record, or report the 26 data points listed in the table immediately below.

**Data Points Eligible Financial Institutions Need Not Collect or Report under the HMDA Rule For Transactions Covered by a Partial Exemption**

- Universal Loan Identifier (ULI) (1003.4(a)(1)(i))[15]
- Application Channel (1003.4(a)(33))
- Loan Term (1003.4(a)(25))
- Reasons for Denial (1003.4(a)(16))[16]
- Property Address (1003.4(a)(9)(i))
- Manufactured Home Secured Property Type (1003.4(a)(29))
- Manufactured Home Land Property Interest (1003.4(a)(30))
- Property Value (1003.4(a)(28))
- Multifamily Affordable Units (1003.4(a)(32))
- Debt-to-Income Ratio (1003.4(a)(23))
- Combined Loan-to-Value Ratio (1003.4(a)(24))
- Credit Score (1003.4(a)(15))
- Automated Underwriting System (1003.4(a)(35))
- Interest Rate (1003.4(a)(21))
- Introductory Rate Period (1003.4(a)(26))
- Rate Spread (1003.4(a)(12))
- Non-Amortizing Features (1003.4(a)(27))
- 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))
- Prepayment Penalty Term (1003.4(a)(22))
- 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))
- Mortgage Loan Originator Identifier (1003.4(a)(34))

A Financial Institution may opt to collect, record, and report one or more of these 26 data points for a Covered Loan or Application that is covered by a partial exemption.

[15] If the Financial Institution chooses not to report a ULI for a Covered Loan or Application covered by a partial exemption, it must report a non-universal loan identifier as discussed in Section 5.2.

[16] Certain Financial Institutions supervised by the OCC and the FDIC are required by those agencies to report reasons for denial on their HMDA loan/application registers, even if a partial exemption applies. 12 CFR 27.3(a)(1)(i), 128.6, 390.147.

Seven of these 26 data points (*i.e.*, property address, credit score, reasons denial, total loan costs or total points and fees, non-amortizing features, application channel, and automated underwriting system) have multiple data fields. If a Financial Institution opts to report a data point with multiple fields, it must report all of the data fields that make up that data point.

- Property address is one of the data points that a Financial Institution is not required to report if a partial exemption applies to a transaction. If a partial exemption applies for to a Covered Loan or Application, an institution may report state for the transaction without reporting the other data fields that make up the property address data point (*i.e.*, street address, city, and zip code). Comment 3(d)(4)(i)-1.

**Example:** Ficus Bank originates a Covered Loan. A partial exemption applies to the Covered Loan, but Ficus Bank opts to report that the Covered Loan does not have a balloon payment. Balloon payment is one of the data fields for the non-amortizing features data point. The other data fields that make up the non-amortizing features data point are interest-only payments, negative amortization, and other non-amortizing features. Because Ficus Bank chose to report the balloon payment data field, Ficus Bank must also report whether the Covered Loan has interest-only payments, negative amortization, and other non-amortizing features.

If a Financial Institution opts not to report a Universal Loan Identifier (ULI) for a Covered Loan or Application that is covered by a partial exemption, the institution must provide a non-universal loan identifier as discussed in Section 5.2.

If a Financial Institution opts not to report one of the 26 data points other than the ULI, the Financial Institution generally reports that the Covered Loan or Application is exempt from that data point. However, if a data point is not applicable to the particular transaction and the transaction is exempt from that data point, the Financial Institution may choose to report either that the data point is not applicable or that the transaction is exempt from the data point.

**Example:** Ficus Bank originates a Covered Loan. The sole applicant for the Covered Loan is not a natural person. Because the applicant is not a natural person, Ficus Bank would report the debt-to-income ratio data point as not applicable, unless a partial exemption applies to the Covered Loan. If a partial exemption applies to the Covered Loan, Ficus Bank could report either "not applicable" or "exempt" for the debt-to-income ratio data point.

If a Covered Loan or Application is covered by a partial exemption, a Financial Institution must collect, record, and report 22 data points for the Covered Loan or Application. These 22 data points are set forth in the following table.

| Data Points That Must be Collected and Reported under the HMDA Rule for Covered Loans and Applications Covered by a Partial Exemption |
|---|
| • 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)) |
| • Legal Entity Identifier (LEI) (1003.5(a)(3)) |
| • Application Date (1003.4(a)(1)(ii) |
| • Preapproval (1003.4(a)(4)) |
| • Loan Type (1003.4(a)(2)) |
| • Loan Purpose (1003.4(a)(3)) |
| • 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)) |
| • Construction Method (1003.4(a)(5)) |
| • Occupancy Type (1003.4(a)(6) |
| • Lien Status (1003.4(a)(14)) |
| • Number of Units (1003.4(a)(31)) |
| • HOEPA Status (1003.4(a)(13)) |
| • Type of Purchaser (1003.4(a)(11)) |

Because the partial exemptions do not affect these 22 data points, Financial Institutions must continue to collect and report these 22 data points for Covered Loans and Applications in the manner specified in the 2015 HMDA Rule, as amended and clarified by the 2017 HMDA Rule.

As discussed above, during 2018,2019, 2020, and 2021, a Financial Institution is not required to collect or report any information for Open-End Lines of Credit if the institution originated fewer than 500 of them during either of the two preceding calendar years. See the discussion regarding Excluded Transactions in Section 4.1.2.

For more information on reporting data points if a Covered Loan or Application is covered by a partial exemption, see Section 5 of this guide and the Filing Instructions Guide that incorporates the 2018 HMDA Rule available at http://www.consumerfinance.gov/data-research/hmda/for-filers.

# 5. Reportable data

The HMDA Rule changes the data that must be collected, recorded, and reported for Covered Loans and Applications. Effective January 1, 2018, it modifies some existing data points and adds new data points. 12 CFR 1003.4. Effective May 24, 2018, a Financial Institution is not required to collect, record, or report some of the data points under the HMDA Rule for Covered Loans and Applications covered by a partial exemption. The partial exemptions, including the data points that need not be collected, recorded, or reported for a Covered Loan or Application covered by a partial exemption, are discussed in Section 4.3.

Unless a partial exemption applies, a Financial Institution collects, records, and reports the new and modified data points under the HMDA Rule for Applications and Covered Loans on which final action is taken on or after January 1, 2018. A Financial Institution collects, records, and reports the new and modified data points, to the extent that they apply to purchased loans, for purchases of Covered Loans that occur on or after January 1, 2018.

If a partial exemption applies to a Covered Loan or Application, the Financial Institution is not required to collect, record, or report 26 data points for that transaction as described in Section 4.3.3. It must collect, record, and report the remaining 22 data points as required under the HMDA Rule and as discussed in Section 4.3.3.

This section describes the HMDA Rule's reportable data points and provides guidance on how to report them. For more information on reporting Covered Loans and Applications covered by a partial exemption, see Section 4.3.3. Additional instructions for reporting data points are available in the Filing Instructions Guides at http://www.consumerfinance.gov/data-research/hmda/for-filers.

## 5.1 Applicant information

A Financial Institution must report information about ethnicity, race, and sex for applicants who are natural persons. Appendix B to Regulation C provides instructions on how to collect ethnicity, race, and sex information. The HMDA Rule modifies the requirements for collecting and reporting an applicant's ethnicity, race, and sex and requires that the applicant's age be collected and reported. Financial Institutions will continue to collect and report income.

The HMDA Rule amends the instructions in appendix B and provides a new sample data collection form.

### 5.1.1 Collection

The instructions in appendix B to the HMDA Rule require a Financial Institution:

1. To ask an applicant for ethnicity, race, and sex information regardless of whether the Application is taken in person, by mail, by telephone, or on the internet. A Financial Institution cannot require the applicant to provide this information.

   When a Financial Institution requests ethnicity and race information from an applicant under the HMDA Rule, it must offer the applicant the option of selecting more than one ethnicity and race and must permit the applicant to self-identify using aggregate categories and disaggregated subcategories. When a Financial Institution requests the applicant's ethnicity and race, the aggregate categories must be broken down into disaggregated subcategories. For example, the aggregate category of Hispanic or Latino must be broken down into the subcategories of Mexican, Puerto Rican, Cuban, or Other Hispanic or Latino. Similarly, the Asian and Native Hawaiian or Other Pacific Islander categories also must be broken down into their respective disaggregated subcategories.

   An applicant must be permitted to select one or more race or ethnicity subcategories even if the applicant has not selected a race or ethnicity aggregate category. For example, an applicant could select Mexican even if the applicant has not selected Hispanic or Latino.

   The applicant must also be permitted to provide certain additional information. For example, an applicant must be permitted to provide a particular Hispanic or Latino ethnicity that is not provided on the collection form. An applicant must be permitted to provide this information even if the applicant has not selected the Other Hispanic or Latino category. Similarly, the applicant must be permitted to provide a particular Asian race or a particular Pacific Islander race that is not provided on the collection form. An applicant must be permitted to provide this information even if the applicant has not selected the Other Asian or Other Pacific Islander category. An applicant must also be permitted to provide a particular American Indian or Alaska Native enrolled or principal tribe even if the applicant has not selected the American Indian or Alaska Native race category. Appendix B to Part 1003.

   For an illustration of the information that a Financial Institution must ask about an applicant's ethnicity, race, and sex, see the sample data collection form in Attachment A.

2. To inform the applicant that: (a) Federal law requires the information be collected in order to protect consumers and to monitor compliance with Federal statutes that prohibit discrimination against applicants; and (b) if the information is not provided where the Application is taken in person, the Financial Institution is required to note the information on the basis of visual observation or surname.

3. To collect the applicant's ethnicity, race, and sex based on visual observation or surname if the applicant chooses not to provide the information for an Application that is taken in person. Appendix B to Part 1003.

   For an Application taken in person, there are special requirements if the applicant declines to provide the information regarding ethnicity, race, and sex. The Financial Institution must note that the applicant did not provide the information and then collect the applicant's ethnicity, race, and sex on the basis of visual observation or surname. When a Financial Institution collects an applicant's ethnicity, race, and sex on the basis of visual observation or surname, the Financial Institution must select from the following aggregate categories: ethnicity (Hispanic or Latino; not Hispanic or Latino); race (American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; White); sex (male; female). The Financial Institution does <u>not</u> use the disaggregated categories. Only an applicant may self-identify as being of a particular ethnic or racial subcategory.

   If a Financial Institution accepts an Application through electronic media with a video component, it must treat the Application as taken in person. However, if a Financial Institution accepts an Application through electronic media without a video component, it must treat the Application as accepted by mail. Appendix B to Part 1003.

   If the applicant (1) begins an Application by mail, internet, or telephone, (2) does not provide the requested information, (3) does not select "I do not wish to provide this information," and (4) meets with the Financial Institution in person to complete the Application, the Financial Institution must request the applicant's ethnicity, race, and sex when the Financial Institution meets with the applicant in person. If the applicant does not provide the requested information during the in-person meeting, the Financial Institution must collect the information on the basis of visual observation or surname. If the meeting occurs after the Application process is complete (*e.g.*, at loan closing or account opening), the Financial Institution is not required to obtain the applicant's ethnicity, race, and sex. Appendix B to Part 1003.

A Financial Institution may collect the required information regarding the ethnicity, race, and sex of an applicant on an Application form, or on a separate form that refers to the Application

(sometimes called a collection form). For Applications taken by telephone, a Financial Institution must state the information in the collection form orally. Appendix B to Part 1003.

Because the HMDA Rule changes the information that must be included on an Application form or other collection form, Financial Institutions must revise their forms. A Financial Institution must use a revised collection or Application form that includes the disaggregated categories for Applications received on or after January 1, 2018. For more information on collecting the applicant's ethnicity, race, and sex, see appendix B to the HMDA Rule.

### 5.1.2 Reporting

A Financial Institution reports the following information about an applicant:

1. **Ethnicity, race, and sex.** A Financial Institution must report the applicant's ethnicity, race, and sex. It must also report whether or not it collected this information on the basis of visual observation or surname. 12 CFR 1003.4(a)(10)(i).

   If an applicant provided the requested information, a Financial Institution must report the ethnicity, race, and sex information that the applicant provided. If an applicant selected more than one ethnicity or race, a Financial Institution must report each designation the applicant selected, subject to the limits in appendix B, which are described below.

   For ethnicity, a Financial Institution must report every aggregate ethnicity category that the applicant selected. If the applicant also selected one or more ethnicity subcategories, the Financial Institution must report each ethnicity subcategory that the applicant selected, up to a combined total of five aggregate ethnicity categories and ethnicity subcategories. Appendix B to Part 1003.

For race, a Financial Institution must report every aggregate race category the applicant selected. If the applicant also selected one or more race subcategories, a Financial Institution must report each race subcategory the applicant selected, up to a combined total of five aggregate race categories and race subcategories. Appendix B to Part 1003.

**Examples:** An applicant selects all five aggregate race categories (*i.e.*, American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White) and also selects the Chinese race subcategory. Because a Financial Institution must report all of the aggregate race categories that an applicant selects and can only report a combined total of up to five aggregate race categories and race subcategories, Ficus Bank reports only the five aggregate race categories. It does not report the Chinese race subcategory.

An applicant selects the White, Asian, and Native Hawaiian or Other Pacific Islander aggregate race categories, and the Korean, Vietnamese, and Samoan race subcategories. The Financial Institution must report the White, Asian, and Native Hawaiian or Other Pacific Islander aggregate race categories. The Financial Institution also reports two of the three race subcategories. The Financial Institution chooses which two race subcategories to report (*i.e.*, Korean and Vietnamese, Korean and Samoan, or Vietnamese and Samoan).

An applicant may select the Other Hispanic or Latino ethnicity subcategory, an applicant may provide a particular Hispanic or Latino ethnicity not listed in the standard subcategories, or an applicant may do both. If an applicant provides only a particular ethnicity not listed in the standard subcategories, a Financial Institution is permitted, but not required, to report both the selection of Other Hispanic or Latino in addition to the particular ethnicity that the applicant provided. If an applicant selects Other Hispanic or Latino and provides a particular ethnicity, the Financial Institution reports both Other Hispanic or Latino and the particular ethnicity the applicant provided, (subject to the five ethnicity maximum described above). For purposes of the maximum of five reportable ethnicity categories and subcategories, the Other Hispanic or Latino subcategory and any additional information provided by the applicant together constitute only one selection. Appendix B to Part 1003.

An applicant may select the Other Asian race subcategory or Other Pacific Islander race subcategory, an applicant may provide a particular race not listed in the standard subcategories, or an applicant may do both. If an applicant provides only a particular race not listed in the standard subcategories, a Financial Institution is permitted, but not required, to report both the selection of Other Asian or Other Pacific Islander, as applicable, in addition to the particular race that the applicant provided. If an applicant selects Other Asian or Other Pacific Islander and provides a particular race, the Financial Institution reports both Other Asian or Other Pacific Islander, as applicable, and the additional information the applicant provided, subject to the maximum of five. For purposes of the maximum of five reportable race categories and race subcategories, the Other Asian race or Other Pacific Islander race subcategory and additional information provided by the applicant together constitute only one selection. Appendix B to Part 1003.

**Examples:** An applicant selects the category of Hispanic or Latino and provides Dominican as an ethnicity not listed in the standard subcategories. The applicant does not select the Other Hispanic or Latino subcategory or any other ethnicity categories or subcategories. The Financial Institution reports the Hispanic or Latino category and Dominican. It may also report the Other Hispanic or Latino subcategory, but is not required to do so.

An applicant selects the White, Asian, and Native Hawaiian or Other Pacific Islander aggregate race categories, as well as the Korean, Vietnamese, Samoan, and Other Asian race subcategories and writes in "Thai" in the space provided on the Application form. The Financial Institution reports two (at its option) of the four race subcategories selected by the applicant (*i.e.*, Korean, Vietnamese, Other Asian-Thai, Samoan) in addition to the three aggregate race categories selected by the applicant.

If an applicant selected "I do not wish to provide this information" on a collection or Application form taken by mail or on the internet or stated that he or she did not wish to provide the information for an Application that is taken by telephone, the Financial Institution reports that the information was not provided in a mail, internet, or telephone application.

If an applicant provided some but not all of the requested information, a Financial Institution reports the information provided by the applicant, whether partial or complete. If an applicant provided complete or partial information but also selected that he or she did not wish to provide the information for an Application that is taken by mail, internet, or telephone, a Financial Institution reports the ethnicity, race, and sex information that the applicant provided. Appendix B to Part 1003.

If there are multiple applicants (*i.e.*, an applicant and one or more co-applicants), the Financial Institution reports the ethnicity, race, and sex information for the applicant and the first co-applicant listed on the collection or Application form. If an applicant did not provide the information for an absent co-applicant, the Financial Institution reports that the information was not provided by applicant in mail, internet, or telephone Application for the absent co-applicant. If there is only one applicant, a Financial Institution reports that there is no co-applicant. Appendix B to Part 1003.

If a Covered Loan or Application includes a guarantor, a Financial Institution does not report the guarantor's ethnicity, race, and sex. Appendix B to Part 1003.

A Financial Institution may, but is not required to, report an applicant's ethnicity, race, and sex for purchased Covered Loans. If a Financial Institution chooses not to report the applicant's ethnicity, race, and sex for a purchased Covered Loan, the Financial Institution reports that the data points are not applicable. Appendix B to Part 1003.

If an applicant is not a natural person (*e.g.*, a corporation, partnership, or trust), a Financial Institution reports that the requirement to report ethnicity, race, and sex information is not applicable. However, if an applicant is a natural person and a beneficiary of a trust (for example, the natural person might be relying on income from or collateral owned by a trust), the Financial Institution reports the applicant's ethnicity, race, and sex information. Appendix B to Part 1003.

For more information on reporting an applicant's ethnicity, race, and sex, see appendix B to the HMDA Rule.

2. **Age**. A Financial Institution reports the applicant's age (as of the Application date) as the number of whole years derived from the date of birth shown on the Application form. 12 CFR 1003.4(a)(10)(ii); comment 4(a)(10)(ii)-1.

**Example:** An applicant provides a date of birth of 01/15/1970 on the Application form that Ficus Bank receives on 01/14/2018. Ficus Bank reports 47 as the applicant's age.

If there are multiple applicants, the Financial Institution reports the age for the applicant and the first co-applicant listed on the Application form. If a Covered Loan or Application includes a guarantor, a Financial Institution does not report the guarantor's age. Comments 4(a)(10)(ii)-2 and -5.

A Financial Institution may, but is not required to, report the age of an applicant for purchased Covered Loans. If a Financial Institution chooses not to report the applicant's age for a purchased Covered Loan, the Financial Institution reports that the data point is not applicable. 12 CFR 1003.4(b)(2); comment 4(a)(10)(ii)-3.

If an applicant is not a natural person (*e.g.*, a corporation, partnership, or trust), a financial institution reports that the data point is not applicable. Comment 4(a)(10)(ii)-4. However, if an applicant is a natural person and a beneficiary of a trust (for example, the natural person might be relying on income from or collateral owned by a trust), the Financial Institution reports the applicant's age.

3. **Income**. If a Financial Institution considers income in making its credit decision, it reports the gross annual income that it relied on in making the credit decision. 12 CFR 1003.4(a)(10)(iii). For Applications that are withdrawn or closed for incompleteness before the Financial Institution makes a credit decision that would have taken income into consideration, the Financial Institution reports the income information relied on in processing the Application at the time that the Application was withdrawn or the file was closed for incompleteness. 12 CFR 1003.4(a)(10)(iii); comment 4(a)(10)(iii)-5.

   If a Financial Institution relies on only a portion of an applicant's income in its determination, it reports only the portion of income relied on. Comment 4(a)(10)(iii)-1. If a Financial Institution relies on the income of a co-applicant or cosigner to evaluate creditworthiness, the Financial Institution includes the co-applicant's or cosigner's income to the extent relied upon. Comments (a)(10)(iii)-1 and -2. A Financial Institution, however, does not include the income of a guarantor who is only secondarily liable. Comment 4(a)(10)(iii)-1.

Reportable income does not include funds or amounts in addition to income, such as funds derived from underwriting calculations of the potential annuitization or depletion of an applicant's remaining assets, even if the Financial Institution relied on them when making the credit decision. Actual distributions from retirement accounts or other assets that are relied on by the Financial Institution as income are reported as income. Comment 4(a)(10)(iii)-4.

A Financial Institution may, but is not required to, report an applicant's income for purchased Covered Loans. A Financial Institution reports that the data point is not applicable if it chooses not to report the applicant's income. Comment 4(a)(10)(iii)-9.

A Financial Institution reports that the income data point is not applicable:

a. For a Covered Loan to or an Application from a Financial Institution's own employee, even though the Financial Institution relied on the employee's income in making its credit decision;

b. For a Covered Loan that is secured by or an Application that was proposed to be secured by a Multifamily Dwelling;

c. If the applicant or co-applicant, if applicable, is not a natural person (*e.g.*, a corporation, partnership, or trust); or

d. If the Financial Institution did not consider or would not have considered income in making the credit decision. 12 CFR 1003.4(a)(10)(iii); comments 4(a)(10)(iii)-3, -6, -7, and -8.

## 5.2 Universal loan identifier (ULI) or non-universal loan identifier

Unless a partial exemption applies, a Financial Institution must report a ULI for a Covered Loan or Application. The ULI:

1. Is a number that a Financial Institution assigns to the Covered Loan or Application. 12 CFR 1003.4(a)(1)(i).

2. Must begin with the Financial Institution's Legal Entity Identifier (LEI),[17] followed by up to 23 additional letters and/or numbers that the Financial Institution assigns, and end with a two-character check digit.[18] 12 CFR 1003.4(a)(1)(i)(A)-(C). Essentially, the ULI is the Financial Institution's LEI plus a loan or application number plus the two-character check digit (in that order).

3. Cannot include information that could be used to identify the applicant or borrower directly, such as the applicant's or borrower's name, date of birth, Social Security number, official government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number. Comment 4(a)(1)(i)-2.

4. Must be unique within the Financial Institution and must be used for only one Covered Loan or Application. Comment 4(a)(1)(i)-1.

To ensure that a ULI is unique within a Financial Institution, the Financial Institution must:

1. Ensure that its branches do not use the same ULI to refer to multiple Covered Loans or Applications.

2. Assign a new ULI to a Refinancing or Application for Refinancing (*i.e.*, not use the ULI from the loan that is being refinanced).

A Financial Institution may use a previously reported ULI if an applicant asks the Financial Institution: (a) to reinstate a counteroffer that the applicant did not accept earlier in the same calendar year; or (b) to reconsider an Application that was denied, withdrawn, or closed for incompleteness earlier during the same calendar year. However, a Financial Institution must

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[17] The LEI is a unique, 20-digit alphanumeric identifier issued by a utility endorsed by the LEI Regulatory Oversight Committee or endorsed or otherwise governed by the Global LEI Foundation or a successor organization. A Financial Institution can go to the Global LEI Foundation website, https://www.gleif.org/services/lou-services/issue-new-lei, to obtain an LEI. Regardless of whether a Financial Institution's transactions are covered by a partial exemption, effective January 1, 2019, the institution must include an LEI with its submission as described in 12 CFR 1003.5(a)(3). See Section 6.2 for more information.

[18] The two-character check digit is used to validate the ULI. It is calculated using certain standards published by the International Organization for Standardization (www.iso.org). A check digit tool is available on the Bureau's website. For more information on the two-character check digit, including the methodology for generating a check digit, see appendix C to the HMDA Rule.

not use a previously reported ULI if it reinstates or reconsiders an Application that was reported in a prior calendar year. 12 CFR 1003.4(a)(1)(i)(E); comment 4(a)(1)(i)-4.

For a purchased Covered Loan, a Financial Institution uses the ULI that was assigned to the Covered Loan by the Financial Institution that previously reported the Covered Loan. 12 CFR 1003.4(a)(1)(i)(D). If the Financial Institution that originated the Covered Loan did not assign a ULI, the Financial Institution that purchases the Covered Loan must assign a ULI, unless a partial exemption applies with respect to the purchase of the Covered Loan.

If a partial exemption applies to a Covered Loan or Application, a Financial Institution may either report a ULI for the transaction, as discussed above, or report a non-universal loan identifier for the transaction, as discussed below.

- If a Financial Institution that is not eligible for a partial exemption purchases a Covered Loan for which an insured depository institution or insured credit union has assigned a non-universal loan identifier, the purchasing Financial Institution does not report that non-universal loan identifier. Instead, the purchasing Financial Institution assigns its own ULI.

A non-universal loan identifier:

1. Is assigned by a Financial Institution to a Covered Loan or Application that is covered by a partial exemption.
2. Is composed of up to 22 characters (*i.e.*, letters, numerals, or a combination of letters and numerals). A non-universal loan identifier may, but is not required to, include a check digit. However, the non-universal loan identifier cannot be more than 22 characters, including any check digit.
3. Cannot include information that could be used to identify the applicant or borrower directly, such as the applicant's or borrower's name, date of birth, Social Security number, official government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.
4. Must be unique within the annual loan/application register in which the Covered Loan or Application is included.

To ensure that a non-universal loan identifier is unique within a Financial Institution, the Financial Institution must:

1. Ensure that its branches do not use the same non-universal loan identifier to refer to multiple Covered Loans or Applications.
2. Assign only one non-universal loan identifier to any particular Covered Loan or Application. Each non-universal loan identifier must correspond to a single Application and ensuing Covered Loan, if any.
3. Assign a new non-universal loan identifier to a Refinancing or Application for Refinancing (*i.e.*, not use the non-universal loan identifier or ULI from the loan that is being refinanced). 12 CFR 1003.3(d)(5); comments 3(d)(5)-1, -2.

## 5.3 Application date

Except for a purchased Covered Loan, a Financial Institution reports the Application date, which is reported as either the date that the Application was received or the date on the Application form. 12 CFR 1003.4(a)(1)(ii). Although a Financial Institution need not choose the same approach for reporting Application date for its entire HMDA submission, it should be generally consistent, such as by routinely using one approach within a particular division of the Financial Institution or for a category of loans. Comment 4(a)(1)(ii)-1.

If a Financial Institution chooses to report the date shown on the Application form and the Financial Institution retains multiple versions of the form, the Financial Institution reports the date shown on the first form it received that constitutes an Application under the HMDA Rule. Comment 4(a)(1)(ii)-1.

For an Application that was not submitted directly to the Financial Institution, the Financial Institution may report the date the Application was received by the party that initially received the Application, the date the Application was received by the Financial Institution, or the date shown on the Application form. Comment 4(a)(1)(ii)-2.

If, within the same calendar year, an applicant asks a Financial Institution to reinstate a counteroffer that the applicant previously did not accept (or asks the Financial Institution to reconsider an Application that was denied, withdrawn, or closed for incompleteness), the reportable Application date depends on whether the Financial Institution reports the request as the continuation of the earlier transaction using the earlier transaction's ULI or non-universal loan identifier (as applicable) or as a new transaction with a new ULI or non-universal loan

identifier (as applicable). If the Financial Institution treats the request for reinstatement or reconsideration as a new transaction, it reports the date of the request as the Application date. If the Financial Institution does not treat the request for reinstatement or reconsideration as a new transaction, it reports the original Application date. Comment 4(a)(1)(ii)-3.

For a purchased Covered Loan, a Financial Institution reports that this data point is not applicable. 12 CFR 1003.4(a)(1)(ii).

# 5.4 Application channel

A Financial Institution reports the application channel in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

Except for purchased Covered Loans, a Financial Institution reports both of the following:

1. **Whether or not the applicant or borrower submitted the Application directly to the Financial Institution.** 12 CFR 1003.4(a)(33)(i). For example, the Application was submitted directly to the Financial Institution if the mortgage loan originator identified in the data point required by 12 CFR 1003.4(a)(34) and discussed in Section 5.30 was the reporting Financial Institution's employee when the originator performed the origination activities for the Covered Loan or Application. The Application was also submitted directly to the Financial Institution if the Financial Institution directed the applicant to a third-party agent (*e.g.*, a credit union service organization) that performed loan origination activities on behalf of the reporting Financial Institution and the third-party agent did not assist the applicant with applying for Covered Loans with other institutions. Comment 4(a)(33)(i)-1.

   If an applicant contacted and completed an Application with a broker or correspondent that forwarded the Application to the Financial Institution for approval, the Application was not submitted directly to the Financial Institution. Comment 4(a)(33)(i)-1.iii.

2. **Whether or not the obligation arising from the Covered Loan or Application was or would have been initially payable to the Financial Institution.** 12 CFR 1003.4(a)(33)(ii). An obligation was initially payable to the Financial Institution if the obligation was initially payable on the face of the note or contract to the Financial Institution that is reporting the Covered Loan or Application. Comment 4(a)(33)(ii)-1. For an Application that is withdrawn, denied, or closed for incompleteness, a Financial Institution reports that the requirement is not applicable if the Financial Institution had not

determined, at the time it took final action on the Application, whether the loan would be initially payable to the Financial Institution. Comment 4(a)(33)(ii)-2.

For purchased Covered Loans, a Financial Institution reports that this data point is not applicable. 12 CFR 1003.4(a)(33).

## 5.5 Preapproval request

A Financial Institution reports whether or not the Application or Covered Loan involved a preapproval request for a Home Purchase Loan under a Preapproval Program. 12 CFR 1003.4(a)(4). For all of the following, a Financial Institution reports that the Application or Covered Loan did not involve a preapproval request: a purchased Covered Loan; an Open-End Line of Credit or Application for an Open-End Line of Credit; a Reverse Mortgage or an Application for a Reverse Mortgage; an Application for a Covered Loan that is denied; an Application that is closed for incompleteness or withdrawn; an Application or Covered Loan for any purpose other than Home Purchase Loan; and for a Covered Loan secured by a Multifamily Dwelling. Comment 4(a)(4)-2.

## 5.6 Loan type

A Financial Institution reports whether the Covered Loan is or the Application was for a Covered Loan that would have been:

1. Insured by the Federal Housing Administration;
2. Guaranteed by the Department of Veterans Affairs;
3. Guaranteed by the Rural Housing Service or the Farm Service Agency; or
4. Not insured or guaranteed by any of these Federal agencies (*i.e.*, conventional). 12 CFR 1003.4(a)(2).

# 5.7 Loan purpose

A Financial Institution records and reports the Covered Loan's or Application's purpose, under 12 CFR 1003.4(a)(3), using one of the following:

1. **Home Purchase Loan**. A Home Purchase Loan is a Closed-End Mortgage Loan or Open-End Line of Credit that is for the purpose, in whole or part, of purchasing a Dwelling. 12 CFR 1003.2(j). A Home Purchase Loan includes: (a) a Closed-End Mortgage Loan or Open-End Line of Credit secured by one Dwelling and used to purchase another Dwelling; (b) a combined construction-to-permanent loan that is secured by a Dwelling; (c) a separate permanent loan that replaces a construction-only loan or line of credit to the same borrower if the permanent loan is secured by a Dwelling; and (d) a Dwelling-secured subordinate mortgage loan that finances some or all of the home purchaser's down payment. Comments 2(j)-1, -3, and -4.

   - Home Purchase Loans do not include loans that are excluded transactions under the HMDA Rule, such as loans that are temporary financing under 12 CFR 1003.3(c)(3). See Section 4.1.2 for more information on excluded transactions.

   An assumption is a Home Purchase Loan when: (a) the assumption is a Closed-End Mortgage or Open-End Line of Credit; (b) the Financial Institution enters into a written agreement accepting a new borrower as the obligor on an existing obligation; and (c) the purpose is to finance the new borrower's purchase of the Dwelling securing the existing obligation. An assumption is not a Home Purchase Loan if the new borrower assumes the existing borrower's obligation <u>after</u> acquiring title to the Dwelling securing the existing obligation because the purpose is not to finance the new borrower's purchase of the Dwelling. The assumption would be reported using a loan purpose other than Home Purchase Loan. Comment 2(j)-5.

**Example:** Borrower A obtains title to Owner A's Dwelling after assuming Owner A's existing debt obligation. Borrower A's transaction is a Home Purchase Loan. In contrast, Borrower B obtains title to Owner B's Dwelling in Year 1 and in Year 2 assumes Owner B's existing debt obligation. Borrower B's transaction is not a Home Purchase Loan.

2. **Home Improvement Loan**. A Home Improvement Loan is a Closed-End Mortgage Loan or Open-End Line of Credit that is for the purpose, in whole or part, of repairing, rehabilitating, remodeling, or improving a Dwelling or the real property on which the Dwelling is located. 12 CFR 1003.2(i). For example, a Home Improvement Loan includes: (a) a Covered Loan if any of the proceeds are used for repair, rehabilitation, remodeling, or improvement of the Dwelling or the real property on which the Dwelling securing the Covered Loan is located, even if the remainder is used for totally unrelated purposes, such as college tuition; (b) a Covered Loan used to install a swimming pool, construct a garage, or improve landscaping on the real property on which the Dwelling securing the Covered Loan is located; and (c) a Covered Loan used to improve a Multifamily Dwelling used for residential and commercial purposes if the proceeds are used either to improve the entire property (*e.g.*, to replace a heating system that services the entire structure) or primarily to improve the residential portion of the Multifamily Dwelling. Comments 2(i)-1, -2, and -4.

3. **Refinancing**. A Refinancing is a Closed-End Mortgage Loan or Open-End Line of Credit in which a new Dwelling-secured debt obligation satisfies and replaces an existing Dwelling-secured debt obligation by the same borrower. 12 CFR 1003.2(p). Generally, whether the new debt obligation satisfies and replaces an existing obligation is determined by reference to the parties' contract and applicable law. In order for a Covered Loan to be a Refinancing, both the new and existing transactions must be secured by a Dwelling. Only one borrower need be the same on the new and existing transactions. Comments 2(p)-1, -3, and -4.

4. **Cash-out Refinancing**. A Financial Institution reports a Covered Loan or an Application as a cash-out Refinancing if it is a Refinancing and the Financial Institution considered it to be a cash-out Refinancing when processing the Application or setting the terms under its or an investor's guidelines. For example, if a Financial Institution considers a loan product to be a cash-out Refinancing under an investor's guidelines because of the amount of cash received by the borrower at closing or account opening, it reports the transaction as a cash-out Refinancing. If a Financial Institution does not distinguish between a cash-out Refinancing and a Refinancing under its own guidelines, sets the terms of all Refinancings without regard to the amount of cash received by the borrower at loan closing or account opening, and does not offer loan products under investor guidelines, it reports all Refinancings as Refinancings, not cash-out Refinancings. Comment 4(a)(3)-2.

5. **Other**. If a Covered Loan is not, or an Application is not for, a Home Purchase Loan, a Home Improvement Loan, a Refinancing, or a cash-out Refinancing, a Financial Institution reports the purpose as "other." For example, if a Covered Loan is for the purpose of paying educational expenses, the Financial Institution reports the purpose as "other." A Financial Institution also uses "other" if the Covered Loan is or the Application is for a Refinancing

but, under the terms of the existing credit agreement, the Financial Institution was unconditionally obligated to refinance the obligation subject to conditions within the borrower's control. Comment 4(a)(3)-4.

The following chart illustrates the reportable purpose for multiple-purpose Covered Loans originated on or after January 1, 2018. For purchased Covered Loans originated prior to January 1, 2018, a Financial Institution reports "Not Applicable." See also comments 4(a)(3)-3 and -6.

| Multiple Purposes | Reportable Purpose |
|---|---|
| Home Purchase Loan and Home Improvement Loan | Home Purchase Loan |
| Home Purchase Loan and Refinancing | Home Purchase Loan |
| Home Purchase Loan and cash-out Refinancing | Home Purchase Loan |
| Home Purchase Loan and other | Home Purchase Loan |
| Home Improvement Loan and Refinancing | Refinancing |
| Home Improvement Loan and cash-out Refinancing | Cash-out Refinancing |
| Refinancing and other | Refinancing |
| Cash-out Refinancing and other | Cash-out Refinancing |
| Home Improvement Loan and other | Home Improvement Loan |

A Financial Institution may rely on an applicant's oral or written statement regarding the proposed use of the loan proceeds. For example, a Financial Institution could use a check box or a purpose line on an Application form. If an applicant provides no statement as to the proposed use of the proceeds, and the Covered Loan is not a Home Purchase Loan, cash-out Refinancing, or Refinancing, a Financial Institution reports the Covered Loan as for an "other" purpose. Comment 4(a)(3)-1.

# 5.8 Loan amount

A Financial Institution must report the loan amount for the Covered Loan or Application. 12 CFR 1003.4(a)(7). The first chart below provides information on determining the loan amount that is reported for Covered Loans. The second chart below provides information on determining the reportable loan amount for transactions that involve multiple purposes, counteroffers, and Applications that do not result in the Financial Institution originating a Covered Loan.

| If the Covered Loan is a: | The reportable loan amount is the: |
|---|---|
| Closed-End Mortgage Loan other than a purchased Closed-End Mortgage Loan, assumption, or a Reverse Mortgage | Amount to be repaid as disclosed on the legal obligation. 12 CFR 1003.4(a)(7)(i); comment 4(a)(7)-5. |
| Purchased Closed-End Mortgage Loan or assumption of a Closed-End Mortgage Loan | Unpaid principal balance at the time of purchase or assumption. 12 CFR 1003.4(a)(7)(i); comment 4(a)(7)-5. |
| Open-End Line of Credit (including a purchased Open-End Line of Credit and assumption of an Open-End Line of Credit) other than a Reverse Mortgage | Amount of credit available to borrower under the terms of plan. 12 CFR 1003.4(a)(7)(ii); comment 4(a)(7)-6. |
| Reverse Mortgage | Initial principal limit (as determined pursuant to section 255 of the National Housing Act and implementing regulations and mortgagee letters issued by HUD). 12 CFR 1003.4(a)(7)(iii); comment 4(a)(7)-9. |
| Refinancing | Loan amount for new debt obligation based on the type of Covered Loan (see above). Comment 4(a)(7)-7. |

| If the transaction involves: | Report the: |
|---|---|
| A counteroffer that is accepted for an amount that is different from the amount for which the applicant applied | Loan amount granted for the Covered Loan. Comment 4(a)(7)-1. |

| | |
|---|---|
| A counteroffer for an amount different from the amount for which the applicant applied, and the applicant did not accept or failed to respond | Amount for which applicant initially applied. Comment 4(a)(7)-1. |
| An approved but not accepted Application (including an approved but not accepted preapproval request) | Approved loan amount. Comment 4(a)(7)-2. |
| Application (including a preapproval request) that was denied, closed for incompleteness, or withdrawn | Amount requested. Comment 4(a)(7)-3. |
| Loan proceeds that will be used for more than one purpose | Entire loan amount for the Covered Loan, even if only a portion of the proceeds is intended for the reported purpose. Comment 4(a)(7)-4. |

# 5.9 Loan term

A Financial Institution reports the loan term in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

A Financial Institution reports the loan term as the scheduled number of months after which the legal obligation will mature or terminate or would have matured or terminated. 12 CFR 1003.4(a)(25). If a Covered Loan or Application includes a schedule with repayment periods measured in a unit of time other than months, the Financial Institution reports the loan term in months using an equivalent number of whole months without regard for any remainder. Comment 4(a)(25)-2.

For a fully amortizing Covered Loan, the number of months after which the legal obligation matures is the number of months in the amortization schedule, ending with the final payment. Covered Loans that do not fully amortize during the maturity term, such as Covered Loans with a balloon payment, are reported using the maturity term rather than the amortization term. Comment 4(a)(25)-1.

For a purchased Covered Loan, a Financial Institution reports the number of months after which the legal obligation matures as measured from the Covered Loan's origination. Comment 4(a)(25)-3.

For an Open-End Line of Credit with a definite term, a Financial Institution reports the number of months from account opening until the account termination date, including both the draw and repayment period (if any). Comment 4(a)(25)-4.

For a Covered Loan or Application without a definite term, such as a Reverse Mortgage, a Financial Institution reports that the data point is not applicable. Comment 4(a)(25)-5.

# 5.10 Action taken and date

A Financial Institution reports its action taken and the date of its action. 12 CFR 1003.4(a)(8). The action taken is reported as one of the following: (1) loan originated; (2) application approved but not accepted; (3) application denied; (4) application withdrawn; (5) file closed for incompleteness; (6) loan purchased; (7) preapproval request denied; or (8) preapproval request approved but not accepted. 12 CFR 1003.4(a)(8)(i); comments 4(a)(8)(i)-1 through -14.

The Action Taken chart in Attachment B provides additional information on how to determine the reportable action taken and date of action taken. See also 12 CFR 1003.4(a)(8)(ii) and its commentary for information on reporting the date of the action taken.

# 5.11 Reasons for denial

A Financial Institution reports the reasons for denial in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.[19]

[19] Certain Financial Institutions supervised by the OCC and the FDIC are required by those agencies to report reasons for denial on their HMDA loan/application registers, even if a partial exemption applies. 12 CFR 27.3(a)(1)(i), 128.6, 390.147.

For an Application that it denied, a Financial Institution must report the principal reasons (up to four) that it denied the Application. 12 CFR 1003.4(a)(16); comment 4(a)(16)-1. For all other transactions, a Financial Institution reports that the data point is not applicable. Comment 4(a)(16)-4.

If a Financial Institution provided the reason or reasons it denied the Application using the model form contained in appendix C to Regulation B (Form C–1, Sample Notice of Action Taken and Statement of Reasons) or a similar form, the Financial Institution reports the reason or reasons specified on that form, including reporting the "Other" reason or reasons that were specified on the form, if applicable. If a Financial Institution provided a disclosure of the applicant's right to a statement of specific reasons using the model form contained in appendix C to Regulation B (Form C–5, Sample Disclosure of Right to Request Specific Reasons for Credit Denial) or a similar form, or provided the denial reasons orally under Regulation B, the Financial Institution reports the principal reasons it denied the Application. Comment 4(a)(16)-3.

The Financial Institution reports only the principal reason or reasons it denied the Application, even if there are fewer than four reasons. For example, if a Financial Institution denied the Application because of the applicant's credit history and debt-to-income ratio, the Financial Institution only reports these two principal reasons. The reason or reasons reported must be specific and accurately describe the principal reason or reasons the Financial Institution denied the Application. Comment 4(a)(16)-1.

If a Financial Institution denied a preapproval request under a Preapproval Program, the Financial Institution must report the principal reason or reasons (up to four) that it denied the preapproval request. Comment 4(a)(16)-2.

# 5.12 Property address and property location

Unless a partial exemption applies, a Financial Institution reports the property address of the property securing the Covered Loan or, for an Application, proposed to secure the Covered Loan. 12 CFR 1003.4(a)(9)(i). For Applications that did not result in an origination, the property address corresponds to the location of the property proposed to secure the loan as identified by the applicant. For Covered Loans, the property address corresponds to the property identified in the legal obligation. Comment 4(a)(9)(i)-1. If a partial exemption applies to a Covered Loan or Application, see Section 4.3.3 for information on reporting the property address.

- Property address is one of the 26 data points that a Financial Institution is not required to report if a partial exemption applies to a transaction. However, the property location data points (*i.e.*, state, county, and census tract) are among the 22 data points that are not affected by the HMDA Rule.

Additionally, regardless of whether a partial exemption applies, a Financial Institution reports the property location (*i.e.*, the state, county, and census tract) for the property securing the Covered Loan or, for an Application, proposed to secure the Covered Loan if: (1) the property is located in an MSA or metropolitan division (MD)[20] in which the Financial Institution has a home or Branch Office; or (2) if the Financial Institution is a bank or savings association required to report data on small business, small farm, and community development lending under the CRA.

- For transactions for which state, county, or census tract is not required, a Financial Institution may report that the data point is not applicable, or it may voluntarily report the state, county, or census tract information. Comment 4(a)(9)(ii)-1.

[20] Metropolitan divisions (MDs) are metropolitan divisions of MSAs as defined by the OMB. 12 CFR 1003.2(m)(2). For more information on MDs and MSAs, see https://www.ffiec.gov/census/default.aspx and https://www.ffiec.gov/geocode/help1.aspx.

If a Financial Institution is required to report property location, it must include the census tract only if the property is located in a county with a population of more than 30,000 according to the most recent decennial census. 12 CFR 1003.4(a)(9)(ii). See also 12 CFR 1003.4(e).

- Incorrect entries reporting the census tract are not violations of HMDA or Regulation C if the Financial Institution obtained the census tract number from the geocoding tool made available through the Bureau's website, provided the Financial Institution entered an accurate property address into the tool and the tool returned a census tract number. For more information, see Section 7.

If a Covered Loan is related to more than one property, but only one property secures or, for an Application, would have secured the Covered Loan, a Financial Institution reports the property address and property location, as applicable, of the property that secures or would have secured the Covered Loan. A Financial Institution does not report the property address or property location for any properties that do not secure or would not have secured the Covered Loan. Comment 4(a)(9)-1.

If more than one property secures the Covered Loan or, in the case of an Application, would have secured the Covered Loan, a Financial Institution reports the Covered Loan or Application in a single entry on its LAR and provides the property address and property location, as applicable, for only one property. The Financial Institution can choose the property for which it reports this information, but it must choose a property that secures the Covered Loan (or, in the case of an Application, would have secured the Covered Loan) and that includes a Dwelling. If a single Multifamily Dwelling has more than one postal address, a Financial Institution reports one of the postal addresses. Comments 4(a)(9)-2 and -3.

If other data points require the Financial Institution to report specific information about property securing or involved with a Covered Loan or Application, the Financial Institution reports the information that relates to the property for which it has provided the address and location for these data points. Comment 4(a)(9)-2. For purposes of this guide, the property for which the Financial Institution has provided the address and location for these data points is called the Identified Property.

If the site for a Manufactured Home has not been identified, a Financial Institution may report that the data points for the property address and property location are not applicable. Comment 4(a)(9)-5. If the property address of the property securing the Covered Loan is unknown, a Financial Institution may report that the data point for the property address is not applicable. For example, the Financial Institution may report that the data point is not applicable if the

property did not have an address at closing or if the applicant did not provide the property address before the Application was denied, withdrawn, or closed for incompleteness. Comment 4(a)(9)(i)-3.

Similarly, when reporting an Application, a Financial Institution may report that the data points for property location (*i.e.*, state, county, and census tracts) are not applicable if the information was not known before the Application was denied, withdrawn, or closed for incompleteness. Comments 4(a)(9)(ii)(A)-1, (B)-2, and (C)-2.

# 5.13 Construction method

A Financial Institution reports the construction method for the Identified Property, using one of the following:

1. Site-built; or
2. Manufactured Home. 12 CFR 1003.4(a)(5).

A residential structure that satisfies the definition of "manufactured home" under HUD's regulations, 24 CFR 3280.2, is reported as a Manufactured Home. 12 CFR 1003.2(l). A Manufactured Home will generally bear a HUD Certification Label and data plate noting compliance with the Federal standards. Comment 2(l)-2.

Modular homes and factory-built homes that do not meet the definition of "manufactured home" in HUD's regulations are not Manufactured Homes under the HMDA Rule and are reported as site-built, regardless of whether they are on-frame or off-frame modular homes. Modular homes comply with local or other recognized buildings codes rather than standards established by the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401 *et seq*. Modular homes are not required to have HUD Certification Labels under 24 CFR 3280.11 or data plates under 24 CFR 3280.5, but may have a certification from a State licensing agency that documents compliance with State or other applicable building codes. Dwellings built using prefabricated components assembled at the Dwelling's permanent site should also be reported as site-built. Comment 4(a)(5)-1.

For a Multifamily Dwelling, the Financial Institution should report the construction method as site-built unless the Multifamily Dwelling is a Manufactured Home community, in which case

the Financial Institution should report the construction method as Manufactured Home. Comment 4(a)(5)-2.

# 5.14 Occupancy type

A Financial Institution reports the occupancy type for the Identified Property, using one of the following:

1. **Principal residence**. An applicant or borrower can have only one principal residence at a time. However, if an applicant or borrower buys or builds a new Dwelling that will become the applicant's or borrower's principal residence within a year or upon the completion of construction, the new Dwelling is considered the principal residence for this data point. Comment 4(a)(6)-2. For purchased Covered Loans, a Financial Institution may report the occupancy type as "principal residence" unless the loan documents or Application indicate that the property will not be occupied as a principal residence. Comment 4(a)(6)-5.

2. **Second residence**. A property is a second residence if the property is or will be occupied by the applicant or borrower for a portion of the year and is not the applicant's or borrower's principal residence. For example, if a person purchases a property, occupies the property for a portion of the year, and rents the property for the remainder of the year, the property is a second residence. Similarly, if a person occupies a property near his or her place of employment on weekdays, but the person returns to his or her principal residence on weekends, the property near the person's place of employment is a second residence. Comment 4(a)(6)-3.

3. **Investment property**. A property is an investment property if the applicant or borrower does not occupy the property. For example, if a person purchases a property, does not occupy the property, and generates income by renting the property, the property is an investment property. Similarly, if a person purchases a property, does not occupy the property, and does not generate income by renting the property, but intends to generate income by selling the property, the property is an investment property. Comment 4(a)(6)-4.

   If a corporation purchases a property that is a Dwelling and uses it for the long-term residence of its employees, the property is an investment property, even if the corporation considers the property as owned for business purposes rather than investment purposes, does not generate income by renting the property, and does not intend to generate income by selling the property. If the property is for transitory use by employees, the property would not be considered a Dwelling. Comment 4(a)(6)-4.

# 5.15 Lien status

A Financial Institution reports the lien status of the lien on the Identified Property as either a first lien or a subordinate lien. 12 CFR 1003.4(a)(14).

The HMDA Rule requires a Financial Institution to report the lien status for Covered Loans it purchased. For purchased Covered Loans, lien status is determined by reference to the best information readily available to the Financial Institution at the time of purchase.

For Applications and originations of Covered Loans, lien status is determined by reference to the best information readily available to the Financial Institution at the time final action is taken and to the Financial Institution's own procedures. When reporting lien status, Financial Institutions may rely on title searches they routinely obtain, but the HMDA Rule does not require Financial Institutions to obtain title searches solely to comply with Regulation C. Financial Institutions may rely on other information that is readily available to them at the time final action is taken and that they reasonably believe is accurate, such as the applicant's statement on the Application form or the applicant's credit report. Comment 4(a)(14)-1.

**Examples:** An applicant applies for a Covered Loan from Ficus Bank and indicates on the Application form that there is a mortgage on the Dwelling that will secure the applicant's Covered Loan. Ficus Bank obtains the applicant's credit report, and it shows that the applicant has a mortgage loan. The existing mortgage will not be paid off as part of the transaction. Ficus Bank may assume that the transaction involves a subordinate lien for purposes of HMDA reporting.

An applicant applies for a loan from Ficus Bank to refinance the applicant's existing home mortgage loan. The existing loan is and the new loan will be secured by the applicant's principal residence. The applicant also has an Open-End Line of Credit for $20,000 secured by the principal residence. Ficus Bank's practice in such a case is to ensure that it will have first-lien position through a subordination agreement with the holder of the lien securing the Open-End Line of Credit. Ficus Bank may assume that the transaction involves a first lien for purposes of HMDA reporting.

# 5.16 Manufactured home information

A Financial Institution reports manufactured home information in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

If a Dwelling on the Identified Property is a Manufactured Home and not a Multifamily Dwelling (*i.e.*, it has four or fewer individual dwelling units), the Financial Institution must report both:

1. **Secured Property Type**. Whether the Covered Loan is or the Application would have been secured by: (a) both a Manufactured Home and land; or (b) a Manufactured Home and not land. 12 CFR 1003.4(a)(29). A Financial Institution reports that a Covered Loan is or would have been secured only by a Manufactured Home and not land if the Covered Loan is not secured by the land, even if the Manufactured Home is considered real property under applicable State law. Comment 4(a)(29)-1.

2. **Land Property Interest**. Information about the applicant's or borrower's property interest in the land on which the Manufactured Home is or would have been located, reported as one of the following:

   a. Direct ownership. An applicant or borrower has a direct ownership interest in the land on which the Dwelling is or is to be located when it has more than a possessory real property ownership interest in the land, such as fee simple ownership. Comment 4(a)(30)-5.

   b. Indirect ownership. Indirect land ownership can occur when the applicant or borrower is or will be a member of a resident-owned community structured as a housing cooperative in which the occupants own an entity that holds the land underlying the Manufactured Home community. In such communities, the applicant or borrower may still have a lease and pay rent for the lot on which his or her Manufactured Home is or will be located, but the property interest type for such an arrangement should be reported as indirect ownership if the applicant is or will be a member of the cooperative that owns the Manufactured Home community's underlying land. If an applicant resides or will reside in such a community but is not a member, the property interest type should be reported as a paid leasehold. Comment 4(a)(30)-1.

   c. Paid Leasehold. For example, a paid leasehold occurs when a borrower locates the Manufactured Home on a lot in which the borrower does not have an ownership interest,

the borrower has a written lease for the lot, and the lease specifies rent payments. Comment 4(a)(30)-2.

d. Unpaid Leasehold. For example, an unpaid leasehold occurs when the borrower locates the Manufactured Home on land owned by a family member, does not have a written lease, and does not have an agreement regarding rent payments. Comment 4(a)(30)-2.

If the Dwelling securing the Covered Loan (or that would have secured the resulting Covered Loan in the case of an Application) is not a Manufactured Home, the Financial Institution reports that these data points are not applicable. Comments 4(a)(29)-4 and 4(a)(30)-6.

A Manufactured Home community that is a Multifamily Dwelling is not considered a Manufactured Home for purposes of reporting these data points. Comment 4(a)(29)-2 and 4(a)(30)-4.

# 5.17 Property value

A Financial Institution reports the property value in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For a Covered Loan, a Financial Institution reports the value of the property securing the Covered Loan. For an Application that did not result in a Covered Loan (other than an Application that was withdrawn before a credit decision was made or that was closed for incompleteness), a Financial Institution reports the value of the property proposed to secure the Covered Loan. 12 CFR 1003.4(a)(28). A Financial Institution reports that the data point is not applicable for an Application that was withdrawn before a credit decision was made or was closed for incompleteness, even if the Financial Institution obtained a property value. Comment 4(a)(28)-3.

A Financial Institution reports the property value it relied on in making its credit decision. 12 CFR 1003.4(a)(28). If the Financial Institution relied on an appraisal or other valuation of a property when calculating the loan-to-value ratio, it reports the value stated in the appraisal or other valuation on which it relied. If the Financial Institution relied on the purchase price of a property when calculating the loan-to-value ratio, it reports the purchase price as the property value. Comment 4(a)(28)-1.

**Example:** Ficus Bank obtains an appraisal that values a parcel of property at $100,000, an automated valuation model report that values the property at $110,000, and a broker price opinion that values the property at $105,000. When approving the Application, Ficus Bank relies on the appraisal. It reports the property value as $100,000.

The HMDA Rule does not require a Financial Institution to obtain a property valuation or to rely on a property value in making a credit decision. A Financial Institution reports that this data point is not applicable if it does not rely on property value when making the credit decision. Comment 4(a)(28)-4.

# 5.18 Total units

For a Covered Loan, a Financial Institution reports the number of individual Dwelling units related to the property securing the Covered Loan. For an Application, it reports the number of individual Dwelling units related to the property proposed to secure the Covered Loan. 12 CFR 1003.4(a)(31).

For an Application or Covered Loan secured by a Manufactured Home community, the Financial Institution should include the total number of Manufactured Home sites that secure the loan and are available for occupancy, regardless of whether the sites are occupied or have Manufactured Homes attached. For a loan secured by a single Manufactured Home that is or will be located in a Manufactured Home community, the Financial Institution should report one individual Dwelling unit. Comment 4(a)(31)-2.

For a Covered Loan secured by a condominium or cooperative complex, the Financial Institution reports the total number of individual Dwelling units securing the Covered Loan or proposed to secure the Covered Loan in the case of an Application. Comment 4(a)(31)-3.A Financial Institution may include recreational vehicle pads, manager apartments, rental apartments, site-built homes, or other rentable space that are ancillary to the operation of the secured property if it considers such units under its underwriting guidelines or investor guidelines, or if it tracks the number of such units for its own internal purposes. Comment 4(a)(31)-2.

A Financial Institution may rely on the best information readily available to it at the time action is taken and on the Financial Institution's own procedures. Information readily available could include, for example, information provided by an applicant that the Financial Institution reasonably believes, information contained in a property valuation or inspection, or information obtained from public records. Comment 4(a)(31)-4.

# 5.19 Multifamily affordable units

A Financial Institution reports information about multifamily affordable units in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

If the property securing a Covered Loan or proposed to secure an Application includes a Multifamily Dwelling, the Financial Institution must provide the number of individual Dwelling units that are income-restricted pursuant to Federal, State, or local affordable housing programs.[21] 12 CFR 1003.4(a)(32). For a Covered Loan that is not secured by a Multifamily Dwelling and for an Application that would not have been secured by a Multifamily Dwelling, the Financial Institution reports that this data point is not applicable. Comment 4(a)(32)-6.

Affordable housing income-restricted units are individual Dwelling units that have restrictions based on the occupants' income level pursuant to restrictive covenants encumbering the property. The restrictive covenants may be evidenced by a use agreement, regulatory agreement, land use restrictions, or a similar agreement. Rent control or rent stabilization laws,

[21] Examples of Federal programs and funding sources that may result in reportable units include but are not limited to: (1) affordable housing programs pursuant to Section 8 of the United States Housing Act of 1937; (2) public housing; (3) the HOME Investment Partnerships program; (4) the Community Development Block Grant program; (5) multifamily tax subsidy project funding through tax-exempt bonds or tax credits; (6) Federal Home Loan Bank affordable housing program funding; (7) Rural Housing Service multifamily housing loans and grants; and (8) project-based vouchers under 24 CFR part 983. Comment 4(a)(32)-2.

Examples of State and local sources that may result in reportable units include but are not limited to: (1) State or local administration of Federal funds or programs; (2) State or local funding programs for affordable housing or rental assistance, including programs operated by independent public authorities; (3) inclusionary zoning laws; and (4) tax abatement or tax increment financing contingent on affordable housing requirements. Comment 4(a)(32)-3.

the acceptance of Housing Choice Vouchers, and other similar forms of portable housing assistance that are tied to an occupant and not an individual dwelling unit are not affordable housing income-restricted Dwelling units for purposes of reporting. Comment 4(a)(32)-1.

A Financial Institution may rely on the best information readily available to it at the time final action is taken and on the Financial Institution's own procedures when reporting. Information readily available could include, for example, information provided by an applicant that the Financial Institution reasonably believes, information contained in a property valuation or inspection, or information obtained from public records. Comment 4(a)(32)-5.

# 5.20 Debt-to-income ratio

A Financial Institution reports debt-to-income (DTI) ratio in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

Except for purchased Covered Loans, if the Financial Institution relied on the applicant's or borrower's DTI ratio when making its credit decision, the Financial Institution reports the DTI ratio on which it relied in making the credit decision. 12 CFR 1003.4(a)(23). The DTI ratio is the ratio of the applicant's or borrower's total monthly debt to total monthly income.

**Example:** Ficus Bank calculates the applicant's DTI ratio twice–once according to its own requirements and once according to an investor's requirements. Ficus Bank relies on the DTI ratio calculated according to the investor's requirements when it makes the credit decision. Ficus Bank reports the DTI ratio calculated in accordance with the investor's requirements. Comment 4(a)(23)-1.

A Financial Institution relied on the applicant's or borrower's DTI ratio in making the credit decision if the DTI ratio was a factor in the credit decision, even if it was not a dispositive factor. For example, if the DTI ratio was one of multiple factors in a Financial Institution's credit decision, the Financial Institution relied on the DTI ratio, even if the Financial Institution denied the Application because one or more underwriting requirements other than the DTI ratio were not satisfied. Comment 4(a)(23)-2.

The HMDA Rule does not require a Financial Institution to calculate a DTI ratio and does not require a Financial Institution to rely on an applicant's or borrower's DTI ratio in making a credit decision. Comment 4(a)(23)-4.

A Financial Institution reports that this data point is not applicable:

1. If it made a credit decision without relying on a DTI ratio;
2. If the Application file was closed for incompleteness (even if a DTI ratio was calculated);
3. For an Application that was withdrawn before a credit decision was made (even if a DTI ratio was calculated);
4. If the applicant and co-applicant, if applicable, are not natural persons;
5. For a Covered Loan that is secured, or an Application that is proposed to be secured, by a Multifamily Dwelling; or
6. For a purchased Covered Loan. Comments 4(a)(23)-3 through -7.

# 5.21 Combined loan-to-value

A Financial Institution reports combined loan-to-value (CLTV) in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

Except for a purchased Covered Loan, if the Financial Institution relied on a CLTV ratio when making its credit decision, the Financial Institution reports the CLTV ratio on which it relied. The CLTV ratio is the ratio of the total amount of debt secured by the property securing the Covered Loan (or, for an Application, proposed to secure a Covered Loan) to the value of that property. 12 CFR 1003.4(a)(24). A Financial Institution reports the CLTV ratio relied on in making the credit decision, regardless of which property or properties it used in the CLTV ratio calculation. The property used in the CLTV ratio does not need to be the Identified Property and may include more than one property and non-real property. Comment 4(a)(24)-6.

Financial Institution relied on the CLTV ratio when making the credit decision if the CLTV ratio was a factor in the credit decision, even if it was not a dispositive factor. For example, if the CLTV ratio was one of multiple factors in a Financial Institution's credit decision, the Financial Institution relied on the CLTV ratio, even if the Financial Institution denied the Application

because one or more underwriting requirements other than the CLTV ratio were not satisfied. Comments 4(a)(24)-1 and -2.

**Examples:** Ficus Bank reviews an Application that will be secured by two parcels of real property. It calculates the CLTV ratio using its own requirements. It also calculates the CLTV ratio using an investor's requirements. When making its credit decision, Ficus Bank relies on the CLTV ratio calculated according to the investor's requirements. Ficus Bank reports the CLTV ratio calculated according to the investor's requirements.

Ficus Bank originates a Covered Loan for the purchase of a Multifamily Dwelling. The Covered Loan is secured by the Multifamily Dwelling and certain securities. Ficus Bank uses both the value of the Multifamily Dwelling and the value of the securities when calculating the CLTV ratio that it relies on when making the credit decision. Ficus Bank reports the CLTV ratio it relies on when making the credit decision.

The HMDA Rule does not require a Financial Institution to calculate the CLTV ratio and does not require a Financial Institution to rely on a CLTV ratio in making a credit decision. Comment 4(a)(24)-4.

A Financial Institution reports that this data point is not applicable:

1. If it did not rely on a CLTV when making the credit decision;
2. If the Application file was closed for incompleteness (even if a CLTV ratio was calculated);
3. For an Application that was withdrawn before a credit decision was made (even if a CLTV ratio was calculated); or
4. For a purchased Covered Loan. Comments 4(a)(23)-3 through -5.

# 5.22 Credit score information

A Financial Institution reports credit score information in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

Except for purchased Covered Loans, a Financial Institution reports the credit score or scores it relied on in making the credit decision and the name and version of the scoring model used to generate each reported credit score. 12 CFR 1003.4(a)(15)(i).

The term "credit score" has the same meaning as set forth in the Fair Credit Reporting Act, 15 USC 1681g(f)(2)(A). 12 CFR 1003.4(a)(15)(ii). A "credit score" is a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default. A "credit score" does not include: (1) any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including loan-to-value ratio, the amount of down payment, or the consumer's financial assets; or (2) any other elements of the underwriting process or underwriting decision. 15 USC 1681g(f)(2)(A).

A Financial Institution relied on a credit score in making the credit decision if the credit score was a factor in the credit decision, even if it was not a dispositive factor. For example, if a credit score was one of multiple factors in a Financial Institution's credit decision, the Financial Institution relied on the credit score even if the Financial Institution denied the Application because one or more underwriting requirements other than the credit score were not satisfied. Comment 4(a)(15)-1.

When a Financial Institution obtained or created two or more credit scores for a single applicant or borrower but relied on only one score in making the credit decision (*e.g.*, by relying on the lowest, highest, most recent, or average of all of the scores), the Financial Institution reports the credit score it actually relied on and the information about the scoring model it used. When a Financial Institution used more than one credit scoring model and combined the scores into a composite score and then relied on the composite score, the Financial Institution reports the composite score and reports that more than one scoring model was used. When a Financial Institution obtained two or more credit scores for the applicant or borrower and relied on multiple credit scores in making the credit decision (*e.g.*, by relying on a scoring grid that considers each of the scores obtained or created for the applicant or borrower without combining the scores into a composite score), the Financial Institution reports one of the credit

scores that it relied on in making the credit decision. In choosing which credit score to report, a Financial Institution need not use the same approach for its entire HMDA data submission, but it should be generally consistent (*e.g.*, by routinely using one approach within a particular division of the Financial Institution or for a category of Covered Loans). The Financial Institution reports the name and version of the credit-scoring model for the score reported. Comment 4(a)(15)-2.

If a transaction involved two or more applicants or borrowers for whom the Financial Institution obtained or created a single credit score and if the Financial Institution relied on that single credit score when making the credit decision, the Financial Institution reports that credit score for the applicant and reports that the data point is not applicable for the co-applicant. Alternatively, at its discretion, the Financial Institution may report that credit score for the first co-applicant and report that the data point is not applicable for the applicant. If a transaction involved more than one applicant and a Financial Institution relied on separate credit scores for each applicant, it reports the credit score it relied on for the applicant and the credit score it relied on for the first co-applicant. Comment 4(a)(15)-3.

**Examples:** Two individuals apply for a Covered Loan. Ficus Bank obtains two credit scores for the applicant and two credit scores for the co-applicant. Ficus Bank relies on the highest of the four credit scores it obtained. Ficus Bank reports the highest credit score and information about the credit scoring model used. Ficus Bank may report the score and information for the applicant and report "not applicable" for the co-applicant or, at its discretion, Ficus Bank can report the score and information for the co-applicant and report "not applicable" for the applicant.

Two individuals apply for a Covered Loan. Ficus Bank obtains three credit scores for the applicant and three credit scores for the co-applicant. Ficus Bank relies on the middle credit score for the applicant and the middle score for the co-applicant. Ficus Bank reports the middle score and related scoring model information for the applicant and the middle score and related scoring model information for the co-applicant.

A Financial Institution reports that the credit score data point is not applicable:

1. For purchased Covered Loans;

2. If the Financial Institution did not rely on a credit score;
3. If the Application file was closed for incompleteness (even if a credit score was obtained or created);
4. If an Application was withdrawn before a credit decision was made (even if a credit score was obtained or created); or
5. If the applicant and co-applicant, if applicable, are not natural persons. Comments 4(a)(15)-4 through -7.

# 5.23 Automated underwriting system information

A Financial Institution reports automated underwriting system (AUS) information in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

Except for purchased Covered Loans, a Financial Institution reports the name of the Automated Underwriting System (AUS), as defined below, that it used to evaluate the Application and the AUS result generated by that AUS. 12 CFR 1003.4(a)(35)(i). A Financial Institution must report this information only if the Financial Institution used an AUS to evaluate the Application. Comment 4(a)(35)-4.

For purposes of the HMDA Rule, an Automated Underwriting System or AUS is an electronic tool:

1. Developed by a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgage Loans or Open-End Lines of Credit. For this purpose, a person is a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgage Loan or Open-End Lines of Credit if that person has ever securitized, provided Federal government insurance for, or provided a Federal government guarantee for a Closed-End Mortgage Loan or Open-End Line of Credit at any point in time. The person does not need to be actively securitizing, insuring, or guaranteeing Closed-End Mortgage Loans or Open-End Lines of Credit at the time that the Financial Institution uses the AUS to evaluate an Application.
   12 CFR 1003.4(a)(35)(ii); comment 4(a)(35)-2. If a Financial Institution knows or

reasonably believes that the system it is using to evaluate an Application is an electronic tool developed by a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgages or Open-End Lines of Credit, then this prong of the definition of AUS is satisfied, and the Financial Institution must report the name of the system and the result generated by that system if the second prong of the definition, below, is satisfied. If a Financial Institution does not know or reasonably does not believe that the system was developed by a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgages or Open-End Lines of Credit, then the Financial Institution reports that the data point is not applicable, provided that the Financial Institution maintains procedures reasonably adapted to determine whether the electronic tool it is using meets the definition of an AUS. Comment 4(a)(35)-7.

- In order to know or reasonably believe that a system is not developed by a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgage Loans or Open-End Lines of Credit, a Financial Institution must maintain procedures reasonably adapted to make such a determination. Reasonably adapted procedures include attempting to determine with reasonable frequency, such as annually, whether the developer of the electronic tool is a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgage Loans or Open-End Lines of Credit. For example, in the course of renewing an annual sales agreement the developer could represent to the Financial Institution that the developer is not such a securitizer, Federal government insurer, or Federal government guarantor of Closed-End Mortgage Loans or Open-End Lines of Credit. Comment 4(a)(35)-7.

2. That provides a result regarding both (a) the applicant's credit risk; and (b) whether the Covered Loan is eligible to be originated, purchased, insured, or guaranteed by the securitizer, Federal government insurer, or Federal government guarantor that developed the electronic tool. In order for a system to be an AUS, the system must provide a result regarding both the credit risk of the applicant and the eligibility of the loan to be originated, purchased, insured, or guaranteed by the securitizer, Federal government insurer, or Federal government guarantor that developed the system being used to evaluate the Application. For example, if a system is an electronic tool that provides a determination of the loan's eligibility to be purchased, but the system does not also provide an assessment of the applicant's creditworthiness—such as an evaluation of the applicant's income, debt, and

credit history—the system is not an AUS. In that case, the Financial Institution reports that the data point is not applicable. 12 CFR 1003.4(a)(35)(ii); comment 4(a)(35)-2.

If a Financial Institution has developed its own proprietary system that it uses to evaluate an Application and the Financial Institution is also a securitizer, the system may be an AUS if it also meets the other elements of the AUS definition. On the other hand, if a Financial Institution has developed its own proprietary system that it uses to evaluate an Application but the Financial Institution is not a securitizer, the system is not an AUS. Comment 4(a)(35)-2.

A Financial Institution that used an AUS to evaluate an Application must report the name of the AUS it used to evaluate the Application and the result generated by that system regardless of whether the Financial Institution intends to sell or hold the Covered Loan in its portfolio. For example, if a Financial Institution used an AUS developed by a securitizer to evaluate an Application but ultimately did not sell the Covered Loan and instead holds the Covered Loan in its portfolio, the Financial Institution reports the name of the AUS that the Financial Institution used to evaluate the Application and the result generated by that system. Comments 4(a)(35)-1.i and ii.

If a Financial Institution used more than one AUS to evaluate an Application or if a Financial Institution used one AUS to evaluate an Application but it generated multiple results, the Financial Institution must determine which AUS or AUSs and which result or results to report. To do so, the Financial Institution can use the following steps in the exact order they are presented below.

1. The Financial Institution must determine whether an AUS that it used to evaluate the Application matches the loan type it reported for the Application or Covered Loan. For more information on reporting loan type, see Section 5.6.

2. If the Financial Institution used an AUS that matches loan type (such as Total Scorecard for an FHA loan), it must determine whether it obtained only one result from that AUS. If the Financial Institution obtained only one result from the AUS that matches loan type, the Financial Institution reports the AUS that matches loan type and the result that it obtained from that AUS.

3. If the Financial Institution did not use an AUS that matches loan type or if it obtained more than one result from the AUS that matches loan type, the Financial Institution must determine whether an AUS that it used to evaluate the Application matches the purchaser, insurer, or guarantor (if any) for the Covered Loan.

4. If the Financial Institution used an AUS that matches the purchaser, insurer, or guarantor (such as Desktop Underwriter for a Covered Loan that Fannie Mae purchased), it must determine whether it obtained only one result from that AUS. If the Financial Institution obtained only one result from the AUS that matches the purchaser, insurer, or guarantor, the Financial Institution reports the AUS that matches and the result that it obtained from that AUS.

5. If the Financial Institution did not use an AUS that matches the purchaser, insurer, or guarantor or it obtained multiple results from an AUS that matches the purchaser, insurer, or guarantor or loan type, the Financial Institution reports the result it obtained closest in time to the credit decision and the AUS that generated that result, unless the Financial Institution obtained multiple results closest in time to the credit decision. For example, a Financial Institution obtains multiple results closest in time to the credit decision if it obtains two results at noon on the day immediately before it makes the credit decision and does not obtain any results at a later time.

6. If the Financial Institution simultaneously obtains multiple results closest in time to the credit decision, the Financial Institution reports each of the multiple AUS results that it obtained and the AUSs that generated each of those results up to a total of five results and five AUSs. The Financial Institution will never report more than five results or five AUSs. If the Financial Institution used more than five AUSs or it obtained more than five results, the Financial Institution chooses five AUSs and five results to report. Comment 4(a)(35)-3.

The HMDA Rule does not require a Financial Institution to use an AUS when evaluating an Application. Comment 4(a)(35)-4. A Financial Institution reports that the AUS data point is not applicable:

1. If it does not use an AUS to evaluate the Application;
2. When the applicant and co-applicant, if applicable, are not natural persons; or
3. For purchased Covered Loans. Comments 4(a)(35)-4 through -6.

# 5.24 Interest rate

A Financial Institution reports the interest rate in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

A Financial Institution reports the interest rate applicable to a Covered Loan or to an Application that is approved but not accepted. 12 CFR 1003.4(a)(21). For Applications that are denied, withdrawn or closed for incompleteness, a Financial Institution reports that this data point is not applicable. Comment 4(a)(21)-2.

The following table describes which rate a Financial Institution reports depending on the type of transaction. For purposes of this table, the date a revised Loan Estimate or corrected Closing Disclosure is provided to the applicant or borrower is the date disclosed as the "Date Issued" on that revised or corrected disclosure.

| For an: | Report: |
|---|---|
| Application approved but not accepted for fixed-rate Covered Loan subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Rate stated in Loan Estimate (if no Closing Disclosure provided) or in Closing Disclosure (if provided), assuming it accurately reflects the rate when Financial Institution approved the Application. If a revised Loan Estimate (but no Closing Disclosure) was provided to the applicant prior to the end of the reporting period in which final action was taken or if a corrected Closing Disclosure was provided to the applicant prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the revised or corrected disclosure, as applicable. Otherwise, rate at the time Financial Institution approved the Application. Comments 4(a)(21)-1 and -2. |
| Application approved but not accepted for a fixed-rate Covered Loan not subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Rate applicable when Financial Institution approved the Application. Comment 4(a)(21)-2. |
| Application approved but not accepted for a variable-rate Covered Loan subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Rate stated in Loan Estimate (if no Closing Disclosure provided) or in Closing Disclosure (if provided), assuming it accurately reflects the rate when Financial Institution approved the Application. If a revised Loan Estimate (but no Closing Disclosure) was provided to the applicant prior to the end of the reporting period in which final action was taken or if a corrected Closing Disclosure was provided to the applicant prior to the end of the reporting period in which final action was taken, the Financial Institution |

| For an: | Report: |
|---|---|
| | reports the rate stated in the revised or corrected disclosure, as applicable. Comments 4(a)(21)-1 and -2.<br>Otherwise, if rate was known when Financial Institution approved the Application, the rate applicable when Financial Institution approved the Application. Comment 4(a)(21)-2.<br>Otherwise, if rate was unknown when Financial Institution approved the Application, the fully-indexed rate based on the index applicable when the Financial Institution approved the Application. Comment 4(a)(21)-3. |
| Application approved but not accepted for a variable-rate Covered Loan not subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | If rate was known when Financial Institution approved the Application, the rate applicable when Financial Institution approved the Application. Comment 4(a)(21)-2.<br>If rate was unknown when Financial Institution approved the Application, the fully-indexed rate based on the index applicable when the Financial Institution approved the Application. Comment 4(a)(21)-3. |
| Application denied, withdrawn, or closed for incompleteness | Not applicable. Comment 4(a)(21)-2. |
| Fixed-rate Covered Loan subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Interest rate set forth in Closing Disclosure. If a corrected Closing Disclosure was provided to the borrower prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the corrected disclosure. Comment 4(a)(21)-1. |
| Fixed-rate Covered Loan not subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Interest rate applicable at loan closing or account opening. Comment 4(a)(21)-1. |
| Variable-rate Covered Loan subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Interest rate set forth in Closing Disclosure. If a corrected Closing Disclosure was provided to the borrower prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the corrected disclosure. Comment 4(a)(21)-1. |
| Variable-rate Covered Loan not subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | If rate was known when Financial Institution closed loan or opened account, rate applicable at loan closing or account opening. Comment 4(a)(21)-1. |

| For an: | Report: |
|---|---|
| | If rate was unknown when Financial Institution closed loan or opened account, the fully-indexed rate based on the index applicable to the Covered Loan at loan closing or account opening. Comment 4(a)(21)-3. |

# 5.25 Introductory rate period

A Financial Institution reports the introductory rate period in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For a Covered Loan, a Financial Institution reports the introductory rate period as the number of months from loan closing or account opening until the first date the interest rate may change. 12 CFR 1003.4(a)(26). For example, if an Open-End Line of Credit contains an introductory or "teaser" interest rate for two months after the date of account opening and the interest rate may adjust after that two month period, the Financial Institution reports the number of months as "2." Comment 4(a)(26)-1. For a Covered Loan that includes an introductory interest rate period measured in a unit of time other than months, the Financial Institution reports the introductory period using an equivalent number of whole months without regard for any remainder. For example, if an Open-End Line of Credit contains an introductory interest rate for 50 days after the date of account opening, after which the interest rate may adjust, the Financial Institution reports the number of months as "1". A Financial Institution reports "1" for any introductory interest rate period that is less than one whole month. Comment 4(a)(26)-5.

For an Application, a Financial Institution reports the number of months from loan closing or account opening until the first date the interest rate could have changed under the proposed terms. Comment 4(a)(26)-1. If the period until the first date the interest rate could have changed under the proposed terms is measured in a unit of time other than months, the Financial Institution reports the introductory period using an equivalent number of whole months without regard for any remainder. A Financial Institution reports "1" if the introductory interest rate period could have been less than one whole month under the proposed terms. Comment 4(a)(26)-5.

A Financial Institution reports the number of months based on when the first interest rate adjustment may occur, even if an interest rate adjustment is not required to occur at that time and even if the rates that will apply, or the periods for which they will apply, are not known at loan closing or account opening. For example, if a Closed-End Mortgage Loan has a 30-year term and is an adjustable-rate product with an introductory interest rate for the first 60 months, after which the interest rate is permitted but not required to vary, the Financial Institution reports the number of months as "60." Comment 4(a)(26)-1.

A Financial Institution is not required to report introductory interest rate periods based on preferred rates unless the terms of the legal obligation provide that the preferred rate will expire at a certain defined date. Preferred rates include loan terms that provide that the initial underlying rate is fixed but that it may increase or decrease upon the occurrence of some future event, such as an employee leaving the employ of the Financial Institution, the borrower closing an existing deposit account with the Financial Institution, or the borrower revoking an election to make automated payments. Comment 4(a)(26)-2.

A Financial Institution reports that this data point is not applicable for a fixed-rate Covered Loan or an Application for a fixed-rate Covered Loan. Comment 4(a)(26)-3.

# 5.26 Rate spread

A Financial Institution reports the rate spread in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For Covered Loans that are subject to Regulation Z and for Applications that are approved but not accepted, and that are subject to Regulation Z (other than assumptions, purchased Covered Loans, and Reverse Mortgages), a Financial Institution reports the difference between the Covered Loan's annual percentage rate (APR) and a comparable transaction's average prime offer rate (APOR) as of the date the Covered Loan's interest rate was set. 12 CFR 1003.4(a)(12)(i).

- Where an application or a preapproval request is an Application under Regulation C, but for which no disclosures are required under Regulation Z, the Financial Institution reports that the data is not applicable.

If the Covered Loan is an assumption, Reverse Mortgage, a purchased Covered Loan, or is not subject to Regulation Z, the Financial Institution reports that the data point is not applicable. If an Application does not result in the Financial Institution originating a Covered Loan for a reason other than that the Application was approved but not accepted by the applicant, the Financial Institution reports that the data point is not applicable. Comment 4(a)(12)-7.

The APOR is an APR that is derived from average interest rates and other loan pricing terms offered to borrowers by a set of creditors for mortgage loans that have low-risk pricing characteristics. 12 CFR 1003.4(a)(12)(ii). The Bureau publishes tables of current and historical APORs by transaction type on the FFIEC's website at http://www.ffiec.gov/hmda and on the Bureau's website at http://www.consumerfinance.gov. The methodology used to arrive at these APORs is also published on these websites. A Financial Institution may either use the APORs published on these websites or determine APORs itself by employing the methodology published on these websites. A Financial Institution that determines APORs itself, however, is responsible for correctly determining them in accordance with the published methodology. Comments 4(a)(12)-1 and -2.

To determine the reportable rate spread, a Financial Institution can follow these steps:

1. Determine the Covered Loan's or approved but not accepted Application's APR

   A Financial Institution may rely on the APR disclosed for the Covered Loan, if it is calculated and disclosed pursuant to Regulation Z (12 CFR 1026.18 or 1026.38 for a Closed-End Mortgage Loan or 12 CFR 1026.6 for an Open-End Line of Credit). If multiple APRs are calculated and disclosed pursuant to 12 CFR 1026.6, a Financial Institution relies on the APR in effect at the time of account opening. If an Open-End Line of Credit has a variable-rate feature and a fixed-rate feature during the draw period, a Financial Institution relies on the APR in effect at the time of account opening for the variable-rate feature. This rate for the variable-rate feature would be a discounted initial rate if one is offered under the variable-rate feature. Comment 4(a)(12)-3.

   If the Financial Institution provides a corrected Truth in Lending disclosure, a corrected Closing Disclosure, or a corrected open-end account opening disclosure under Regulation Z, the Financial Institution relies on the APR disclosed on the corrected disclosure, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which final action is taken. For this purpose, the date the corrected disclosure is provided is the date the disclosure is mailed or delivered to the borrower in person. Comment 4(a)(12)-9.

For an Application (including a preapproval request) that was approved but not accepted, a Financial Institution might have only provided early Regulation Z disclosures, such as a Loan Estimate for a Closed-End Mortgage Loan or disclosures at the time of application under 12 CFR 1026.40 for an Open-End Line of Credit. In such cases where no subsequent disclosures are provided, a Financial Institution may rely on the APR as calculated and disclosed in the Loan Estimate or disclosures at the time of the application under 12 CFR 1026.40, as applicable. Comment 4(a)(12)-8.

2. Determine the APOR

   a. Determine the Comparable Transaction

      The rate spread is calculated using the APOR for a comparable transaction. Therefore, a Financial Institution must determine what transaction is comparable to the Covered Loan or approved but not accepted Application. To do so, the Financial Institution uses the Covered Loan's or Application's amortization type (*i.e.*, fixed-rate or variable-rate) and loan term. For Open-End Lines of Credit, a Financial Institution must identify the most closely comparable closed-end transaction. Comment 4(a)(12)-4.

      For fixed-rate Covered Loans and Applications, the term for identifying the comparable transaction is the transaction's maturity (*i.e.*, the period until the last payment will be due under the Closed-End Mortgage Loan contract or Open-End Line of Credit agreement). If an Open-End Line of Credit has a fixed rate but no definite plan length, a Financial Institution can use a 30-year fixed-rate loan as the most closely comparable closed-end transaction. Financial Institutions may refer to the "Average Prime Offer Rates-Fixed" table on the FFIEC website when identifying a comparable fixed-rate transaction. Comment 4(a)(12)-4.i.

      For variable-rate Covered Loans and Applications, the term for identifying the comparable transaction is the initial, fixed-rate period (*i.e.*, the period until the first scheduled rate adjustment). For example, five years is the relevant term for a variable-rate transaction with a five-year, fixed-rate introductory period that is amortized over thirty years. If an Open-End Line of Credit has a variable rate and an optional, fixed-rate feature, a Financial Institution uses the rate table for variable-rate transactions. Comment 4(a)(12)-4.ii.

      When the term to maturity (or, for a variable-rate transaction, the initial fixed-rate period) is not in whole years, the Financial Institution uses the number of whole years

closest to the actual loan term (or the initial fixed-rate period). If the actual loan term (or the initial fixed-rate period) is exactly halfway between two whole years, the Financial Institution uses the shorter loan term. The Financial Institution rounds a term shorter than six months to one year, including a term for a variable-rate Covered Loan with no initial, fixed-rate period. Comment 4(a)(12)-4.iii.

| Term to Maturity or Initial Fixed-Rate Period | Term for Comparable Transaction |
|---|---|
| 10 years, 3 months | 10 years |
| 10 years, 9 months | 11 years |
| 10 years, 6 months | 10 years |
| 10 years, 6 months, 18 days | 11 years |
| 3 months | 1 year |

If the amortization period is longer than the transaction's term to maturity (or for an approved but not accepted Application would have been longer than the transaction's term to maturity), a Financial Institution must use the term to maturity to determine the applicable APOR. Comment 4(a)(12)-4.iv.

b. Determine the Rate Set Date

The date used to determine the APOR for a comparable transaction is the date on which the Financial Institution set the interest rate for the final time before final action is taken. Comment 4(a)(12)-5.

| If the: | The date used for APOR is the: |
|---|---|
| Rate was set pursuant to a lock agreement | Date that the agreement fixed the interest rate |

| | |
|---|---|
| Lock agreement was extended, but the rate was not re-set | Date the Financial Institution exercised its discretion in setting the rate for final time before final action is taken |
| Rate was re-set after the lock agreement was executed, and there was no program change | Date that the Financial Institution exercised its discretion in setting the rate for final time before final action is taken |
| Rate was re-set after the lock agreement was executed, and there was a program change | Date of the program change, unless the Financial Institution changed the promised rate to the rate that would have been available to the borrower under the new program on the date of the original rate-lock, and the Financial Institution consistently follows that practice or the original lock agreement required that the new program's rate as of the original rate-lock would be available. In that case, the date of the original rate-lock. |
| Applicant or borrower did not execute a lock agreement | Date on which the Financial Institution set the rate for final time before final action is taken |

**Example:** Borrower locks a rate of 2.5 percent on June 1 for a 30-year, variable-rate loan with a 5-year, fixed-rate introductory period. On June 15, the borrower decides to switch to a 30-year, fixed-rate loan, and the rate available to the borrower for that product on June 15 is 4.0 percent. On June 1, the 30-year, fixed-rate loan would have been available to the borrower at a rate of 3.5 percent. Ficus Bank offers the borrower the 3.5 percent rate (*i.e.*, the rate that would have been available to the borrower for the fixed-rate product on June 1, the date of the original rate-lock) because the original agreement so provided or because Ficus Bank consistently follows that practice for borrowers who change loan programs. Ficus Bank should use June 1 as the rate-set date.

If a Financial Institution received an Application from a broker and is responsible for reporting the approved but not accepted Application or resulting Covered Loan, (*e.g.*, because the Financial Institution originated the loan), the rate-set date is the last date the Financial Institution set the rate with the broker, not the date the broker set the borrower's rate. Comment 4(a)(12)-5.

c. Determine the Most Recently Available APOR as of Rate Set Date

A Financial Institution must compare the APR determined in Step 1 to the most recently available APOR that was in effect for the comparable transaction as of the rate-set date. The most recently available rate means the APOR set forth in the applicable table with the most recent effective date as of the date the interest rate was set. A Financial Institution cannot use an APOR before its effective date. Comment 4(a)(12)-6.

3. Determine the Rate Spread

A Financial Institution compares the APOR determined in step 2c, above, to the APR determined in step 1 above. Comment 4(a)(12)-6.

# 5.27 Non-amortizing features

A Financial Institution reports non-amortizing features in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

A Financial Institution reports whether the contractual terms include or would have included: (1) a balloon payment; (2) interest-only payments; (3) negative amortization; or (4) contractual terms, other than those listed above, that would allow for payments other than fully amortizing payments. 12 CFR 1003.4(a)(27). The HMDA Rule defines the terms balloon payment, interest-only payments, negative amortization, and fully amortizing payments by reference to Regulation Z, but without regard to whether the Covered Loan is subject to Regulation Z. Comment 4(a)(27). See 12 CFR 1026.18(s)(5)(i) for the definition of balloon payment, 12 CFR 1026.18(s)(7)(iv) for the definition of interest-only payments, and 12 CFR 1026.18(s)(7)(v) for information on when a contractual term would include negative amortization.

**Example:** Ficus Bank originates a business-purpose transaction that is exempt from Regulation Z. The borrower, a corporation, uses the loan proceeds to finance the purchase of a Multifamily Dwelling. The loan is secured by a mortgage on the Multifamily Dwelling. The loan includes a balloon payment, as defined by Regulation Z, 12 CFR 1026.18(s)(5)(i), at the end of the loan term. Even though the borrower is not a natural person, the loan is for a business purpose, and a Multifamily Dwelling is not a "dwelling" under Regulation Z, Ficus Bank reports the business-purpose transaction as having a balloon payment.

# 5.28 Data points for certain loans subject to Regulation Z

## 5.28.1 Total loan costs or total points and fees

A Financial Institution reports the total loan costs or total points and fees in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For Covered Loans subject to the Ability-to-Repay provisions of Regulation Z, 12 CFR 1026.43, a Financial Institution reports the following:

1. **The amount of total loan costs as disclosed, pursuant to Regulation Z, on Line D of the Closing Cost Details page of the Closing Disclosure.** The Financial Institution reports the total loan costs if a Closing Disclosure was provided for the Covered Loan. 12 CFR 1003.4(a)(17)(i).

   Financial Institutions report that this data point is not applicable for transactions that are not subject to the Ability-to-Repay provisions of Regulation Z, such as Open-End Lines of Credit, Reverse Mortgages, and Covered Loans made primarily for business or commercial purposes. Comment 4(a)(17)(i)-1. For transactions subject to the Ability-to-Repay provisions of Regulation Z for which a Closing Disclosure was not provided, Financial Institutions report that this data point is not applicable. 12 CFR 1003.4(a)(17). Financial Institutions also report that this data point is not applicable for purchased Covered Loans for

which Applications were received by the selling entity prior to October 3, 2015. Comment 4(a)(17)(i)-2.

2. **The total points and fees charged in connection with the Covered Loan, calculated pursuant to Regulation Z.** The Financial Institution reports the total points and fees if the Covered Loan is not subject to Regulation Z's Closing Disclosure requirements and is not a purchased Covered Loan. 12 CFR 1003.4(a)(17)(ii).

   Financial Institutions report that this data point is not applicable for transactions that are not subject to the Ability-to-Repay provisions of Regulation Z, such as Open-End Lines of Credit, Reverse Mortgages, and Covered Loans made primarily for business or commercial purposes. Comment 4(a)(17)(ii)-1. For transactions subject to the Ability-to-Repay provisions of Regulation Z for which a Closing Disclosure was provided, Financial Institutions report that this data point is not applicable. 12 CFR 1003.4(a)(17). Financial Institutions also report that this data point is not applicable for purchased Covered Loans. Comment 4(a)(17)(ii)-1.

For Covered Loans subject to the total loan cost reporting requirement, if the amount of total loan costs changes because a Financial Institution provides a corrected Closing Disclosure, the Financial Institution reports the amount disclosed in the corrected Closing Disclosure if the corrected Closing Disclosure was provided to the borrower prior to the end of the reporting period in which loan closing occurred. For this purpose, the date the corrected Closing Disclosure was provided to the borrower is the date disclosed as the "Date Issued" on the corrected Closing Disclosure. Comment 4(a)(17)(i)-3.

For Covered Loans subject to the total points and fees reporting requirement, if a Financial Institution determines that the transaction's total points and fees exceeded the applicable limit and cures the overage pursuant to Regulation Z during the same reporting period in which closing occurred, the Financial Institution reports the revised amount of total points and fees. Comment 4(a)(17)(ii)-2.

**Example:** Ficus Bank is required to submit HMDA data quarterly. It closes a Covered Loan on January 2, 2020, and cures an overage pursuant to Regulation Z on January 9, 2020. Ficus Bank reports the revised amount of total points and fees in both its quarterly LAR submitted for first quarter data by May 30, 2020 and its annual LAR submitted in 2021 for 2020 data.

## 5.28.2 Total borrower-paid origination charges

A Financial Institution reports the total borrower-paid origination charges in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For Covered Loans subject to the Closing Disclosure requirements of Regulation Z, 12 CFR 1026.19(f), the Financial Institution reports the total of all itemized origination charges that are designated borrower-paid at or before closing. 12 CFR 1003.4(a)(18). This total is disclosed on Line A of the Closing Cost Details page of the Closing Disclosure.

For all other transactions, the Financial Institution reports that the data point is not applicable.

A Financial Institution reports that the data point does not apply for purchased Covered Loans for which Applications were received by the seller prior to the effective date of the Closing Disclosure requirements of Regulation Z. Comments 4(a)(18)-1 and -2.

If the total amount of borrower-paid origination charges changes because a Financial Institution provides a corrected Closing Disclosure pursuant to Regulation Z prior to the end of the reporting period in which the loan closing occurred, the Financial Institution reports the amount disclosed in the corrected Closing Disclosure. For this purpose, the date the corrected Closing Disclosure was provided to the borrower is the date disclosed as the "Date Issued" on the corrected Closing Disclosure. Comment 4(a)(18)-3.

## 5.28.3 Total discount points

A Financial Institution reports the total discount points in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For Covered Loans subject to the Closing Disclosure requirements of Regulation Z, 12 CFR 1026.19(f), a Financial Institution reports the points paid to the creditor to reduce the interest rate. 12 CFR 1003.4(a)(19). This total is disclosed on Line A.01 of the Closing Cost Details page of the Closing Disclosure.

For all other transactions, a Financial Institution reports that the data point is not applicable.

A Financial Institution reports that the data point does not apply for purchased Covered Loans for which an Application was received by the seller prior to the effective date of the Closing Disclosure requirements of Regulation Z. Comments 4(a)(19)-1 and -2.

If the total discount points change because a Financial Institution provides a corrected Closing Disclosure pursuant to Regulation Z prior to the end of the reporting period in which the loan closing occurred, the Financial Institution reports the amount disclosed in the corrected Closing Disclosure. For this purpose, the date the corrected Closing Disclosure was provided to the borrower is the date disclosed as the "Date Issued" on the corrected Closing Disclosure. Comment 4(a)(19)-3.

## 5.28.4 Lender credits

A Financial Institution reports lender credits in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For Covered Loans subject to the Closing Disclosure requirements of Regulation Z, 12 CFR 1026.19(f), the Financial Institution reports the amount of lender credits.
12 CFR 1003.4(a)(20). This total is disclosed in the second row under Line J on the Closing Cost Details page of the Closing Disclosure. For all other transactions, the Financial Institution reports that the data point is not applicable.

A Financial Institution reports that the data point does not apply for purchased Covered Loans for which an Application was received by the seller prior to the effective date of the Closing Disclosure requirements of Regulation Z. Comments 4(a)(20)-1 and -2.

If the amount of the lender credits changes because a Financial Institution provides a corrected Closing Disclosure pursuant to Regulation Z prior to the end of the reporting period in which the loan closing occurred, the Financial Institution reports the amount disclosed in the corrected Closing Disclosure. For this purpose, the date the corrected Closing Disclosure was provided to the borrower is the date disclosed as the "Date Issued" on the corrected Closing Disclosure. Comment 4(a)(20)-3.

## 5.28.5 Prepayment penalty term

A Financial Institution reports the prepayment penalty term in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

For Covered Loans and Applications subject to Regulation Z, other than Reverse Mortgages or purchased Covered Loans, a Financial Institution reports the term of any prepayment penalty. The term is reported in months. 12 CFR 1003.4(a)(22). A Financial Institution may rely on the definitions and official commentary to Regulation Z, 12 CFR 1026.32(b)(6)(i) or (ii), in determining whether a Covered Loan includes a prepayment penalty.

For Covered Loans that are not subject to Regulation Z, Reverse Mortgages, purchased Covered Loans, and Covered Loans or Applications that have no prepayment penalty, the Financial Institution reports that this data point is not applicable.

### 5.28.6 HOEPA status

For a Covered Loan that is subject to the Home Ownership and Equity Protection Act of 1994 (HOEPA), as implemented in Regulation Z, 12 CFR 1026.32, the Financial Institution reports whether or not the Covered Loan is a high-cost mortgage under Regulation Z. 12 CFR 1003.4(a)(13). Generally, a Financial Institution will report whether or not a consumer credit transaction subject to Regulation Z and secured by a principal dwelling (as that term is interpreted under Regulation Z) is a high-cost mortgage. See 12 CFR 1026.32(a) and its official commentary to determine whether a Covered Loan is subject to HOEPA and whether or not it is a high-cost mortgage under Regulation Z. For an Application or a Covered Loan that is not subject to HOEPA, the Financial Institution reports that this data point is not applicable. Comment 4(a)(13).

## 5.29 Transaction indicators

A Financial Institution reports the transaction indicators in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

A Financial Institution separately reports whether or not a Covered Loan is or an Application is for:

1. A Reverse Mortgage.[22] 12 CFR 1003.4(a)(36);

2. An Open-End Line of Credit.[23] 12 CFR 1003.4(a)(37); and

3. A loan made primarily for a business or commercial purpose.[24] 12 CFR 1003.4(a)(38).

# 5.30 Mortgage loan originator identifier

A Financial Institution reports the mortgage loan originator identifier in the manner described below unless a partial exemption applies. If a partial exemption applies, see Section 4.3.3.

A Financial Institution reports the Nationwide Mortgage Licensing System and Registry identifier (NMLSR ID) for the mortgage loan originator, as defined in Regulation G, 12 CFR Part 1007, or Regulation H, 12 CFR Part 1008, as applicable. 12 CFR 1003.4(a)(34). The NMLSR ID is a unique number or other identifier generally assigned to an individual registered or licensed through NMLSR to provide loan originating services. For more information, see the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008, 12 U.S.C. 5101 *et seq.*, and Regulation G or Regulation H, as applicable. Comment 4(a)(34)-1.

An NMLSR ID for the mortgage loan originator is not required to be reported if the mortgage loan originator is not required to obtain and has not been assigned an NMLSR ID. In those cases, the Financial Institution reports that this data point is not applicable. For example, certain individual mortgage loan originators may not be required to obtain an NMLSR ID for the particular transaction being reported, such as a commercial loan, and may not have an NMLSR ID.

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[22] A Reverse Mortgage is a Closed-End Mortgage Loan or Open-End Line of Credit that is a reverse mortgage transaction as defined in Regulation Z, but without regard to whether the loan or line is secured by a principal dwelling. 12 CFR 1003.2(q).

[23] For more information on whether a Covered Loan is or an Application is for an Open-End Line of Credit, see Section 4.1.1.

[24] If a Covered Loan or Application is deemed to be primarily for a business or commercial purpose under Regulation Z, 12 CFR 1026.3(a) and its official commentary, it is also deemed to be for a business or commercial purpose under the HMDA Rule.

Some mortgage loan originators may have obtained an NMLSR ID even if they are not required to obtain one for the particular transaction. Generally, if a mortgage loan originator has been assigned an NMLSR ID, a Financial Institution reports the mortgage loan originator's NMLSR ID regardless of whether the mortgage loan originator is required to obtain an NMLSR ID for the particular transaction being reported. Comment 4(a)(34)-2. However, there are special rules for certain purchased Covered Loans. If a Financial Institution purchases a Covered Loan that is subject to 12 CFR 1026.36(g) and that was originated prior to January 10, 2014, the Financial Institution may report that the data point is not applicable or may report the NMLSR ID. If a Financial Institution purchases a Covered Loan that is not subject to 12 CFR 1026.36(g) and that was originated prior to January 1, 2018, the Financial Institution may report that the data point is not applicable or may report the NMLSR ID.

If more than one individual associated with a Covered Loan or Application meets the definition of "mortgage loan originator," as defined in Regulation G or Regulation H, a Financial Institution reports the NMLSR ID of the individual mortgage loan originator with primary responsibility for the transaction as of the date of action taken. A Financial Institution that establishes and follows a reasonable, written policy for determining which individual mortgage loan originator has primary responsibility for the reported transaction as of the date of action taken complies with this reporting requirement. Comment 4(a)(34)-3.

# 5.31 Type of purchaser

A Financial Institution reports the type of purchaser for a Covered Loan if the Financial Institution: (a) originated the Covered Loan it is reporting and sold it within the same calendar year; or (b) purchased the Covered Loan it is reporting and then sold it within the same calendar year. 12 CFR 1003.4(a)(11). When reporting the type of purchaser, a Financial Institution reports the type of entity that purchased the Covered Loan from the Financial Institution, using one of the following:

1. Fannie Mae.
2. Ginnie Mae.
3. Freddie Mac.
4. Farmer Mac.

5. Private securitizer, which is an entity (other than one of the government-sponsored enterprises listed in 1 through 4 immediately above) that the Financial Institution knows or reasonably believes will securitize the Covered Loan. Knowledge or reasonable belief could, for example, be based on the purchase agreement or other related documents, the Financial Institution's previous transactions with the purchaser, or the purchaser's role as a securitizer (such as an investment bank). If the Financial Institution selling the Covered Loan does not know or reasonably believe that the purchaser will securitize the loan, and the seller knows that the purchaser frequently holds or disposes of loans by means other than securitization, then the Financial Institution reports the Covered Loan as purchased by, as appropriate, one of the other types of purchasers. Comment 4(a)(11)-4.

If the purchaser meets the criteria to be a private securitizer and fits within one of the other reportable categories in 6 through 10 below (including affiliate institution), the Financial Institution reports that the purchaser is a private securitizer. Comment 4(a)(11)-4.

6. Affiliate institution, which means a company that controls, is controlled by, or is under common control with the Financial Institution. The term has the meaning set forth in the Bank Holding Company Act of 1956, 12 U.S.C. 1841 *et seq*. If a purchaser meets the criteria to be an affiliate institution and also fits within one of the other reportable types of purchaser in 7 through 10 below (but not private securitizer above), the Financial Institution reports that the purchaser is an affiliate institution. Comment 4(a)(11)-3.

7. Commercial bank, savings bank, or savings association.

8. Credit union, mortgage company, or finance company. A mortgage company is a nondepository institution that purchases Covered Loans and, typically, originates Covered Loans. Comment 4(a)(11)-5.

9. Life insurance company.

10. Other, which is a purchaser that is not any of the above. A Financial Institution would report the purchaser type of "other" if the purchaser was a bank holding company or thrift holding company that is not a private securitizer and is not an affiliate of the Financial Institution. Comment 4(a)(11)-7.

If a Financial Institution sells some interest or interests in a Covered Loan but retains a majority interest in that Covered Loan, the Financial Institution does not report the sale or type of purchaser (*i.e.*, it reports that this data point is not applicable). Comment 4(a)(11)-1.

If a Financial Institution sells all or a majority interest in the Covered Loan to more than one entity, the Financial Institution reports the type of purchaser based on the entity purchasing the greatest interest in the Covered Loan. Comment 4(a)(11)-1.

Covered Loans "swapped" for mortgage-backed securities are to be treated as sales, and the purchaser is the entity receiving the Covered Loans that are swapped. Comment 4(a)(11)-2.

A Financial Institution reports that this data point is not applicable:

1. If a Financial Institution sells some interest or interests in a Covered Loan but retains a majority interest in the loan;

2. For an Application that is denied, withdrawn, closed for incompleteness, or approved but not accepted; or

3. For a Covered Loan that the Financial Institution does not sell during the same calendar year that it originated or purchased the Covered Loan. Comments 4(a)(11)-1 and -10.

A Financial Institution records that the requirement to report type of purchaser is not applicable if the Financial Institution originated or purchased a Covered Loan and did not sell it during the calendar quarter for which the Financial Institution is recording the data. If the Financial Institution sells the Covered Loan in a subsequent quarter of the same calendar year, the Financial Institution records the type of purchaser on its LAR for the quarter in which the Covered Loan was sold. If a Financial Institution sells the Covered Loan in a succeeding year, the Financial Institution should not record or report the sale. Comment 4(a)(11)-9.

# 6. Recording and reporting

## 6.1 Recording

Other State or Federal regulations may require a Financial Institution to record its data on a LAR more frequently. Comment 4(f)-2.

Financial Institutions may maintain their quarterly records in electronic or any other format, provided they can make the information available to their regulatory agencies in a timely manner upon request. Comment 4(f)-3.

- The HMDA Rule requires a Financial Institution to record the data about a Covered Loan or Application on a LAR within 30 calendar days after the end of the calendar quarter in which the Financial Institution takes final action on the Application or Covered Loan. 12 CFR 1003.4(f). A Financial Institution is not required to record all of its HMDA data for a quarter on a single LAR. Rather, a Financial Institution may record data on a single LAR or may record data on one or more LARs for different branches or different loan types (such as Home Purchase Loans or Home Improvement Loans, or loans on Multifamily Dwellings). Comment 4(f)-1.

## 6.2 Reporting

In addition to the required data discussed in Section 5, above, effective January 1, 2019, a Financial Institution must include the following when it submits its HMDA data:

1. Its name;

2. The calendar year and, effective January 1, 2020, if applicable, the calendar quarter to which the data relate (see Section 6.2.2 for information on quarterly reporting);

3. The name and contact information for a person who can be contacted with questions about the submission;

4. The Financial Institution's appropriate Federal agency;

5. The total number of entries in the submission;

6. The Financial Institution's Federal Taxpayer Identification Number (TIN); and

7. The Financial Institution's LEI. 12 CFR 1003.5(a)(3).

If the appropriate Federal agency for a Financial Institution changes, the Financial Institution must identify its new appropriate Federal agency in its annual submission for the year of the change. Comment 5(a)-2. For example, if a Financial Institution's appropriate Federal agency changes in February 2018, it must identify its new appropriate Federal agency beginning with its annual submission of 2018 data by March 1, 2019. For a Financial Institution required to comply with quarterly reporting requirements (see Section 6.2.2), the Financial Institution also must identify its new appropriate Federal agency in its quarterly submission beginning with its submission for the quarter of the change, unless the change occurs during the fourth quarter. For example, if the appropriate Federal agency for a Financial Institution changes during February 2020, the Financial Institution must identify its new appropriate Federal agency beginning with its quarterly submission for the first quarter of 2020. Comment 5(a)-2.

If a Financial Institution obtains a new TIN, it must provide the new TIN in its subsequent data submissions. For example, if two Financial Institutions that previously reported HMDA data merge and the surviving Financial Institution retained its LEI but obtained a new TIN, the surviving Financial Institution reports the new TIN beginning with its next HMDA data submission. Comment 5(a)-5.

A Financial Institution that is a subsidiary of a bank or savings association must complete its own LAR and submit it, directly or through its parent, to the appropriate Federal agency for the subsidiary's parent. 12 CFR 1003.5(a)(2). A Financial Institution is a subsidiary of a bank or savings association (for purposes of reporting HMDA data to the same agency as the parent) if the bank or savings association holds or controls an ownership interest in the Financial Institution that is greater than 50 percent. Comment 5(a)-6.

### 6.2.1 Annual reporting

The HMDA Rule maintains the annual reporting requirement, but requires Financial Institutions to submit data electronically in accordance with the procedures published by the Bureau and posted at http://www.consumerfinance.gov/hmda. 12 CFR 1003.5(a)(5).

Under the HMDA Rule, a Financial Institution must submit its annual LAR in electronic format to its appropriate Federal agency by March 1 of the year following the calendar year for which

data are collected. Appendix A to Part 1003 (through December 31, 2018); 12 CFR 1003.5(a)(1)(i) (after December 31, 2018). An individual who is an authorized representative of the Financial Institution and who has knowledge regarding the submitted data must certify its accuracy and completeness. Appendix A to Part 1003 (through December 31, 2018); 12 CFR 1003.5(a)(1)(i) (after December 31, 2018).

A Financial Institution must retain a copy of its submitted annual LAR for at least three years. 12 CFR 1003.5(a)(1)(i). Financial Institutions may retain their annual LARs in either paper or electronic form. Comment 5(a)-4.

For more information on reporting under the HMDA Rule or on the electronic submission of data, please see http://www.consumerfinance.gov/hmda.

### 6.2.2 Quarterly reporting

The HMDA Rule requires some Financial Institutions to report data on a quarterly basis as well as on an annual basis. The quarterly reporting requirement is effective January 1, 2020. It applies to a Financial Institution that reported at least 60,000 originated Covered Loans and Applications (combined) for the preceding calendar year. The Financial Institution does not count purchased Covered Loans when determining whether the quarterly reporting requirement applies. If quarterly reporting is required, the Financial Institution must report all data required to be recorded for the calendar quarter within 60 calendar days after the end of the calendar quarter. The quarterly reporting requirement does not apply, however, to the fourth quarter of the year. A Financial Institution subject to the quarterly reporting requirement reports its fourth quarter data as part of its annual submission. In its annual submission, a quarterly reporter will resubmit the data previously submitted for the first three calendar quarters of the year, including any corrections to the data, as well as its fourth quarter data. 12 CFR 1003.5(a)(ii).

## 6.3 Disclosure of data

### 6.3.1 Disclosure statement

Effective January 1, 2018, the HMDA Rule changes Regulation C's disclosure statement requirements. The changes apply to data collected in 2017 and later years. Under the HMDA

Rule, the FFIEC shall provide a notice to the Financial Institution that the Financial Institution's disclosure statement (based on data submitted for the prior calendar year) is available. 12 CFR 1003.5(b)(1). No later than three business days (any calendar day other than a Saturday, Sunday, or legal public holiday) after receiving notice from the FFIEC, the Financial Institution must make available to the public, upon request, a written notice that clearly conveys that the Financial Institution's disclosure statement may be obtained on the Bureau's website at . 12 CFR 1003.5(b)(2); comment 5(b)-1. A Financial Institution may, but is not required to, use the sample notice in Attachment C to satisfy the HMDA Rule's disclosure statement requirement. The notice may be made available in paper or electronic form. Comment 5(b)-2.

A Financial Institution must make the notice available to the public for a period of five years. 12 CFR 1003.5(d)(1).

At its discretion, a Financial Institution may also provide its disclosure statement and impose a reasonable fee for costs incurred reproducing or providing the statement. 12 CFR 1003.5(d)(2). Even if it provides the disclosure statement, a Financial Institution must comply with the notice requirement.

### 6.3.2 Modified LAR

Effective January 1, 2018, the HMDA Rule changes a Financial Institution's obligations with respect to disclosing its modified LAR. The new requirements apply to data collected in 2017 and later years.

Beginning in 2018, upon request from a member of the public, a Financial Institution must provide a written notice regarding the availability of its modified LAR. The written notice must clearly convey that the Financial Institution's LAR, as modified by the Bureau to protect borrower and applicant privacy, may be obtained on the Bureau's website at http://www.consumerfinance.gov/hmda. 12 CFR 1003.5(c).

A Financial Institution may, but is not required to, use the sample notice in Attachment C to satisfy the HMDA Rule's modified LAR requirement. Comment 5(c)-2. A Financial Institution may, but is not required to, use the same notice for purposes of this disclosure requirement and the disclosure statement requirement discussed in Section 6.3.1. The notice may be made available in paper or electronic form. Comment 5(c)-1.

The notice must be made available in the calendar year following the calendar year for which the Financial Institution collected data. The notice must be made available for three years. 12 CFR 1003.5(d)(1). For example, in calendar year 2021, a Financial Institution must make available a notice that its modified LAR is available on the Bureau's website if it was required to collect data in 2018, 2019, or 2020.

At its discretion, a Financial Institution may also provide its LAR, as modified by the Bureau, and impose a reasonable fee for any costs incurred to reproduce or provide the data. 12 CFR 1003.5(d)(2). Even if it decides to provide the modified LAR, a Financial Institution must comply with the notice requirement.

### 6.3.3 Posted notices

The HMDA Rule modifies Regulation C's posting requirement. Beginning January 1, 2018, a Financial Institution must post, in the lobby of its home office and each Branch Office physically located in an MSA or MD, a general notice about the availability of its HMDA data on the Bureau's website. 12 CFR 1003.5(e). A Financial Institution may, but is not required to, use the sample notice in Attachment C to satisfy this requirement. In any case, the notice must clearly convey that the Financial Institution's HMDA data are available on the Bureau's website at http://www.consumerfinance.gov/hmda. Comment 5(e).

### 6.3.4 Aggregated data

The FFIEC will use the annual data submitted pursuant to the HMDA Rule to make available aggregated data for each MSA and MD, showing lending patterns by property location, age of housing stock, and income level, sex, ethnicity, and race. 12 CFR 1003.5(f).

# 7. Enforcement provisions

A violation of Regulation C, both before and after the effective date of the HMDA Rule, is subject to administrative sanctions, including civil money penalties. Compliance can be enforced by the Federal Reserve Board, Federal Deposit Insurance Corporation, the Office of the Comptroller of Currency, the National Credit Union Administration, HUD, or the Bureau.

An error in compiling or recording data for a Covered Loan or Application is not a violation of HMDA or Regulation C if the error was unintentional and occurred despite maintenance of procedures reasonably adapted to avoid such errors. 12 CFR 1003.6(b)(1). However, a Financial Institution that obtains the property-location information for Applications and Covered Loans from third parties is responsible for ensuring that the information reported is correct. An incorrect entry for a census tract number is deemed a bona fide error and is not a violation if the Financial Institution maintains procedures reasonably adapted to avoid such an error. 12 CFR 1003.6(b)(2). Additionally, a census tract error is not a violation of HMDA or Regulation C if the Financial Institution obtained the census tract number from a geocoding tool on the Bureau's website. However, a Financial Institution's failure to provide the correct census tract number because the geocoding tool did not provide any census tract number for the property address is not excused as a bona fide error. Similarly, the failure to enter the correct census tract number because the Financial Institution entered an incorrect property address into the geocoding tool is not excused as a bona fide error. Comment 6(b)-2.

If a Financial Institution makes a good-faith effort to record all data fully and accurately within 30 calendar days after the end of the calendar quarter as required under the HMDA Rule, but some data are inaccurate or incomplete, the inaccuracy or omission is not a violation of HMDA or Regulation C if the Financial Institution corrects or completes the data prior to submitting its annual LAR. 12 CFR 1003.6(c)(1).

If a Financial Institution that is required to submit quarterly data makes a good-faith effort to report all data fully and accurately within 60 calendar days as required under the HMDA Rule, but some data are inaccurate or incomplete, the inaccuracy or omission is not a violation of HMDA or Regulation C if the Financial Institution corrects or completes the data prior to submitting its annual LAR. 12 CFR 1003.6(c)(2).

# 8. Mergers and acquisitions

## 8.1 Determining coverage

After a merger or acquisition, the surviving or newly formed institution is subject to Regulation C, effective January 1, 2018, if it satisfies the coverage criteria for either a Depository Financial Institution or a Nondepository Financial Institution. See Section 3 for more information on institutional coverage. When determining whether the institution is covered, the surviving or newly formed institution must consider the combined assets, locations, and lending activities of the surviving or newly formed entity and the merged or acquired entities or acquired branches. Comment 2(g)-3.

## 8.2 Reporting responsibility for calendar year of merger or acquisition

The following discusses the applicability of the HMDA Rule during the calendar year of a merger or acquisition:

If two institutions that are not subject to Regulation C merge, but the newly formed or surviving institution is subject to Regulation C, no data collection is required for the calendar year of the merger.

When a branch office of an institution that is not subject to Regulation C is acquired by another institution that is not subject to Regulation C, and the acquisition results in the acquiring institution becoming subject to Regulation C, no data collection is required for the calendar year of the acquisition.

If an institution that is subject to Regulation C and an institution that is not subject to Regulation C merge, and the surviving or newly formed institution is subject to Regulation C, for the calendar year of the merger, data collection is required for Covered Loans and Applications handled in the offices of the institution that was previously subject to Regulation C. For the calendar year of the merger, data collection is optional for Covered Loans and Applications handled in offices of the institution that was not previously subject to Regulation C.

When an institution that is subject to Regulation C acquires a branch office of an institution that is not subject to Regulation C, data collection is optional for Covered Loans and Applications handled by the acquired branch office for the calendar year of the acquisition.

If an institution that is subject to Regulation C and an institution that is not subject to Regulation C merge and the surviving or newly formed institution is not subject to Regulation C, data collection is required for Covered Loans and Applications handled prior to the merger in the previously covered institution's offices. After the merger date, data collection is optional for Covered Loans and Applications handled in the offices of the institution that was previously covered.

When an institution that is not subject to Regulation C acquires a Branch Office of an institution that is subject to Regulation C but that acquisition does not result in the acquiring institution becoming subject to Regulation C, data collection is required for transactions of the acquired Branch Office that take place prior to the acquisition. Data collection by the acquired Branch Office is optional for transactions taking place in the remainder of the calendar year of the acquisition.

If two or more institutions that are subject to Regulation C merge and the surviving or newly formed institution is also subject to Regulation C, data collection is required for the entire calendar year of the merger. The surviving or newly formed Financial Institution files either a consolidated submission or separate submissions for that calendar year.

When one institution subject to Regulation C acquires a Branch Office of another covered institution, data collection is required for the entire calendar year of the merger. Data for the acquired Branch Office may be submitted by either Financial Institution. Comment 2(g)-4.

## 8.3 Changes to appropriate Federal agency or TIN

Under the HMDA Rule, if the appropriate Federal agency for a Financial Institution changes, the Financial Institution must identify its new appropriate Federal agency in its annual submission for the year of the change. For example, if a Financial Institution's appropriate Federal agency changes in February 2019, it must identify its new appropriate Federal agency beginning with the annual submission of its 2019 data by March 1, 2020. For a Financial Institution required to comply with quarterly reporting requirements, the Financial Institution also must identify its new appropriate Federal agency in its quarterly submissions, beginning

with its submission for the quarter of the change, unless the change occurs during the fourth quarter. Comment 5(a)-2. For example, if the appropriate Federal agency for a Financial Institution changes during February 2020, the Financial Institution must identify its new appropriate Federal agency beginning with its quarterly submission for the first quarter of 2020.

If a Financial Institution obtains a new TIN, it should provide the new number in its subsequent data submission. For example, if two Financial Institutions that previously reported HMDA data merge and the surviving Financial Institution retained its LEI but obtained a new TIN, then the surviving Financial Institution should report the new TIN with its next HMDA data submission. Comment 5(a)-5.

## 8.4 Determining quarterly reporting coverage

In the calendar year of a merger, the HMDA Rule requires a surviving or newly formed Financial Institution to report quarterly, beginning with the first quarterly submission due date after the date of the merger, if when added together the surviving or newly formed Financial Institution and all Financial Institutions that merged reported at least 60,000 originated Covered Loans and Applications for the preceding calendar year. Similarly, in the calendar year of an acquisition, the surviving Financial Institution is required to report quarterly, beginning with the first quarterly submission due date after the date of the acquisition, if when added together the surviving Financial Institution and the acquired Financial Institution(s) or Branch Office(s) reported at least 60,000 originated Covered Loans and Applications for the preceding calendar year. If a Financial Institution acquires one or more Branch Offices of another Financial Institution but does not acquire the Financial Institution, it is required to count only the originated Covered Loans and Applications for the Branch Offices(s) that it acquired. Comment 5(a)-1.ii.

In the calendar year following a merger or acquisition, the surviving or newly formed Financial Institution is required to comply with the quarterly reporting requirements if a combined total of at least 60,000 originated Covered Loans and Applications is reported for the preceding calendar year by or for the surviving or newly formed Financial Institution and each Financial Institution or Branch Office that merged or was acquired. Comment 5(a)-1.iii.

# 8.5 Applicability of partial exemptions under the 2018 Act after a merger or acquisition

Effective January 1, 2020, following a merger or acquisition, the surviving or newly formed Financial Institution is eligible for partial exemptions if the combined lending activity of the surviving or newly formed Financial Institution and the merged or acquired institutions or acquired branches fall below the threshold under § 1003.3(d)(2) or (3). Comment 3(d)-1.

Following a merger or acquisition, the surviving or newly formed Financial Institution is not eligible for partial exemptions if either it or any of the institutions it acquired or with which it merged 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 meeting community credit needs on its most recent CRA examination." Comment 3(d)-2.

The scenarios below discuss the application of partial exemptions under the HMDA Rule during the calendar year of a merger or acquisition. The scenarios refer to the partial exemptions for closed-end mortgage loans under § 1003.3(d)(2), but the same principles apply to the partial exemptions with respect to open-end lines of credit under § 1003.3(d)(3).

If two institutions eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed Financial Institution meets all of the requirements for the partial exemption, the partial exemption for closed-end mortgage loans applies for the calendar year of the merger. Comment 3(d)-3.i.

If two institutions eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed Financial Institution does not meet the requirements for the partial exemption, collection of optional data on closed-end mortgage loans is permitted but not required for the calendar year of the merger (even though the merger creates a Financial Institution that does not meet the requirements for the partial exemptions for closed-end mortgage loans). If a branch office of a Financial Institution that is eligible for the partial exemption is acquired by another Financial Institution that is eligible for the partial exemption, and the acquisition results in a Financial Institution that is not eligible for the partial exemption, collection of optional data for closed-end mortgage loans is permitted but not required for the calendar year of the acquisition. Comment 3(d)-3.ii.

If a Financial Institution that is eligible for the partial exemption for closed-end mortgage loans merges with a Financial Institution that is not eligible for the partial exemption and the surviving or newly formed Financial Institution is not eligible for the partial exemption, for the calendar year of the merger, collection of optional data for closed-end mortgage loans is required for covered loans and applications handled in the offices of the merged Financial Institution that was previously not eligible for the partial exemption. For the calendar year of the merger, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the merged Financial Institution that was previously eligible for the partial exemption. Comment 3(d)-3.iii.

If a Financial Institution that is not eligible for the partial exemption for closed-end mortgage loans acquires a branch office of a Financial Institution that is eligible for the partial exemption, for the calendar year of the acquisition, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled by the acquired branch office. Comment 3(d)-3.iii.

If a Financial Institution that is eligible for the partial exemption for closed-end mortgage loans merges with a Financial Institution that is not eligible for the partial exemption and the surviving or newly formed Financial Institution is eligible for the partial exemption, for the calendar year of the merger, collection of optional data for closed-end mortgage loans is required for covered loans and applications handled in the offices prior to the merger of the Financial Institution that was previously not eligible for the partial exemption. After the merger, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the institution that was previously not eligible for the partial exemption. If a Financial Institution remains eligible for the partial exemption for closed-end mortgage loans after acquiring a branch or office of a Financial Institution that is not eligible for the partial exemption, collection of optional data for closed-end mortgage loans is required for transactions of the acquired branch office that took place prior to the acquisition. Collection of optional data for closed-end mortgage loans by the acquired branch office is permitted but not required for transactions taking place in the remainder of the calendar year after the acquisition. Comment 3(d)-3.iv.

# 9. Practical implementation and compliance considerations

This section of the guide sets forth some general compliance and practical implementation considerations related to the HMDA Rule. However, it is not a compliance plan and does not include every compliance or implementation issue that an institution may need to consider.

Each institution will need to determine its obligations under the HMDA Rule and the best way for the institution to comply with them. Depending on the institution, compliance could involve preparing or changing policies, procedures, and processes. It could also result in changes to the institution's operations and its relationships with third parties, such as vendors. It could involve additional staffing and training.

Institutions should consult with their legal counsel and compliance officers to understand their obligations under the HMDA Rule and to prepare and implement compliance plans.

## 9.1 Identifying affected institutions, products, departments, and staff

When planning, institutions should first determine if they are likely to be subject to the HMDA Rule and, if so, identify their affected products, departments, and staff. The effects on these products, departments, and staff may vary greatly depending on the institution's size, organizational structure, and the complexity of its operations and systems.

First, an institution should assess whether or not it will be a Financial Institution subject to the HMDA Rule. This assessment can be done by reviewing the HMDA Rule's effective dates and criteria for institutional coverage. The loan-volume threshold criterion for Closed-End Mortgage Loans is 25 Closed-End Mortgage Loans effective January 1, 2018, and the loan-volume threshold criterion for Open-End Lines of Credit changed from 500 to 200 Open-End Lines of Credit effective January 1, 2022. A bank, savings association, credit union, or

nondepository institution should review the 2018 changes as well as the loan-volume thresholds' effective dates. Financial Institutions that are not insured depository institutions or insured credit unions are not eligible for either of the partial exemptions. For more information on which institutions are subject to the HMDA Rule, see Section 3 of this guide. An institution can also use the HMDA Institutional Coverage Charts to help it determine if it is subject to Regulation C, as amended by the HMDA Rule. However, the HMDA Institutional Coverage Charts and this guide are not substitutes for the HMDA Rule. For more information on the partial exemptions, see Section 4.3.

Second, a Financial Institution must assess which of its products and services involve Covered Loans and reportable activity under the HMDA Rule. For more information on which transactions relate to Covered Loans and reportable activity, see Section 4 of this guide.

It is important to note that the HMDA Rule may not require a Financial Institution to report Open-End Lines of Credit. Initially, a Financial Institution is not required to collect or report information about Open-End Lines of Credit if it originated fewer than 500 Open-End Lines of Credit in either of the preceding two calendar years. Effective January 1, 2022, a Financial Institution is not required to collect or report information about Open-End Lines of Credit if it originated fewer than 200 Open-End Lines of Credit in either of the preceding two calendar years. For more information on Open-End Lines of Credit, Covered Loans, and Excluded Transactions, see Section 4.1 of this guide.

After determining which of its products and services involve transactions that must be reported, a Financial Institution can begin to assess which of its departments, systems, and staff will be affected.

Third, the Financial Institution should determine what information it must report and how it will collect this information. The information that a Financial Institution must report might vary depending on the type of transaction being reported. For example, a Financial Institution may not be required to collect and report the same information for a purchased Covered Loan as for an originated Covered Loan. It might not be required to report the same information for a business-purpose loan as for a consumer-purpose loan. Additionally, effective May 24, 2018, the HMDA Rule does not require certain insured depository institutions and insured credit unions to collect, record, or report certain data points if a partial exemption applies to a transaction. For more information on the partial exemptions, see Section 4.3.

After determining what information must be collected and reported for reportable transactions, a Financial Institution can refine its assessment regarding which of its systems, departments, and staff will be affected by the HMDA Rule.

### 9.1.1 Identifying changes to business processes, policies, and systems

The requirements of the HMDA Rule may affect a number of a Financial Institution's business systems, processes, and policies. A review should be conducted of existing business processes, policies, and systems that the Financial Institution, its agents, and other business partners use. Identifying impacts early will allow the Financial Institution to understand what changes will be needed to support ongoing compliance.

When reviewing its existing processes, policies, and systems, a Financial Institution should consider the HMDA Rule's requirement to submit data electronically beginning in 2018. Beginning in 2018, Financial Institutions will not be able to use paper-based submissions for HMDA data. The Bureau has created a web-based tool for submission of HMDA data. Financial Institutions should become familiar with the new web-based submission tool and be able to use it to submit data beginning in 2018. For more information on the web-based submission tool, see http://www.consumerfinance.gov/hmda/.

Financial Institutions may need to revise or develop processes and policies to comply with the changes to transactional coverage. For example, a Financial Institution may need to develop new processes and policies to comply with the reporting requirements for Open-End Lines of Credit.

### 9.1.2 Identifying impacts to key service providers or business partners

Financial Institutions should review their arrangements and agreements with third parties engaged for services related to mortgage or other support activities. Close coordination and discussion of implementation plans with these vendors and business partners is critical to ensure that the services for which they are engaged will continue to support the Financial Institution's business needs and comply with all regulatory and legal obligations.

Third-party relationships may need to be reviewed and adjusted to satisfy requirements for collecting, recording, or reporting required HMDA data, updating compliance and quality control systems and processes, and ensuring record management requirements are in place. If the Financial Institution seeks the assistance of vendors or business partners, it is responsible for understanding the extent of the assistance that they provide. Also, the data collection and reporting requirements in the HMDA Rule reinforce the need to assess current integrations between the Financial Institution's technology platforms and those of its third-party providers to determine what updates are necessary.

Software providers, other vendors, and business partners may offer compliance solutions that can assist with any necessary changes. Identifying these key partners will depend on the Financial Institution's business model. For example, Financial Institutions may find it helpful to coordinate and discuss potential implementation issues with their correspondents, secondary market partners, and technology vendors. In some cases, institutions may need to negotiate revised or new contracts with these parties, or seek a different set of services.

The Bureau expects supervised banks and nonbanks to have an effective process for managing the risks of service provider relationships. For more information, see CFPB Bulletin 2012-03 at http://files.consumerfinance.gov/f/201204_cfpb_bulletin_service-providers.pdf.

# 9.2 Implementation and compliance management support activities

## 9.2.1 Implementation and compliance management

Financial Institutions should develop implementation plans and follow change management procedures to implement the requirements of the HMDA Rule based on an assessment of impacts. The plans should be developed in consultation with, or reviewed by, key stakeholders such as legal, compliance, and information technology departments. Implementation plans should be proactively and clearly communicated to the Board of Directors and senior management.

Policies, procedures, and process maps may need to be updated to reflect the changes made to business processes in response to the requirements of the HMDA Rule. In addition, Financial

Institutions' compliance management systems and other risk management supporting activities may need to be adjusted to reflect the requirements of the HMDA Rule.

The HMDA Rule changes the way that HMDA data will be disclosed. These changes will require Financial Institutions to provide new notices and post revised notices. They may also affect policies and procedures. A Financial Institution may, but is not required to, use the model notices in Attachment C. For more information on disclosure requirements, see Section 6.3 of this guide.

The HMDA Rule's changes regarding the collection and reporting of an applicant's ethnicity, race, and sex will require that Financial Institutions revise their collection forms or Application forms. For more information on collecting ethnicity, race, and sex information, see Section 5.1 of this guide and appendix B to the HMDA Rule.

When implementing its compliance plan, a Financial Institution should note that many of the HMDA Rule's effective dates are applicable based on when a Financial Institution takes final action, not when it received an Application.

### 9.2.2 HMDA responsibilities

A Financial Institution's management should ensure that procedures and systems exist to collect and maintain accurate data for each Covered Loan and Application that the Financial Institution is responsible for reporting. The individual(s) assigned responsibility for preparing and maintaining the data should understand the regulatory requirements and be provided the resources and tools needed to produce complete and accurate data. Appropriate record entries for a Covered Loan or Application must be made on a LAR within 30 calendar days after the end of the calendar quarter in which the final action occurs (such as origination or purchase of a Covered Loan, or denial or withdrawal of an Application). The data must be submitted on time, and the institution should respond promptly to any questions that may arise during the processing of data submitted. An authorized representative of the Financial Institution with knowledge of the data submitted must certify the accuracy and completeness of the annual data submitted.

### 9.2.3 Staffing and training

To ensure that it can meet its obligations under the HMDA Rule, a Financial Institution should evaluate current staffing levels and relevancy and adequacy of training provided to employees. These employees likely include operations and lending-related staff such as loan officers, processors, compliance, and quality-control staff, as well as others who approve, process, or monitor mortgage loans. Training may also be required for other individuals that the Financial Institution, its agents, or its business partners employ.

Execution of tasks related to the preparation of reports or records are likely performed by compliance personnel of Financial Institutions. For some Financial Institutions, however, the data intake and transcribing stage could involve loan officers or processors whose primary function is to evaluate or process Applications. For example, loan officers may obtain information from applicants and input that information into the reporting system.

# ATTACHMENT A:

SAMPLE DATA COLLECTION FORM
DEMOGRAPHIC INFORMATION OF APPLICANT AND CO-APPLICANT

The purpose of collecting this information is to help ensure that all applicants are treated fairly and that the housing needs of communities and neighborhoods are being fulfilled. For residential mortgage lending, Federal law requires that we ask applicants for their demographic information (ethnicity, race, and sex) in order to monitor our compliance with equal credit opportunity, fair housing, and home mortgage disclosure laws. You are not required to provide this information, but are encouraged to do so. You may select one or more designations for "Ethnicity" and one or more designations for "Race."

The law provides that we may not discriminate on the basis of this information, or on whether you choose to provide it. However, if you choose not to provide the information and you have made this application in person, Federal regulations require us to note your ethnicity, race, and sex on the basis of visual observation or surname. If you do not wish to provide some or all of this information, please check below.

**Applicant:**

**Ethnicity:** – *Check one or more*
- ☐ Hispanic or Latino
  - ☐ Mexican
  - ☐ Puerto Rican
  - ☐ Cuban
  - ☐ Other Hispanic or Latino – *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on:*
- ☐ Not Hispanic or Latino
- ☐ I do not wish to provide this information

**Race:** – *Check one or more*
- ☐ American Indian or Alaska Native – *Print name of enrolled or principal tribe:*
- ☐ Asian
  - ☐ Asian Indian
  - ☐ Chinese
  - ☐ Filipino
  - ☐ Japanese
  - ☐ Korean
  - ☐ Vietnamese
  - ☐ Other Asian – *Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on:*
- ☐ Black or African American
- ☐ Native Hawaiian or Other Pacific Islander
  - ☐ Native Hawaiian
  - ☐ Guamanian or Chamorro
  - ☐ Samoan
  - ☐ Other Pacific Islander – *Print race, for example, Fijian, Tongan, and so on:*
- ☐ White
- ☐ I do not wish to provide this information

**Sex:**
- ☐ Female
- ☐ Male
- ☐ I do not wish to provide this information

**Co-Applicant:**

**Ethnicity:** – *Check one or more*
- ☐ Hispanic or Latino
  - ☐ Mexican
  - ☐ Puerto Rican
  - ☐ Cuban
  - ☐ Other Hispanic or Latino – *Print origin, for example, Argentinean, Colombian, Dominican, Nicaraguan, Salvadoran, Spaniard, and so on:*
- ☐ Not Hispanic or Latino
- ☐ I do not wish to provide this information

**Race:** – *Check one or more*
- ☐ American Indian or Alaska Native – *Print name of enrolled or principal tribe:*
- ☐ Asian
  - ☐ Asian Indian
  - ☐ Chinese
  - ☐ Filipino
  - ☐ Japanese
  - ☐ Korean
  - ☐ Vietnamese
  - ☐ Other Asian – *Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on:*
- ☐ Black or African American
- ☐ Native Hawaiian or Other Pacific Islander
  - ☐ Native Hawaiian
  - ☐ Guamanian or Chamorro
  - ☐ Samoan
  - ☐ Other Pacific Islander – *Print race, for example, Fijian, Tongan, and so on:*
- ☐ White
- ☐ I do not wish to provide this information

**Sex:**
- ☐ Female
- ☐ Male
- ☐ I do not wish to provide this information

**To Be Completed by Financial Institution (for an application taken in person):**

Was the ethnicity of the applicant collected on the basis of visual observation or surname?
☐ Yes
☐ No

Was the race of the applicant collected on the basis of visual observation or surname?
☐ Yes
☐ No

Was the sex of the applicant collected on the basis of visual observation or surname?
☐ Yes
☐ No

Was the ethnicity of the co-applicant collected on the basis of visual observation or surname?
☐ Yes
☐ No

Was the race of the co-applicant collected on the basis of visual observation or surname?
☐ Yes
☐ No

Was the sex of the co-applicant collected on the basis of visual observation or surname?
☐ Yes
☐ No

# ATTACHMENT B:

# Action taken chart

| Scenarios | Reportable Action Taken | Reportable Date |
|---|---|---|
| Financial Institution made a credit decision approving an Application, including a preapproval request, before loan closing or account opening and that credit decision resulted in a Covered Loan being originated. Comments 4(a)(8)(i)-1.<br><br>Financial Institution made counteroffer and applicant accepted resulting in a Covered Loan being originated. Comments 4(a)(8)(i)-9 and 4(a)(8)(ii)-5. | Loan originated | Generally, loan closing or account opening date. If applicable, can be: later date of initial funds disbursement; date Financial Institution acquired Covered Loan from the party that initially received the Application; or, for a construction-to-permanent loan, date Covered Loan converts to permanent financing |
| Financial Institution purchased a Covered Loan after closing or account opening, and Financial Institution did not make a credit decision on the Application prior to closing or account opening. Comments 4(a)(8)(i)-2 and 4(a)(8)(ii)-6.<br><br>Financial Institution made a credit decision on an Application prior to closing or account opening, but repurchased the Covered Loan from another entity to which the Financial Institution had sold it. Comments 4(a)(8)(i)-2 and 4(a)(8)(ii)-6. | Loan purchased | Date of purchase |

| | | |
|---|---|---|
| Financial Institution made a credit decision approving an Application before loan closing or account opening, all conditions were satisfied, Financial Institution agreed to extend credit, but a Covered Loan was not originated. Comments 4(a)(8)(i)-3, 4(a)(8)(i)-13, and 4(a)(8)(ii)-4. | | |
| Financial Institution made a credit decision approving an Application subject to conditions that are solely customary commitment or closing conditions,[25] and the conditions were not all met. Comments 4(a)(8)(i)-13 and 4(a)(8)(ii)-4. | | |
| Financial Institution made a credit decision approving an Application, subject solely to outstanding conditions that are customary commitment or closing conditions, but applicant failed to respond or a Covered Loan was not originated. Comments 4(a)(8)(i)-3 and 4(a)(8)(ii)-4. | Application approved but not accepted | Any reasonable date, such as approval date, deadline for accepting offer, or date file was closed |
| Financial Institution made a credit decision approving an Application, all underwriting and creditworthiness conditions[26] were met, outstanding conditions were solely customary commitment or closing conditions, and applicant expressly withdrew before a Covered Loan was originated. Comments 4(a)(8)(i)-13 and 4(a)(8)(ii)-4. | | |
| Covered Loan was originated, but Borrower rescinded after closing and before Financial Institution was required to submit its LAR containing information for the Covered Loan. Comments 4(a)(8)(i)-10 and 4(a)(8)(ii)-4. | | |

25 Customary commitment or closing conditions include: a clear-title requirement, an acceptable property survey, acceptable title insurance binder, clear termite inspection, a subordination agreement from another lienholder, and, where the applicant plans to use the proceeds from the sale of one home to purchase another, a settlement statement showing adequate proceeds from the sale. Comment 4(a)(8)(i)-13.ii.

26 Underwriting or creditworthiness conditions include: conditions that constitute a counter-offer, (such as a demand for a higher down-payment), satisfactory debt-to-income or loan-to-value ratios, a determination of need for private mortgage insurance, a satisfactory appraisal requirement, or verification or confirmation, in whatever form the Financial Institution requires, that the applicant meets underwriting conditions concerning applicant creditworthiness, including documentation or verification of income or assets. Comment 4(a)(8)(i)-13.iii.

| | | |
|---|---|---|
| Financial Institution denied an Application before applicant withdrew it and before file was closed for incompleteness. Comments 4(a)(8)(i)-4 and 4(a)(8)(ii)-2.<br><br>Financial Institution provided conditional approval specifying underwriting or creditworthiness conditions that were not all met. Comments 4(a)(8)(i)-13 and 4(a)(8)(ii)-2. | Application denied | Date Application is denied or date notice sent to applicant |
| Financial Institution made a counteroffer to lend on different terms than applicant's initial request, and applicant did not accept the counteroffer, declined to proceed, or failed to respond. Comments 4(a)(8)(i)-9 and 4(a)(8)(ii)-2. | Application denied (based on the original terms requested by applicant) | Date Application is denied or date notice sent to applicant |
| Financial Institution made counteroffer to lend on terms different than applicant's initial request, applicant agreed to proceed with terms of counteroffer, then Financial Institution conditionally approves application subject to underwriting or creditworthiness conditions, and applicant expressly withdraws before satisfying all underwriting and creditworthiness conditions and before the Financial Institution denies the Application or closes the file for incompleteness. Comment 4(a)(8)(i)-9. | Application withdrawn | Date the express withdrawal was received or date shown on the notification form (if written withdrawal) |

| | | |
|---|---|---|
| Application expressly withdrawn by applicant before Financial Institution made a credit decision denying or approving the Application and before file was closed for incompleteness. Comments 4(a)(8)(i)-5 and 4(a)(8)(ii)-3.<br><br>Financial Institution provided conditional approval specifying underwriting or creditworthiness conditions, and the Application was expressly withdrawn by the applicant before the applicant satisfied all specified underwriting or creditworthiness conditions and before the Financial Institution denied the loan or closed the file for incompleteness. Comments 4(a)(8)(i)-5 and 4(a)(8)(ii)-3. | Application withdrawn | Date the express withdrawal was received or date shown on the notification form (if written withdrawal) |
| Financial Institution approved an Application, subject to underwriting or creditworthiness conditions, sent notice of incompleteness under Regulation B, but the applicant failed to respond within the specified time. Comments 4(a)(8)(i)-13 and 4(a)(8)(ii)-2.<br><br>Applicant had not satisfied all underwriting or creditworthiness conditions, Financial Institution sent written notice of incompleteness under Regulation B, and the applicant did not respond to the request for additional information within the period of time specified in the notice. Comments 4(a)(8)(i)-6 and 4(a)(8)(ii)-2. | File closed for incompleteness<br>Note: A preapproval request that is closed for incompleteness is not reportable under HMDA | Date file was closed or date notice sent to applicant |
| Applicant had not satisfied all underwriting or creditworthiness conditions, Financial Institution sent written notice of incompleteness under Regulation B, the applicant did not respond, then the Financial Institution provided notice of adverse action on basis of incompleteness under Regulation B. Comments 4(a)(8)(i)-6 and 4(a)(8)(ii)-2. | Either file closed for incompleteness or application denied<br>Note: A preapproval request that is closed for incompleteness is not reportable under HMDA | Date file was closed, Application was denied (as applicable), or notice sent to applicant |

| | | |
|---|---|---|
| Application was a request for a preapproval under a Preapproval Program, the Financial Institution approved the preapproval request, but the Application did not result in the Financial Institution originating a Covered Loan. Comments 4(a)(8)(i)-8 and 4(a)(8)(ii)-4. | Preapproval request approved but not accepted | Any reasonable date, such as approval date, deadline for accepting offer, or date file was closed |
| Application was request for a preapproval under Preapproval Program, and the Financial Institution made a credit decision denying the preapproval request. Comments 4(a)(8)(i)-7 and 4(a)(8)(ii)-2. | Preapproval request denied | Date preapproval request was denied or date notice sent to applicant |

# ATTACHMENT C:

## Sample notices

**Below is a sample notice that can be provided to members of the public upon request to satisfy § 1003.5(b)(2) and (c). The following language is suggested, but is not required.**

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, age and income of applicants and borrowers; and information about loan approvals and denials. These data are available online at the Consumer Financial Protection Bureau's Web site (www.consumerfinance.gov/hmda). HMDA data for many other financial institutions are also available at this Web site.

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**Below is a sample posted notice that can be used to satisfy § 1003.5(e) and inform the public of availability of HMDA data. The following language is suggested, but is not required.**

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, age and income of applicants and borrowers; and information about loan approvals and denials. HMDA data for many other financial institutions are also available online. For more information, visit the Consumer Financial Protection Bureau's Web site (www.consumerfinance.gov/hmda).