

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

[Docket No. CFPB-2019-0021]

RIN 3170-AA76

Home Mortgage Disclosure (Regulation C); Reopening of Comment Period

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Reopening of comment period with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is reopening the comment period for specific aspects of the proposed rule published by the Bureau in the *Federal Register* on May 13, 2019 (May 2019 Proposal). The May 2019 Proposal proposed amendments to Regulation C relating to the coverage thresholds for reporting data on closed-end mortgage loans and open-end lines of credit and partial exemptions under the Home Mortgage Disclosure Act (HMDA). To facilitate the potential revisions of the thresholds that the Bureau proposed to take effect on January 1, 2020, the Bureau used a 30-day comment period, which ended on June 12, 2019. Later this summer, the national loan level dataset for 2018 and the Bureau's annual overview of residential mortgage lending based on that data (collectively, the 2018 HMDA Data) will be released. Stakeholders have asked to submit comments on the May 2019 Proposal that reflect the 2018 HMDA Data. To allow for the submission of such comments, the Bureau now reopens the comment period on certain aspects of the proposal until October 15, 2019.

DATES: The comment period for the proposed rule published May 13, 2019, at 84 FR 20972, is reopened with respect to the proposed changes relating to the permanent coverage thresholds for closed-end mortgage loans and open-end lines of credit in §§ 1003.2(g)(1)(v) and (g)(2)(ii) and

1003.3(c)(11) and (c)(12) and related commentary. Comments must be received by October 15, 2019.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB-2019-0021 or RIN 3170-AA76, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* 2019-NPRM-HMDAThresholds@cfpb.gov. Include Docket No. CFPB-2019-0021 or RIN 3170-AA76 in the subject line of the message.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

Instructions: The Bureau encourages the early submission of comments. All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning 202-435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal

information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Jaydee DiGiovanni or Shaakira Gold-Ramirez, Counsels; or Amanda Quester or Alexandra Reimelt, Senior Counsels, Office of Regulations, at 202–435–7700 or <https://reginquiries.consumerfinance.gov/>. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 2, 2019, the Bureau issued a notice of proposed rulemaking at 84 FR 20972 (May 2019 Proposal) relating to Regulation C’s coverage thresholds and the partial exemptions under HMDA and requested public comment.¹ The May 2019 Proposal was published in the *Federal Register* on May 13, 2019.

In the May 2019 Proposal, the Bureau proposed two alternatives to amend Regulation C to increase the current 25-loan coverage threshold for reporting data about closed-end mortgage loans so that institutions originating fewer than either 50 closed-end mortgage loans, or alternatively 100 closed-end mortgage loans, in either of the two preceding calendar years would not have to report such data. The May 2019 Proposal proposed an effective date of January 1,

¹ Home Mortgage Disclosure (Regulation C), 84 FR 20972 (May 13, 2019). On the same date, the Bureau also issued an advance notice of proposed rulemaking (ANPR) to solicit comment, data, and information from the public relating to the data points that the Bureau’s October 2015 final rule added to Regulation C or revised to require additional information and Regulation C’s coverage of certain business- or commercial-purpose transactions. Home Mortgage Disclosure (Regulation C) Data Points and Coverage, 89 FR 20049 (May 8, 2019); *see also* Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015). The ANPR was published in the *Federal Register* on May 8, 2019.

2020 for any amendment to the closed-end coverage threshold. The May 2019 Proposal would also adjust the coverage threshold for reporting data about open-end lines of credit by (a) extending to January 1, 2022 the current temporary coverage threshold of 500 open-end lines of credit, and (b) setting the permanent coverage threshold at 200 open-end lines of credit upon the expiration of the proposed extension of the temporary coverage threshold. In the May 2019 Proposal, the Bureau also proposed to incorporate into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018 to implement and clarify section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA),² and proposed to make other changes to effectuate section 104(a).

To facilitate the potential revisions of the thresholds that the Bureau proposed to take effect on January 1, 2020, the Bureau used a 30-day comment period for the May 2019 Proposal, which ended on June 12, 2019.³ The Bureau received over 300 comments. Among the comments received were a number of letters expressing concern that the 2018 HMDA Data would not be available until after the close of the comment period for the May 2019 Proposal. These commenters noted that the 2018 HMDA Data includes data points that were reported for the first time under the Bureau's October 2015 HMDA final rule and stated that access to the 2018 HMDA Data would enable the public to comment more precisely on the data that would be lost if the proposed changes were finalized. For example, a group of 18 consumer advocacy and other non-profit organizations asked the Bureau to reissue the May 2019 Proposal and allow for

² Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), 83 FR 45325 (Sept. 7, 2018).

³ A separate comment period related to the Paperwork Reduction Act closed on July 12, 2019.

a new 90-day comment period after the release of the 2018 HMDA Data.⁴ A State attorney general expressed concern that the May 2019 Proposal asked the public to provide comment on the efficacy of data it has yet to see. An industry commenter stated that analysis of the 2018 HMDA Data was necessary so as to gain an accurate understanding of how changes to the coverage thresholds would affect regulators and current HMDA reporters.

II. Discussion and Request for Comment

The Bureau has balanced the potential benefits from allowing interested parties additional time to consider the 2018 HMDA Data in commenting on the May 2019 Proposal with the Bureau's desire to finalize certain aspects of the May 2019 Proposal expeditiously. The Bureau expects the 2018 HMDA Data to be released in late summer. In light of these factors, the Bureau has decided that reopening certain aspects of the May 2019 Proposal for a limited period of time to comment is appropriate, as discussed below.⁵ The Bureau does not, however, believe it is necessary or appropriate to reissue the May 2019 Proposal with a new 90-day comment period as the letter from 18 non-profit organizations requested. Instead, the Bureau will reopen the comment period on certain aspects of the NPRM until October 15, 2019, so comments can

⁴ In addition to asking that the NPRM be reissued with a 90-day comment period, the comment from 18 non-profit organizations further requested that the Bureau reissue the ANPR to allow for comment informed by the 2018 HMDA Data. A group of three industry trade associations separately asked that the Bureau extend the ANPR comment period from 60 to 90 days so that, among other things, they would have sufficient time to survey their members about the questions presented in the ANPR. On June 27, the Bureau extended the ANPR comment period to October 15, 2019. 84 FR 31746 (July 3, 2019). In doing so, the Bureau explained that it expects the 2018 HMDA Data to be released in late summer and that the extension of the ANPR comment period to October 15, 2019 would allow interested parties adequate time to consider the 2018 HMDA Data before submitting their comments on the ANPR.

⁵ The Bureau has not received requests for additional time with regard to the separate comment period relating to the Paperwork Reduction Act, which closed on July 12, 2019, and is not reopening that aspect of the May 2019 Proposal for comment.

reflect the 2018 HMDA Data without interposing substantial delay in the adoption of any new permanent thresholds.

A. Provisions the Bureau is Reopening for Comment

The Bureau believes that it would be useful to have public comment on the 2018 HMDA Data in considering where to set the permanent coverage thresholds for closed-end mortgage loans and open-end lines of credit. For example, the new data may shed light on the number of institutions and percentage of market activity covered at different potential coverage thresholds and the value of the data that would not be reported if the thresholds were increased. The Bureau is therefore reopening the comment period and requesting comment on the Bureau's proposed changes to the permanent coverage thresholds for closed-end mortgage loans and open-end lines of credit. The relevant aspects are: (1) the proposed amendments to the permanent closed-end coverage threshold in §§ 1003.2(g)(1)(v)(A) and (g)(2)(ii)(A) and 1003.3(c)(11), and comments 2(g)-1, 2(g)-5, 3(c)(11)-1, and 3(c)(11)-2, that the Bureau proposed would take effect on January 1, 2020, and (2) the proposed amendments to the permanent open-end coverage threshold in §§ 1003.2(g)(1)(v)(B) and (g)(2)(ii)(B) and 1003.3(c)(12) and 2(g)-3 and 2(g)-5 and 3(c)(12)-1 and 3(c)(12)-2 that the Bureau proposed would take effect January 1, 2022.

Due to the reopening of the comment period on the permanent closed-end coverage threshold, the Bureau will not be able to finalize any change to the closed-end coverage threshold in time to take effect on the Bureau's originally proposed effective date of January 1, 2020. The Bureau therefore requests additional comment on the appropriate effective date for any change to the closed-end coverage threshold, should the Bureau decide to finalize a change. Specifically,

the Bureau requests comment on the costs and benefits of a mid-year effective date during 2020 (e.g., May 2020) versus a January 1, 2021 effective date.⁶ With respect to the alternative of a mid-year effective date during 2020, the Bureau also requests comment on the costs and benefits of specific days of the week or times of the month, quarter, or year for a new closed-end coverage threshold to take effect and whether there are any other considerations that the Bureau should address in a final rule if it were to adopt a mid-year effective date. Regarding the effective date for a permanent open-end coverage threshold, reopening the comment period will still allow the Bureau to issue a final rule to adjust the permanent open-end coverage threshold effective January 1, 2022, as the Bureau proposed in the May 2019 Proposal, should the Bureau choose to do so.

As discussed below, the Bureau has already received comment on the proposed two-year extension of the temporary coverage threshold for open-end lines of credit and the proposed amendments to incorporate the EGRRCPA's partial exemptions into Regulation C. The Bureau is not soliciting comment during the reopened comment period on these issues, and any further such comments will be considered outside of the scope of this request for public comment. The Bureau encourages commenters to limit their submissions accordingly to (1) the Bureau's proposed changes to the permanent coverage threshold for closed-end mortgage loans, (2) the Bureau's proposed changes to the permanent coverage threshold for open-end lines of credit, and (3) the appropriate effective date for any change to the closed-end coverage threshold. The reopened comment period will close on October 15, 2019, which will allow interested parties

⁶ If the Bureau adopted a mid-year effective date during 2020, affected institutions would be required to collect closed-end mortgage loan data for only part of 2020, and the Bureau could make reporting of such data optional in early 2021.

adequate time to consider the 2018 HMDA Data after its release in late summer. Comments on the proposed rule that were previously submitted during the initial comment period, which ended on June 12, 2019, remain part of the rulemaking docket and therefore do not need to be resubmitted for the Bureau to consider them.

B. Provisions the Bureau is not Reopening for Comment

The Bureau has decided not to reopen the comment period with respect to the May 2019 Proposal's proposed two-year extension of the temporary open-end threshold. As discussed in the May 2019 Proposal, the proposed extension would provide the Bureau with additional time to assess how a requirement to report open-end lines of credit would affect institutions whose origination volume falls just above the proposed threshold of 200 open-end lines of credit.⁷ The proposed extension would also provide any newly covered institutions with sufficient time to revise and update policies and procedures, implement any necessary systems changes, and train staff before the proposed threshold of 200 lines of credit would take effect in 2022. The Bureau does not believe that additional comment on the 2018 HMDA Data is necessary for the Bureau to determine whether to finalize the proposed two-year extension of the open-end threshold. The Bureau expects to issue a final rule in the fall of 2019 indicating whether it will extend the temporary open-end coverage threshold so that, if finalized, the extension can take effect as proposed on January 1, 2020. Therefore, the Bureau is not reopening that portion of the proposal for further comment relating to the 2018 HMDA Data.

The Bureau also does not believe that additional comment on the 2018 HMDA Data is necessary for its consideration of the provisions in the May 2019 Proposal that would incorporate

⁷ 84 FR 20972, 20982 (May 13, 2019).

the EGRRCPA partial exemptions into Regulation C and further implement EGRRCPA section 104(a). The Bureau is proposing to implement the new statutory partial exemptions that Congress established in EGRRCPA section 104(a), and the Bureau does not believe that comment on the 2018 HMDA Data would assist it in determining how to implement the new statutory partial exemptions. To provide further clarity on the new partial exemptions as quickly as possible, the Bureau anticipates that it will address the proposed amendments relating to the partial exemptions in a final rule issued in the fall of 2019.

[THIS SIGNATURE PAGE PERTAINS TO THE DOCUMENT TITLED "HOME
MORTGAGE DISCLOSURE (REGULATION C); REOPENING OF COMMENT
PERIOD."]

Dated: July 23, 2019.

Kathleen L. Kraninger

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.