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May 2, 2019

## **Summary of the 2019 HMDA Proposed Rule Relating to Coverage Thresholds and Partial Exemptions, and Advance Notice of Proposed Rulemaking Relating to Certain Data Points and Coverage of Certain Commercial-Purpose Transactions**

On May 2, 2019, the Consumer Financial Protection Bureau (Bureau) issued a notice of proposed rulemaking (NPRM) inviting the public to comment on potential amendments to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). Concurrently, the Bureau issued an Advance Notice of Proposed Rulemaking (ANPR) soliciting comments on certain aspects of Regulation C.

This summary provides an overview of the NPRM and ANPR but does not contain all the information included in the NPRM and ANPR. Readers are encouraged to review the NPRM and ANPR in their entirety.

### **Background**

#### *2015 and 2017 Rules*

In October 2015, the Bureau issued a final rule (2015 HMDA Rule)<sup>1</sup> implementing the amendments made to HMDA by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).<sup>2</sup> Among other changes, the 2015 HMDA Rule implemented new data points specified in the Dodd-Frank Act, added new data points pursuant to the Bureau's discretionary authority, and made revisions to existing data points. The 2015 HMDA Rule also established institutional and transactional coverage thresholds designed to work in tandem and

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<sup>1</sup> Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015).

<sup>2</sup> Public Law 111-203, 124 Stat. 1376, 1980, 2035-38, 2097-101 (2010).

to determine, in part, whether an institution is covered under HMDA and which transactions must be reported. The 2015 HMDA Rule set the closed-end threshold at 25 loans in each of the two preceding calendar years, and the open-end threshold at 100 open-end lines of credit in each of the two preceding calendar years.

In August 2017, the Bureau issued a final rule (2017 HMDA Rule)<sup>3</sup> to make technical corrections, clarify certain requirements, and to temporarily increase the open-end threshold to 500 open-end lines of credit for two years (calendar years 2018 and 2019).

*Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) and the 2018 Rule*

In May 2018, the President signed into law the EGRRCPA. The EGRRCPA amended HMDA by adding partial exemptions from HMDA's requirements for certain transactions of certain insured depository institutions and insured credit unions. In August 2018, the Bureau issued an interpretive and procedural rule (2018 Rule)<sup>4</sup> to implement and clarify changes made to HMDA by the EGRRCPA.

**Proposed changes to Regulation C**

*Closed-end threshold*

The Bureau is proposing to increase the closed-end institutional and transactional coverage threshold to 50 closed-end mortgage loans, or alternatively 100 closed-end mortgage loans, in each of the two preceding calendar years. Under the proposal, institutions originating fewer than 50 closed-end mortgage loans, or alternatively 100 closed-end mortgage loans, in either of the two preceding calendar years would not be required to report data on closed-end mortgage loans as of January 1, 2020.

*Open-end threshold*

The Bureau is proposing to extend the temporary threshold of 500 open-end lines of credit for institutional and transactional coverage to January 1, 2022. Once the extension expires, the Bureau proposes to set the institutional and transactional coverage threshold for open-end lines

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<sup>3</sup> Home Mortgage Disclosure (Regulation C), 82 FR 43088 (Sept. 13, 2017).

<sup>4</sup> 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).

of credit at 200. Under the proposal, institutions originating at least 200 open-end lines of credit but fewer than 500 open-end lines of credit would not be required to begin collecting HMDA data about open-end lines of credit until 2022.

#### *Incorporating the EGRRCPA partial exemptions and 2018 Rule into Regulation C*

The Bureau is proposing to incorporate the EGRRCPA's partial exemptions from HMDA's requirements into Regulation C. The proposal would incorporate into Regulation C the interpretations and procedures provided in the 2018 Rule, with minor adjustments. In addition, the Bureau is proposing to implement further the EGRRCPA amendments to HMDA by addressing certain interpretive issues relating to the partial exemptions that the 2018 Rule did not specifically address.

#### *Advance Notice of Proposed Rulemaking*

The Bureau is soliciting comments on whether to make changes to the data points that the 2015 HMDA Rule added to Regulation C or revised to require additional information. In addition, the Bureau is soliciting comments on the requirement that institutions report business- or commercial-purpose loans made to a non-natural person and secured by a multifamily dwelling.

#### **Additional resources and implementation support**

The Bureau has released an unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that the proposed amendments would make to the regulatory text and commentary in Regulation C.

#### **Submitting comments**

The NPRM has a comment period of 30 days following publication in the *Federal Register*. Detailed information on how to submit comments can be found in the NPRM.

The ANPR has a comment period of 60 days following publication in the *Federal Register*. Detailed information on how to submit comments can be found in the ANPR.