FDIC

Federal Deposit Insurance Corporation
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Financial Institution Letter
FIL-58-2018
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Home Mortgage Disclosure Act (HMDA): Bureau of Consumer Financial Protection Interpretive and Procedural Rule on Partial Exemptions from HMDA Requirements

Summary: The Bureau of Consumer Financial Protection released an interpretive and procedural rule to implement and clarify amendments to HMDA made by the Economic Growth, Regulatory Relief, and Consumer Protection Act. The rule provides further guidance from the Bureau on implementation of the partial exemptions available to qualifying institutions pursuant to the Act.

Statement of Applicability to Institutions with Total Assets under $1 Billion: This Financial Institution Letter applies to all FDIC-supervised institutions subject to HMDA and Regulation C. A HMDA exemption applies to institutions with assets at or below a threshold specified in Regulation C.

Distribution:
FDIC-supervised Institutions

Suggested Routing:
Chief Executive Officer
Chief Compliance Officer
Chief Lending Officer

Related Topics:
Home Mortgage Disclosure Act Regulation,
12 CFR Part 1003

Attachments:
Final Rule: Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act under the Economic Growth Act , Regulatory Relief, and Consumer Protection Act

FFIEC Filing Instructions Guide for HMDA Data Collected in 2018 (August 2018 version)

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Highlights:

- On August 31, 2018, the Bureau issued an interpretive and procedural rule to implement and clarify HMDA amendments made by the Economic Growth Act signed into law by the President on May 24, 2018.

- The Bureau's rule became effective on September 7, 2018. However, as interpreted by the Bureau, the HMDA amendments became effective when the Economic Growth Act was signed into law.

- The Economic Growth Act's HMDA amendments provide eligible insured depository institutions (IDIs) with a partial exemption from reporting certain data points with respect to closed-end mortgage loans, open-end lines of credit, or both. The partial exemptions are available to IDIs that meet conditions related to mortgage origination thresholds and Community Reinvestment Act (CRA) performance ratings.

- The Bureau's rule clarifies which data points are covered by the partial exemptions. The rule also clarifies that only loans and lines of credit that are otherwise reportable under Regulation C count towards the origination thresholds, as well as how to determine which CRA performance evaluations to consider in determining eligibility for a partial exemption.

- In addition, the rule clarifies that eligible IDIs generally may use a non-universal loan identifier for partially exempt transactions and may choose to report exempt data points as long as they report all data fields included in that data point.

Bureau of Consumer Financial Protection Interpretive and Procedural Rule to Implement Amendments to the Home Mortgage Disclosure Act Made by the Economic Growth, Regulatory Relief, and Consumer Protection Act

On August 31, 2018, the Bureau of Consumer Financial Protection issued an interpretive and procedural rule on the implementation of Section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act) signed into law by the President on May 24, 2018.[1]

The Economic Growth Act amends Section 304(i) of the Home Mortgage Disclosure Act (HMDA) by providing partial exemptions from HMDA's requirements available to eligible insured depository institutions and insured credit unions (collectively, IDIs).[2] The Economic Growth Act provides partial exemptions from HMDA's requirements for eligible IDIs with respect to closed-end mortgage loans, open-end lines of credit, or both. To be eligible for a partial exemption with respect to a particular type of loan, an IDI must have originated fewer than 500 loans of that type in each of the two preceding calendar years. The partial exemptions, however, are not available for an IDI that 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 in meeting community credit needs" in its most recent CRA examination.

The Bureau's rule provides clarifications related to the following matters:

- Data Points Covered by the Partial Exemptions: The rule identifies 26 data points covered by the partial exemptions and 22 other data points that all HMDA reporters must collect, record, and report.

- Loans Counted Toward the Partial Exemptions' Thresholds. The Bureau interprets the terms "closed-end mortgage loan" and "open-end line of credit" in the Economic Growth Act to include only those closed-end mortgage loans and open-end lines of credit that otherwise are reportable under Regulation C.

- Exception Based on Community Reinvestment Act Examination Reports. The Bureau interprets the Act to provide that the determination of which CRA examinations are the two most recent is made as of December 31 of the preceding calendar year.

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[1] The rule was effective upon publication in the Federal Register. 83 FR 45325 (Sept. 7, 2018). The Bureau explained that "the rule merely interprets and provides guidance regarding what Congress required in section 104(a) of the [Economic Growth] Act and provides procedures related to those requirements." Id. at 45332. The Bureau explained further that the rule "does not impose new, or change existing, substantive requirements that would require exercise of the Bureau's legislative rulemaking authority." Id.

[2] Pub. L. 115-174, Section 104(a). HMDA is implemented by Regulation C, 12 CFR Part 1003.

- Non-Universal Loan Identifier. If an IDI eligible for a partial exemption chooses not to report a universal loan identifier, the IDI must report a non-Universal Loan Identifier unique within the IDI.

- Permissible Optional Reporting of Exempt Data Points. An eligible IDI may voluntarily report data points that are covered by the Act's partial exemptions. However, if the IDI reports any data field for such a data point, it must report all data fields associated with that data point. For example, if an IDI voluntarily reports street address for a transaction, it must also report zip code, city, and state for that transaction.

The rule states that the Bureau anticipates initiating a notice-and-comment rulemaking to incorporate these interpretations and procedures into Regulation C and further implement the Economic Growth Act.

To supplement the rule, the FFIEC Filing Instructions Guide for HMDA Data Collected in 2018 (FIG) has been revised to reflect exemption codes.[3] The Bureau also has issued additional resources to aid compliance.[4]

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[3] The August 2018 version of the FIG is available at https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2018-hmda-fig-2018-hmda-rule.pdf.

[4] The Bureau's Executive Summary of the rule is available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp_hmda_interpretive-procedural-rule_2018-08_executive-summary.pdf. The Bureau's updated chart describing reportable HMDA data is available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201710_cfpb_reportable-hmda-data_regulatory-and-reporting-overview-reference-chart.pdf.