



Comment Call (14-15) CFPB – Home Mortgage Disclosure Act (HMDA)

Impact: Federal and State Chartered Credit Unions

Relevant Department: CEO / Lending

Priority Level: *High*

Background / Credit Union Summary

The Consumer Financial Protection Bureau (CFPB) is proposing revisions to Regulation C to implement amendments to the Home Mortgage Disclosure Act (HMDA) made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

The CFPB is proposing that credit unions report new data points that were identified within the Dodd Frank Act and additional points that the CFPB believes may be necessary to carry out the purposes of HMDA. The proposal also requires that HMDA data be reported on a quarterly basis as opposed to annual basis for certain financial institutions with over 75,000 covered loans.

The proposal also adjusts the coverage test to a loan-volume threshold of 25 loans (excluding home equity lines of credit) and eliminates the requirement to report unsecured home improvement loans. Although unsecured home improvement loans will no longer need to be reported, the CFPB is reporting that all closed end loans and open-end lines of credit, and reverse mortgages secured by dwellings will need to be reported.

The proposal can be found [here](#).

Comments must be received on or before **October 22, 2014**

Summary of Proposed Rule Changes and Request for Comment

Comments

The CFPB seeks comment on alternatives to addressing any potential risks to privacy interests created by the reporting of HMDA data to the CFPB and other agencies, including the impact of such alternatives of the utility of the data, on burden to financial institutions and risks of errors in reporting, and on alignment with existing industry standards for transmitting mortgage data.

The CFPB solicits feedback on any privacy risks created by the proposed revisions to the data fields required to be reported on the LAR and the corresponding benefits of those new data fields.

Section 1003.1 Authority, Purpose, and Scope

Institutional Coverage

The CFPB proposes to adjust Regulation C's institutional coverage to adopt a uniform loan volume threshold of 25 covered loans, excluding open-end lines of credit, applicable to all financial institutions (25 loan volume test).

Transactional Coverage

The CFPB proposed to expand the types of transactions that financial institutions must report data under Regulation C to include all mortgage loans, reverse mortgages and lines of credit secured by a dwelling. The current determination

is based on the purpose of the loan. This proposed modification will include several types of transactions not currently covered including home-equity loans and commercial loans that are secured by a dwelling but do not satisfy the current purpose based transactional coverage test. This modification includes all reverse mortgages secured by a dwelling, regardless of the purpose.

Section 1003.2 Definitions

Preapproval Programs

The proposed revisions specify that a program that meets the definition outlined in the regulation (regardless of its name) and that a program described as a “preapproval program” that does not meet the definition in the regulation, is not a preapproval program for purposes under Regulation C. The revisions also specify that a credit union need not treat ad hoc requests for preapprovals as part of the preapproval program for purposes of Regulation C, but also notes that credit unions should be generally consistent in procedures for considering such requests.

Comments

The CFPB solicits feedback on whether additional clarification on the coverage of preapprovals is needed and, if so, how the coverage of preapprovals should be determined in light of HMDA’s purposes.

Closed-End Mortgage Loan

The definition would include all dwelling-secured loans that are not currently covered by Regulation C, regardless of the purpose of the loan (business purpose for example). The CFPB is proposing to define a closed-end mortgage loan as a debt obligation secured by a lien on a dwelling that is not an open line of credit, reverse mortgage, or excluded from coverage.

Comments

The CFPB seeks additional information to ensure that this modification would provide useful data to the public. Specifically, where this proposed modification would be as valuable to the public as the CFPB’s preliminary analysis suggests, whether there would be unique costs or burdens associated with the proposed modification and whether there are additional considerations that should be included in the CFPB’s analysis. The CFPB also requests feedback if commentary is needed to clarify the definition or facilitate compliance.

The CFPB also seeks feedback regarding whether any types of dwelling-secured loans should be excluded from the requirements of this regulation, which types of loans should be excluded, and how this proposed modification might affect a financial institution’s Community Reinvestment Act reporting requirements.

Would members of the public use data related to business-purpose loans to determine whether financial institutions are fulfilling their obligations to serve community housing needs? Should dwelling-secured loans used for business purposes be excluded from the scope of the regulation? Comments and information related to the potential compliance costs associated with business purpose loans are also being sought.

If the CFPB were to exclude business purpose loans from the reporting requirements, are there any further modifications to or exclusions from the requirements to be made?

Covered Loan

The CFPB proposes to define a covered loan as a transaction that is, as applicable, a closed-end mortgage loan, an open-end line of credit, or a reverse mortgage (under definitions within the regulation).

Comments

The CFPB seeks feedback on whether this new proposed definition is appropriate. Is commentary needed to clarify the definition or facilitate compliance?

Dwelling

The CFPB proposes to move the geographic location requirement currently in the definition and add examples of dwellings to the commentary.

Commentary is also being updated to clarify that recreational vehicles, including boats, campers, travel trailers, and park model recreational vehicles, are not considered dwellings under the regulation, regardless of whether they are used as residences.

The proposal provides that structures designed for residential purposes, but used exclusively for commercial purposes would not be dwellings under Regulation C and provides examples of daycare facilities and professional offices.

The CFPB would like to adopt a new comment regarding mixed-use property. Specifically the comment provides that if a property contains five or more individual dwelling units, a financial institution should consider it to have a primary residential use (even if it also contains commercial space).

Comments

The CFPB seeks feedback on whether additional guidance is necessary to distinguish when multiple family buildings should be considered part of the same complex and multifamily dwelling or when they should be considered separate properties and how to distinguish these scenarios.

The CFPB solicits feedback on whether excluding the removal of reference to mobile homes (to reduce confusion with the current definition of manufactured home – which applies to mobile homes post 1976) is appropriate or whether such homes should be included in the definition of dwelling, and/or whether an additional enumeration should be added to the construction method reporting requirement.

The CFPB seeks feedback on whether excluding houseboats and floating homes is appropriate and will facilitate compliance with HMDA. Additionally, since the definition of dwelling is different from Regulation Z, which does treat recreational vehicles used as residences as dwellings, the CFPB seeks comment on whether financial institutions would prefer to report loans and applications for dwellings as defined under Regulation Z, rather having them excluded under Regulation C as proposed.

Regarding the dwelling exclusion for daycares and professional offices, the CFPB solicits feedback regarding whether the proposed revisions provide institutions with sufficient clarity to identify transactions that must be reported and whether any additional exclusions or examples would be appropriate.

Feedback is requested on whether it would be preferable to establish a bright-line rule for mixed-use property. Should mixed-use property be reported if it includes any individual dwelling units, or whether a clear standard can be provided for mixed-use property with a de-minimus residential component to be excluded?

Financial Institution

The CFPB proposes to adjust Regulation C's institutional coverage to adopt a uniform loan volume threshold of 25 loans applicable to all financial institutions. Among other criteria, financial institutions would be required to report HMDA data if they originated at least 25 covered loans, excluding open-end lines of credit, in the preceding calendar year. The CFPB believes that the proposed coverage criteria may increase the number of non-depository institutions covered by HMDA by as much as 40% and the number of reported organizations and applications by non-depository institutions by as much as 6%. The CFPB believes that it may not be appropriate to require financial institutions that originate fewer than 25 covered loans annually to report HMDA data. They believe that the costs to institutions that originate fewer than 25 covered loans may not justify the benefit from the data collected from those institutions.

Comments

The CFPB seeks comment on whether it has appropriately calibrated the loan volume test in terms of the number of loans included. They also seek comment on whether the loan volume test excludes important data about particular types of transactions, such as multifamily loans.

The CFPB seeks comment on the proposed 25 loan volume test including:

1. The extent to which it may exclude valuable data;
2. Whether it would prevent public officials and the public from understanding if the institutions excluded by the proposed 25 loan volume test are serving the needs of their communities; and
3. Whether it would prevent public officials and the public from identifying geographic areas that may benefit from private and public sector investment.

Does the proposed 25 loan volume test exclude data that is valuable for identifying fair lending issues? What about excluding important data about particular types of transactions, such as multifamily loans?

Is the proposed loan-volume test properly calibrated? What advantages are there in setting the volume higher or lower in terms of the quality and quantity of the data collected?

The CFPB is also soliciting feedback on whether it should include open-end lines of credit in the types of loans that count toward the proposed loan volume threshold in light of the potential value of information about open-end lines of credit. Input is sought that would allow the CFPB to estimate the impact on HMDA data if open-end lines of credit were excluded from or included in the loan volume threshold. Of particular interest would be the types of institutions that would be covered or not, the types of mortgage businesses in which they engage and the communities they serve.

All aspects of the proposed 25 loan volume test, including the number and types of loans that should be included is being sought by the CFPB. Feedback on whether a multiyear look-back period would ease the burdens associated with unpredictable compliance obligations that may result from the proposed 25 loan volume test is also being sought.

Home Improvement Loan

The CFPB is proposing to exclude loans that are not secured by a lien on a dwelling from the definition of home improvement loan. The CFPB is not aware of any instances where a community group relied on unsecured home improvement loan data to determine if a financial institution was serving the housing needs of a neighborhood, such as through discussions related to bank merger or branch expansion requests. Few fair lending cases appear to use unsecured home improvement loan data and the CFPB is not aware of any research studies that relied on that data. Therefore, unsecured home improvement loan data may not provide useful information to the public.

Comments

Feedback is being sought on whether this exclusion of home improvement loans is appropriate. In addition to general feedback, the CFPB requests comment on whether financial institutions rely on unsecured home improvement loan data for purposes of fair lending examinations, and whether there are any other considerations that the CFPB should analyze in determining whether the proposed exception is appropriate.

Home Purchase Loan

The CFPB proposes to modify the current definition of “home purchase loan” to replace “loan” with “covered loan.” Commentary is being amended for clarity and additional illustrative examples. For example, clarifying that an assumption is a home purchase loan when a financial institution enters into a written agreement accepting a new borrower as the obligor on an existing obligation for a covered loan.

Comments

The CFPB seeks feedback on the proposed relocations, modifications and the deletion of commentary related to home purchase loans. Additionally, feedback is requested on whether additional comments or examples would help clarify or facilitate compliance.

Loan Application Register (LAR)

The CFPB is proposing to define this term to mean a register in the format prescribed in appendix A to the relevant part of the regulation.

Comments

Comments are sought on this technical modification, and whether additional changes could be made to improve the clarity of the regulation.

Manufactured Home

The CFPB is proposing to make technical corrections and minor wording changes to the definition and commentary. The definition refers to the Federal building code for manufactured housing established by HUD, and that modular or other factory built homes that do not meet the HUD code standards are not manufacture homes for the purposes of the regulation. The CFPB believes this comment will facilitate compliance by providing general guidance on distinguishing manufactured homes from other types of factory-built residential structures.

Comments

Would additional guidance provide greater clarity in this area?

Multifamily Dwelling

The CFPB is proposing to add a new definition of multifamily dwellings. It would define a multifamily dwelling as a dwelling, regardless of construction method, that contains five or more individual dwelling units. The CFPB believes this definition will facilitate compliance by providing a clear definition for multifamily dwelling for reporting and exception purposes.

Comments

Is the definition appropriate, are there any existing or proposed data points that should be modified or eliminated for multifamily dwellings?

Open-End Line of Credit

The CFPB is proposing mandatory reporting of home equity lines of credit data and the reporting of dwelling-secured commercial line of credit data. The definition of an open line of credit will be as defined within Regulation Z, but without regard to whether the credit is for personal, family, or household purposes, without regard to whether the person to whom credit is extended is a consumer, and without regard to whether the person is extending credit is a creditor.

Comments

Is this proposed modification and definition appropriate? Would additional clarification help facilitate compliance? How will this impact costs, burdens and compliance challenges with expanding the transactional coverage of the regulation? The CFPB also requests commenters differentiate between home equity lines of credit and dwelling secured commercial lines of credit when providing feedback, as precise feedback about these different products would assist in the CFPB's efforts to develop an effective final rule.

The CFPB solicits feedback regarding whether any types of dwelling-secured loans or lines of credit should be excluded from the requirements of the regulation, and which types of loans or lines of credit should be excluded?

Refinancing

The CFPB is proposing to define a refinancing to mean a covered loan in which a new debt obligation satisfies and replaces an existing debt obligation by the same borrower, in which both the existing debt obligation and the new debt obligation are secured by liens on dwellings.

Comments

Is the proposed definition appropriate and/or is additional clarification necessary?

Reverse Mortgage

Reverse mortgages that are home purchase loans, home improvement loans, or refinancings under the current definition are subject to the data collection and reporting requirements. The CFPB believes the current applicability of the regulation is a source of confusion, for example financial institutions are required to report on a reverse mortgage that is a home purchase loan, home improvement loan, or a refinancing, but if the reverse mortgage is also a home equity line of credit, the financial institution may report that information, but is not required to do so. Therefore, the CFPB is proposing to expand the scope of reportable transactions to include all reverse mortgages, regardless of purpose, and by adding a new definition for reverse mortgages in the regulation. The definition of reverse mortgage is being proposed to correspond to the definition in Regulation Z.

Comments

Is the proposed definition appropriate? Although no commentary is being proposed, the CFPB solicits feedback regarding whether illustrative examples would help clarify the proposed definition or facilitate compliance.

Section 1003.3 Exempt Institutions and Excluded Transactions

Excluded Transactions

Currently, excluded transactions are found within the regulation, appendix A, and the commentary. The CFPB is proposing to consolidate the list of excluded transactions in 1003.3(c). Commentary will also be included in this section.

Loans secured by a Lien on Unimproved Land

The CFPB proposes commentary to clarify that a loan that is secured by vacant land under Regulation X (1024.5(b)(4)) is also considered a loan secured by a lien on unimproved land under Regulation C. It also explains that a loan is not secured by a lien on unimproved land if the financial institution knows or reasonably believes that within 2 years after the loan closes, a dwelling will be constructed or placed on the land using the loan proceeds.

Comments

In general, is this proposed commentary appropriate?

Temporary Financing

The CFPB is also proposing that a loan that is considered temporary financing under Regulation X (1024.5(b)(3)) is also considered temporary financing under Regulation C. The commentary goes on to explain that a loan that is designed to be converted to permanent financing by the same financial institution or a loan that is used to finance transfer of title to the first user is not temporary financing. The proposed comment clarifies that if an institution issues a commitment for permanent financings, with or without conditions, the loan is not considered temporary financing.

Comments

In general, is this proposed commentary appropriate?

Section 1003.4 Compilation of Reportable Data

Data Format and Itemization

The CFPB is proposing alignment of the HMDA data requirements, as applicable with MISMO (Mortgage Industry Standards Maintenance Organization)/ULDD (Uniform Loan Delivery Dataset) data standards.

Comments

The CFPB solicits feedback on whether the proposed additions to HMDA data are appropriate. Also on whether including additional or different information in the HMDA data, such as an indication of whether the loan is subject to mortgage insurance, would better effectuate HMDA's purposes.

The CFPB also seeks feedback from small financial institutions specifically, about whether they, or their vendors, use MISMO compliant data definitions and standards, and the potential effect on small financial institutions of alignment of the HMDA data requirements with MISMO data standards.

Reporting Transactions Involving More Than One Institution

The proposed amendments clarify that the financial institution that makes the credit decision prior to closing, or prior to when the loan would have closed if the application does not result in an origination, reports the transaction as an origination or application, respectively.

Whether the loan closed or would have closed in the institutions name is not relevant for HMDA reporting. Commentary is provided to discuss these reporting responsibilities.

Comments

The CFPB is looking for feedback on whether the proposed amendments and associated commentary are appropriate generally.

Repurchased Loans

Proposed comments would provide that when a covered loan that a financial institution initially originated and sold to another financial institution or secondary market entity is repurchased by the originating financial institution within the same calendar year as it was originated, the originating financial institution should not report it as sold, and the purchasing financial institution should not report it as purchased.

Comments

The CFPB seeks feedback on whether repurchases should be reported under Regulation C, and how they should be handled for financial institutions required to report on a quarterly basis.

4(a)(1)(i) Loan Identifier

Currently, this portion of Regulation C requires financial institutions to report an identifying number for each loan or loan application reported. The CFPB proposes to replace Regulation C's existing loan identifier with a new self-assigned loan or application identifier that would be unique within the industry, would be used by all financial institutions that report on the loan or application for HMDA purposes, and could not be used to directly identify the applicant or borrower. The proposed regulation would provide that the ULI (universal loan identifier) shall begin with the financial institution's Legal Entity Identifier. That ULI shall follow that Legal Entity Identifier with up to 25 additional characters to identify the covered loan application, which (1) may be letters, numerals, symbols, or a combination of any of these; (2) must be unique within the financial institutions; and (3) must not include any information that could be used to directly identify the applicant or borrower.

The CFPB is also considering the requirement for financial institutions to use a secure hash algorithm to encrypt their ULIs prior to submission to the CFPB or the appropriate federal agency. A hash function is explained to be any algorithm that maps data of arbitrary length to data of a fixed length. A secure hash algorithm is designed to provide a measure of encryption. If the CFPB were to require hashing, it could provide financial institutions tools to use the hashing.

Comments

Feedback is sought on whether the proposed changes to the loan or application identifier used for HMDA reporting purposes are appropriate, as well as feedback on other possible approaches to identify loans and applications in HMDA reporting.

Are the privacy limitations within the proposed regulation and commentary sufficient to protect the applicant and borrower privacy? Should the unique identifier be required for all entries on the LAR or only for loan originations and purchases? Is 25 characters appropriate for the maximum number to be used in identifying the covered loan or application?

Should the CFPB require financial institutions to apply a secure hash algorithm to their Legal Entity Identifier plus the identifier for the loan or application and then report the resulting message digest as the ULI, in lieu of reporting an unhashed ULI. How should this hashing be done?

4(a)(1)(ii) Application Date

Technical and wording changes will be made to this section which requires reporting of the date the application was received. There was concerns from smaller institutions regarding reporting the application date for commercial loans, specifically what date should be used for reporting.

Comments

Should additional guidance be provided on how HMDA reports may determine the application date for commercial loans?

4(a)(2) Type of Loan or Application

The CFPB retains the current reporting requirement, but proposes to include the text of the statutory provision, with conforming modifications, directly in to Regulation C, including loan types.

Comments

Are the proposed modifications appropriate?

4(a)(3) Purpose

This section requires financial institutions to identify the purpose of a loan or application as either for home purchase, home improvement, or refinancing. While the CFPB is only proposing technical amendments to conform to the addition of closed-end mortgage loans.

The CFPB is considering the requirement to report whether a covered loan or application is for a cash-out refinancing, but wishes to obtain additional information to determine whether such a requirement is appropriate.

The CFPB is also proposing to modify this portion of the regulation to provide that financial institutions shall report whether the covered loan is, or the application is for a home purchase loan, home improvement, refinancing or for another purpose.

Comments

Should the loan purpose reporting requirement be modified with respect to home improvement loans and cash-out refinancings?

Since the CFPB is proposing to exclude unsecured home improvement loans from the scope of Regulation C, should this section be modified so that financial institutions would not be required to identify covered loans for the purpose of home improvement? Are there ways to lessen costs associated with reporting secured home improvement loans and improve the usefulness of the data? What are the current costs associated with reporting secured home improvement loans?

Should the regulation be modified to require financial institutions to identify separately rate-and-term refinancings from cash-out refinancings? Is there a clear and bright line definition of cash-out refinancing that would ensure the public is provided with useful data while minimizing the compliance burden associated with this potential reporting requirement? Do financial institutions currently differentiate between rate-and-term refinancings and cash-out refinancings? If not, what are the projected costs of upgrading policies, procedures and systems to make this differentiation?

The CFPB solicits feedback regarding the costs and benefits associated with the proposed requirements to have credit unions report the purpose of the loan and if additional modifications are appropriate?

Is it appropriate to modify the proposed requirements for commercial transactions, or to exclude them from HMDA? Is it appropriate to add a purpose requirement for commercial loans or some other method of uniquely identifying commercial loans in the HMDA data?

4(a)(4) Preapproval

This section is being proposed to provide for instructions for the reporting of preapprovals. This section will provide a definition of a preapproval and that the code should not be used for withdrawals or requests for preapprovals that are closed for incompleteness since they are not reportable.

4(a)(5) Property Type

This section requires the reporting of property type of the dwelling to which a loan or application relates. The proposal would provide additional guidance on identifying and reporting modular homes, specifically through the use of the construction method.

Comments

Comments are requested generally on whether the proposed revisions are appropriate or whether more detailed enumerations for construction method would be appropriate?

4(a)(6) Owner-Occupancy

The CFPB is proposing to modify this section to provide that a financial institution report whether the covered property is or will be used by the applicant or borrower as a principal residence, as a second residence, or as an investment property.

Since the MISMO guidelines provide for a definition of investment property solely based on reference to whether the property will generate rental income, the CFPB is concerned that it doesn't encompass all properties that commonly would be considered investment properties under the reporting requirements (such as the purchase of a property for a family member to reside in).

Comments

The CFPB seeks comments regarding whether this proposed modification is appropriate. Additionally, whether, and the extent to which, financial institutions do not recognize the difference between principal, second or investment properties for underwriting, pricing or other purposes. Would the financial institution incur unique costs or burdens associated with this proposed requirement?

What challenges would small financial institutions face when reporting owner occupancy status?

Does the proposed instruction align with MISMO, while accommodating financial institutions that are reporting investment properties that are not recognized as such under MISMO? Are there any clarifications or changes that need to be made to facilitate compliance?

4(a)(7) Amount of loan

The CFPB is proposing to modify the amount reported for an open-end line of credit to be the amount of credit available to the borrower under the terms of the plan. For a reverse mortgage, the amount of the covered loan is the in the initial principal limit, as determined pursuant to section 255 of the National Housing Act and implementing regulations and mortgagee letters prescribed by HUD. The CFPB is also proposing that the loan amount be reported in dollars rather than rounded to the nearest thousand.

Comments

Is the proposed modification appropriate for reverse mortgages? The CFPB seeks feedback on the determination of loan amount for non-federally insured reverse mortgages.

Feedback is also being requested on the reporting of price in dollars.

4(a)(8) Action taken

The CFPB is proposing to revise comment to require financial institutions to report rescinded transactions as applications approved but not accepted. The CFPB believes that approved but not accepted more accurately reflects the outcome of a rescinded transactions.

Clarification will be provided on how to report action for conditional approvals. If the approval is conditioned on satisfying underwriting or creditworthiness conditions and they are not met, the institution reports the action taken as a denial. If however, the conditions involve submitting additional information about creditworthiness that the institution needs to be make the credit decision, and the institution has sent a written notice of incompleteness under Reg B and the applicant did not respond within the time frame, the institution reports the action taken as file closed for incompleteness. If the conditions are solely customary commitment or closing conditions and the conditions are not met, the institution would report the action taken as approved but not accepted. If all the conditions are satisfied and the institution agrees to extend credit but the covered loan is not originated, the institution would report the action taken as application approved but not accepted. If the applicant expressly withdraws before satisfying all underwriting or creditworthiness conditions and before the institution denies the application or closes the file for incompleteness, the institution reports the action taken as application withdrawn. If all underwriting and creditworthiness conditions have been met, and the conditions are solely customary commitment or closing conditions and the application expressly withdraws before the covered loan is originated, the institution would report the action taken as application approved, but not accepted.

Comments

How frequently are rescissions exercised and is this proposed change appropriate? Are the additions for the conditional approvals appropriate, would additional examples be appropriate?

4(a)(9)(i) Property Address

Proposed revisions would require financial institution to report the postal address of the property securing or, in the case of an application, proposed to secure the covered loan. The CFPB proposes instructions in appendix A to allow a financial institution to omit certain of the required data fields if aspects of the property's post address are not known.

The CFPB is considering the creation of a system where a financial institution reports only the postal address and the CFPB provides the financial institution with the census tract, county, MSA or MD, and State. If the CFPB is not able to achieve this, they may not elect to finalize the proposal to collect postal address, but would likely finalize the proposal to continue to collect the currently required property location information.

Regarding covered properties related to multiple properties, the CFPB clarifies the institutions reporting requirements. Proposed revisions explain that if a covered loan relates to more than one property and only one property is taken as or, in the case of an application, proposed to be taken as security, a financial institution reports the information required by the regulation for the property taken as or, in the case of an application, proposed to be taken as security.

Additionally, if more than one property is taken or, in the case of an application, proposed to be taken as security for a single covered loan, a financial institution may report one of the properties using one entry on its LAR or report all of the properties using multiple entries on its LAR.

Comments

The CFPB solicits feedback on whether to collect a parcel identifier generally and whether postal address is the appropriate way to collect a parcel identifier. Also, whether to require reporting of a parcel identifier for all entries or only for originations and purchases?

The CFPB seeks comments on whether such an operational change would alleviate burden and on whether such an operational change is appropriate generally.

The CFPB also solicits feedback on whether the proposed comments are appropriate generally.

4(a)(10)(i)

Ethnicity, Race, and Sex

The CFPB proposes to modify reporting instructions which requires the financial institution to use “not applicable” for the ethnicity, race and sex section if the borrower is not a natural person, for example, a corporation or partnership. For transactions involving a trust, the financial institution should report “not applicable” for the government monitoring information if the trust is the borrower or applicant.

Age

The CFPB is proposing to implement the requirement to collect and report age by adding this characteristic to the information listed in the proposed regulation. In light of privacy concerns related to reporting the date of birth, the CFPB proposes that financial institutions enter the age of the applicant or borrower, as of the date of application, in number of years as derived from the birthdate on the application.

Comments

Ethnicity, Race, and Sex

The CFPB solicits feedback regarding the challenges faced by both applicants and financial institutions by the data collection instructions prescribed in appendix B and specifically on ways to improve the data collection of the ethnicity, race, and sex of applicants and borrowers.

Feedback is also sought generally on the collection of government monitoring information and the CFPB solicits feedback on that issue.

Age

The CFPB solicits feedback regarding whether the collection of the age of the applicant or borrower, as of the date of application, in number of years as taken from the birthdate from the application is an appropriate manner of collecting such demographic information. Is there a less burdensome way for financial institutions to collect such information for purposes of HMDA?

4(a)(10)(ii) Income

This section requires the collection and reporting of gross annual income relied on in processing the application for applicants and borrowers. The proposal revises the requirement to report gross annual income relied on in making the credit decision or if a credit decision not requiring consideration of income was made, the gross annual income collected as part of the application process.

For the reporting of income for commercial loans, the CFPB notes that under the proposal, income would not be reported for loans or applications related to multifamily dwellings, loans or applications where the applicant or borrower is not a natural person (such as a corporation), where no income information is collected, or where a credit decision requiring consideration of income was not or would not have been required.

Comments

The CFPB solicits comments on whether financial institutions believe there are any discrepancies between income that would be recorded under the MISMO/ULDD data standard and the income reported for HMDA purposes, and if additional guidance or clarification is needed?

The CFPB solicits feedback on difficulties financial institutions experience in reporting income relied on for covered loans and applications not related to multifamily dwellings that are made to individual applicants or borrowers for a commercial purpose. How does consideration of income differ for such loans than from consumer or household purpose loans, and how do financial institutions distinguish between income and cash flow analysis and whether financial institutions have different procedures for considering them.

4(a)(11) Purchasing Entity

This current section requires financial institutions to report the type of entity purchasing a loan that the financial institutions originates or purchase and then sells within the same calendar year, and provides that this information need not be included in quarterly updates. The CFPB is proposing to modify this section by deleting the statement that the information about the type of purchaser need not be included in quarterly updates. The CFPB is also revising commentary to included additional guidance that has been published by the FFIEC in their FAQs.

Additionally, examples and clarifications will be provided on the definition of an “affiliate” and “private securitization” as it pertains to this section.

Comments

The CFPB requests feedback on whether these proposed comments are appropriate and specifically solicits feedback regarding whether additional clarifications would assist financial institutions in complying with the proposed revisions. Are the proposed modifications to the instructions appropriate?

4(a)(12) Rate Spread

In addition to providing the rate spread between the loans APR and the average prime offer rate (APOR) for higher-priced mortgage loans, the CFPB is proposing to require this reporting for all covered loans subject to Regulation Z, other than purchased loans and reverse mortgage transactions.

Comments

The CFPB seeks feedback on the general utility of the revised rate spread data and on the costs associated with collecting and reporting the data. Specifically, feedback is sought on the scope of the rate spread reporting requirement, including whether the requirement should be expanded to cover purchased loans.

4(a)(13) High-Cost Reason

The CFPB is proposing the financial institution to report whether a loan is high-cost because its APR exceeds HOEPA’s APR threshold or because its points and fees exceed the threshold for HOEPA coverage.

Comments

The CFPB seeks comment regarding the utility of the modified data and on the costs associated with reporting the data.

4(a)(14) Lien Status

This section requires the financial institution to report the lien status of the loan or application (first lien, subordinate lien, not secured by a lien on a dwelling or not applicable for purchase loans). The proposal would amend this section to require the reporting of the priority of lien against the subject property that secures or would secure the loan. The proposal would remove the current exclusion of reporting lien status on purchased loans.

Comments

The CFPB seeks comments regarding whether this proposed modification is appropriate generally, and specifically the potential burdens that may result from this proposal to align with the industry data standard. Feedback is also sought regarding whether alignment with the MISMO industry standard would benefit any other business operations of a financial institution. Feedback is sought on whether the CFPB should maintain the current reporting requirement (secured by first lien or subordinate lien) modified to conform to the proposed removal of unsecured home improvement loans, or whether financial institutions prefer to report the actual priority of the lien against the property (first, second, third, fourth lien). What is the general utility of lien status data on purchased loans and on the unique costs and burdens associated with collecting and reporting the data that financial institutions may face as a result of the proposal?

Do small financial institutions or their vendors use MISMO compliant data definitions and standards? What are the potential effects on small financial institutions on the alignment of the HMDA data requirements with MISMO data standards?

4(a)(15) Credit Score

Except for purchased covered loans, the proposed revisions to this section require financial institution to report the credit score or scores relied on in making the credit decision and the name and version of the scoring model used to generate each credit score.

The CFPB proposed to have “credit score” mean the same as the Fair Credit Reporting Act (FCRA) or Regulation V.

Commentary is also provided on the reporting of credit score, when there is more than one applicant and/or multiple scores.

The following models are being proposed to be coded into the report: Equifax Beacon 5.0, Experian Fair Isaac, FICO Risk Score Classic 04, FICO Risk Score Classic 98, VantageScore 2.0, and Vantage Score 3.0.

Comments

Is the exclusion of purchased covered loans appropriate? Comments are also requested on whether it is appropriate to request the name and version of the scoring model and whether the CFPB should require any other related information to assist in interpreting credit score data, such as the date on which the credit score was created.

Should the CFPB create a different definition of “credit score?”

Comments are also sought on the proposed revisions and associated commentary regarding the handling of situations with multiple credit scores and multiple applicants or borrowers.

Are the codes and fields described appropriate for reporting credit score data and on any alternative approaches that might be used for reporting this information?

4(a)(16) Reasons for Denial

The CFPB is proposing to require all financial institutions subject to HMDA reporting to report the reasons for denial of a loan application.

The proposed instructions for completing the LAR, will allow up to three denial reasons to be included. The instructions will be modified to clarify that a financial institution must list the “principal” reason for denial. There will also be a free-form text field for denial reasons not listed in the appendix, when using “other.” “Not applicable” will be used if the action taken was not a denial, such as if the application was withdrawn before a credit decision was made or the file was closed for incompleteness. No longer will the field be left blank.

Comments

In light of having multiple reasons for denial, the CFPB seeks comments on the any potential issues associated with reporting only one reason, along with the potential of not providing the full picture for that particular applicant.

Do the current codes in appendix A, relating to reasons for denial need to be modified? Are there additional reasons for denying an application that are commonly used but not currently included? Comments are also sought on the requirement to use the free form text to enter the principal reason for denial when “other” is selected in the LAR. Is there additional modifications or clarifications that would assist financial institutions in complying with this proposed requirement?

4(a)(17) Points and Fees

This proposed amendment would require financial institutions to report the total points and fees for covered loans or applications subject either to HOEPA or the CFPB’s ATR Final Rule. Together, the HOEPA and ATR coverage of the proposed points and fees provisions cover open end credit plans secured by primary residences and nearly all dwelling-secured, closed-end mortgage loans.

Comments

The CFPB solicits comments on the benefits and burdens of the definition of points and fees proposed as well as on any specific elements of points and fees to include or exclude. To facilitate compliance, the CFPB is proposing to exclude covered loans that have been purchased by a financial institution, because it doesn’t believe that the points and fees would be evident on the face of the documentation obtained from the seller.

The CFPB solicits feedback on the burden to small financial institutions.

4(a)(18) Borrower-Paid Amounts

The CFPB is proposing to require, for covered loans subject to the disclosure requirements in Regulation Z, the total of all itemized amounts that are designated borrower-paid at or before closing, expressed in dollars. In order for the reporting burden to be lessened, the CFPB is using the definitions of origination charges that is found on the Closing Disclosures, effective with the Regulation Z revisions in August 2015.

Comments

The CFPB solicits feedback regarding the general utility of the revised data, the scope of the reporting requirement and the costs associated with collecting and reporting the data. Specifically whether a more comprehensive measure of the aggregate costs associated with the loan would be more appropriate such as the amount listed as the “total closing costs” from line J of the closing disclosure (effective 2015).

4(a)(19) Discount Points

For covered loans subject to the closed-end requirements under Regulation Z (1026.19), the CFPB is proposing to require the disclosure of the points designated as paid to the creditor to reduce the interest rate, expressed in dollars. The definition for discount points to be used for this reporting, will be consistent with the Closing Disclosure already found in Regulation Z (effective 2015).

Comments

Feedback is being sought on the costs of reporting to small entities, and is proposing that financial institutions report the discount points already required to be listed on the Closing Disclosure.

The CFPB solicits feedback regarding the general utility of the revised data, the scope of the proposed reporting requirement, and the costs associated with collecting and reporting the data. Additionally, should the CFPB include any lender credits, premiums, or rebates in the measure of discount points?

4(a)(20) Interest Rate without Discount Points

The CFPB is proposing to require reporting for covered loans subject to 1026.19 (closed end), other than purchased covered loans, the interest rate that the borrower would receive if the borrower paid no bona fide discount points as calculated pursuant to Regulation Z (1026.32).

Comments

The CFPB solicits comments regarding the general utility of the revised data and on the costs associated with collecting and reporting this data. Specifically, if there is any information on additional costs that the financial institutions or vendors expect to encounter in calculating the risk-adjusted, pre-discounted interest rate and in retaining that data specifically for HMDA reporting purposes and any alternative means to calculate the base rate used in loan pricing that may be less burdensome for institutions to collect and report. Should reporting be restricted to covered loans for which financial institutions have chosen to exclude bona fide discount points from total points and fees for the purposes of HOEPA coverage or qualified mortgage status?

The CFPB is soliciting feedback on the costs to small financial institutions.

4(a)(21) Interest Rate

The CFPB is proposing to require reporting of the interest rate that is or would be applicable to the covered loan at closing or account opening. Appendix A will provide technical instructions on how to enter the data in the LAR. For example, disclosing the rate pursuant to 1026.37 and for adjustable rate covered loans, including the interest rate calculated using the index value and margin at the time of closing (if the rate is not otherwise known).

Comments

Is this proposed requirement appropriate? What is the burden of reporting for small financial institutions?

4(a)(22) Term – Prepayment Penalty

The CFPB is proposing to require financial institutions to report the term, in months, of any prepayment penalty, as defined in Regulation Z (1026.32) as applicable. Prepayment penalties are charges imposed on borrowers for paying all or part of the transaction's principal before the date on which the principal is due. The revisions will align the definition of prepayment penalty for HMDA and Regulation Z. The amount and term in years of any potential prepayment penalty is listed on the loan terms table of the Closing Disclosure. Covered loans that have been purchased by the financial institution would be excluded from this reporting.

Comments

The CFPB seeks feedback regarding the general utility and costs associated with collecting and reporting this data. The CFPB also solicits feedback on the scope of the proposed requirement, including whether to limit the prepayment penalty reporting requirement to loans subject to Reg Z or to apply it to purchase covered loans.

The CFPB seeks feedback on the reporting burden for small financial institutions.

4(a)(23) Debt to Income

The CFPB is proposing to require financial institutions to report information related to the applicant's or borrower's debt-to-income (DTI) ratio. The proposal does not require a financial institution to collect DTI ratio information for reverse mortgages.

Comments

The CFPB solicits comments on whether this proposed requirement is appropriate generally, and specifically solicits feedback regarding whether this proposed requirement would be less burdensome than requiring the collection of other DTI ratios, such as DTI ratio that is calculated according to investor requirements but is not relied on in making the credit decision, or the DTI ratio that may be required under the ATR provisions of Regulation Z.

Is the exception for reverse mortgages appropriate and are there other types of transactions where an applicant's DTI ratio was not considered?

Would it be less burdensome for small financial institutions to report the DTI ratio relied on in making the credit decisions, or for the CFPB to adopt a specific debt to income ratio?

4(a)(24) Combined Loan to Value

The CFPB is proposing to require financial institutions to report the ratio of the total amount of debt secured by the property to the value of the property – combined loan to value (CLTV). The LTV ratio generally refers to the ratio for the value of a secured debt to the value of the property securing the debt. The CLTV ratio generally refers to the ratio of total amount of secured debt to the value of the property securing the debt. For a covered loan that is a home-equity line of credit, the ratio shall be determined by dividing the sum of the unpaid principal balance of the first mortgage, the full amount of any home equity line of credit (drawn or undrawn), and the balance of any other subordinate financing by the value of the property. For covered loans other than home equity lines of credit, the ratio shall be determined by dividing the combined unpaid principal balance amounts of the first and all subordinate mortgages, excluding undrawn home equity lines of credit amounts, by the value of the property.

Comments

The CFPB solicits feedback regarding whether the proposed requirement is appropriate generally. Since this requirement is conceptually identical and textually similar to the definitions of the combined LTV Ratio Percent data point, the CFPB solicits feedback on whether the alignment is appropriate and whether the text of this proposed requirement should be clarified. The CFPB also solicits feedback regarding whether there are particular transactions in which a CLTV ratio would not be calculated or considered during the underwriting process.

Would it be less burdensome for small financial institutions to report the combined LTV relied on in making the credit decision, or for the CFPB to adopt a specific combined LTV ratio calculation?

4(a)(25) Term

This proposal would require financial institutions to collect and report data on the number of months until the legal obligation matures for a covered loan or application. Home equity lines of credit would include both the draw and repayment periods. The CFPB is also proposing to provide instruction that will facilitate compliance by differentiating covered loans without a definite term.

Comments

The CFPB solicits feedback on what method of reporting loan term would minimize burden on financial institutions while still meeting the reporting requirements and purposes of HMDA.

4(a)(26) Interest Rate Adjustments

This proposal would require financial institutions to collect and report data on the number of months until the first date the interest rate may change after loan origination. Proposed commentary would illustrate the requirement to report the introductory interest rate period, including HELOCs with a teaser rate, an adjustable-rate loan with an introductory rate; and a step-rate loan with an introductory rate that then adjusts to a different, known rate.

Comments

The CFPB solicits comments on what method of reporting the initial interest rate period would minimize burden on small financial institutions while meeting the reporting requirements and purposes of HMDA.

4(a)(27) Non-amortizing features

This proposed revision requires the reporting of balloon payments, interest only payments, a contractual term that could cause the loan to be a negative amortization loan, or any other contractual term that would allow for payments other than fully amortizing payments.

Comments

The CFPB solicits comments on whether any exclusions for this reporting requirement for certain types of loans are appropriate, and on whether any additional non-amortizing features should be specifically identified rather than reported under this section. The CFPB also seeks comment on what method of reporting non-amortizing features would minimize burden on small financial institutions while still meeting the reporting requirements and purposes of HMDA.

4(a)(28) Property value

This proposed revision would require financial institutions to report the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan relied on in making the credit decision. The proposed instructions would note that if the value of the property was not relied on in making the credit decision, the value should be reported as “N/A.” The value of the property reported (purchase price, appraised value, etc.) should be the value the credit union relied on to determine LTV ratio.

Comments

The CFPB seeks feedback on which property valuations should be reported.

4(a)(29) Manufactured Homes

The CFPB believes it would be appropriate to require financial institutions to report whether a manufactured home is legally classified as real property or as personal property. State law treats site built homes as real property, with financing secured by a mortgage or deed of trust. On the other hand State law may treat manufactured homes as personal property or real property depending on the circumstances. Manufactured homes may own or rent the underlying land.

The CFPB is also proposing to collect additional information regarding the applicant or borrower’s property interest in the land on which the manufactured home is located.

Comments

The CFPB solicits feedback on these requirements generally. Feedback is also sought on whether reporting the legal classification of the dwelling appropriately captures distinctions between personal property and real property lending, whether possible ambiguities in state law could make compliance with the reporting requirements difficult, and whether additional guidance could be provided on what information financial institutions could rely on to facilitate compliance.

4(a)(30) Manufactured Home Land

The CFPB believes it may be appropriate to require financial institutions to collect and report whether the applicant or borrower owns the land on which the manufactured home is or will be located through a direct or indirect ownership interest or leases the land through a paid or unpaid leasehold interest.

Comments

What information do financial institutions collect about an applicant’s or borrower’s land property interest for manufactured home transactions, and are there any potential difficulties associated with complying with the proposed reporting requirement? Do financial institutions consider payments that may be associated with such interests in underwriting, such as lease payments, ground rents, or cooperative fees? What information is typically collected regarding such payments? Feedback is also sought on reporting land property interest

4(a)(31) Multi-family Dwellings

The CFPB is proposing to require a financial institution to report the number of individual dwelling units related to the property securing the covered loan (or proposed, in the case of an application).

Comments

The CFPB seeks feedback on appropriate alternatives to reporting the total number of dwelling units, including whether financial institutions should report ranges of the number of units such as one, two, to four, and five or more.

4(a)(32) Multi-family Dwellings- Income Restricted

The CFPB is proposing to require financial institutions to collect and report information on the number of individual dwelling units in multifamily dwellings that are income-restricted pursuant to Federal, State, or local affordable housing programs.

Comments

Feedback is being solicited on the extent to which information about multifamily affordable housing programs is available in loan files, how financial institutions currently use this information, and the costs and other burdens of obtaining these data.

What is the burden associated with collecting information, compared with the rest of the proposal? Is there additional information about the program or type of affordable housing that would be valuable and serve HMDA purposes? Should the CFPB require reporting of information concerning programs targeted at specific groups (seniors, persons with disabilities); whether it would be appropriate to simplify the requirement and report only whether a multifamily dwelling contains a number of income-restricted units above a certain percentage; whether the financial institution should be required to report the specific affordable housing program or programs; and whether financial institutions should be required to report the area median income level at which units in the multifamily dwelling are considered affordable? Would the burden be reduced by providing instructions or guidance specifying that institutions only report income-restricted dwelling units that they considered or were aware of in originating, purchasing or servicing the loan?

4(a)(33) Applications for Covered Loans

Proposed revisions would provide that, except for covered loans, a financial institution is required to report the following information about the application channel of the covered loan or application: whether the applicant or borrower submitted the application for the covered loan directly to the financial institution; and whether the obligation arising from the covered loan was or, in the case of an application, would have been initially payable to the financial institution.

Comments

Is this proposed requirement appropriate generally and are their alternative ways to collect application channel information? Is it appropriate to exclude purchase covered loans?

Feedback is solicited on whether alternative ways of collecting application channel information would achieve the statutory requirement in a more efficient manner.

4(a)(34) Loan Originator Identifier

The proposed revisions would implement the requirement for financial institutions to report for covered loans and applications, the unique identifier assigned by NMLSR for the mortgage loan originator (MLO) as defined in Regulation G or Regulation H as applicable.

Comments

The CFPB solicits feedback on this proposal generally. In addition, comments are solicited on whether the MLOs unique identifier should be required for all entries on the loan application register, including applications that do not result in originations, or only for loan originations and purchases.

4(a)(35) Automated Underwriting Systems

The CFPB is proposing that except for purchase covered loans, a financial institution shall report the name of the automated underwriting system it used to evaluate the application and the recommendation generated by that

automated underwriting system. The CFPB also proposes to define an automated underwriting system (AUS) as an electronic tool developed by a securitizer, Federal government insurer, or a guarantor that provides a recommendation regarding whether the application is eligible to be purchased, insured, or guaranteed by that securitizer, Federal government insurer, or guarantor.

Comments

Feedback is being sought regarding the appropriateness of these requirements and whether there are alternative ways to collect information about AUSs. Feedback is also solicited regarding the definition of an AUS provided for in the proposed regulation. Is commentary needed to clarify this definition or facilitate compliance? Is the exclusion of purchased loans appropriate?

To what extent is AUS-generated information used by small financial institutions and how is that information used in credit decisions. Is there any method of reporting on the use of an automated underwriting system that is included in the proposed rule consistent with the current practices of small financial institutions?

There will be a list of underwriting systems via applicable codes, is this appropriate? Would the instructions be less burdensome if the list of systems were modified by, for example, either removing or adding systems and/or removing or adding AUS recommendations?

4(a)(36) Reverse Mortgage Transactions

The CFPB is proposing to require financial institutions to identify whether a reportable transaction is a reverse mortgage and if the transaction is an open or closed end loan. Because of feedback received from financial institutions regarding the amount of time spent during the reporting process for dealing with submission errors related to inapplicable fields, by identifying a transaction as reverse mortgage, inapplicable fields will automatically be removed.

Comments

Is this proposed requirement appropriate? Would commentary be helpful to clarify or illustrate the requirements? Are there any costs and other burdens associated with this proposed requirement or the existing HMDA requirements related to reverse mortgages?

4(a)(37) Home Equity Line of Credit (HELOC)

The CFPB is proposing to require a financial institution to report whether the covered loan is, or the application is for, an open-end line of credit, and also whether the open-end line of credit is a home-equity line of credit.

Comments

Is this proposed requirement appropriate? Would commentary be helpful to clarify or illustrate the requirements?

4(a)(38) Qualified Mortgage (QM)

The CFPB proposes to require a financial institution report whether the covered loan is subject to the ability-to-repay provisions of Regulation Z, and whether the covered loan is a qualified mortgage under those rules.

Comments

Is this requirement appropriate? Would this proposed requirement result in more useful data? Would this proposed requirement impose additional burdens or result in additional challenges that the CFPB has not considered? Would modifications to this proposed requirement minimize the burden of collecting information related to a covered loan's QM status?

4(a)(39) HELOC / Reverse Mortgage Draw Amount

The CFPB is proposing to require a financial institution to report, for a home equity line of credit and an open-end reverse mortgage, the amount of the draw on the covered loan, if any, made at account opening.

Comments

Comments are sought regarding the general utility of the data and on the costs associated with collecting and reporting the data. Feedback is also sought regarding whether this data would be useful for all open-end lines of credit, including dwelling-secured commercial lines of credit.

4(b) Collection of Data on Ethnicity, Race, Sex, Age and Income

The CFPB proposes to amend this section to require a financial institution to collect data about the ethnicity, race, sex and age of the applicant or borrower for covered loans. Currently, age is not required.

Comments

The CFPB requests comment on whether the exclusion of purchased loans is appropriate? Feedback is also solicited on the general utility of ethnicity, race, sex, age, and income data on purchase loans and on the unique costs and burdens associated with collecting and reporting the data that financial institutions may face if the reporting requirement were modified to no longer permit optional reporting, but instead require reporting of this applicant and borrower information for purchased loans.

4(c) Optional Data

The CFPB is proposing to make reporting of requests of preapprovals approved by the financial institution, but not accepted by the applicant mandatory instead of optional.

Comments

The CFPB solicits comments about whether the financial institutions expect significant burden associated with the proposed change.

Section 1003.5 Disclosure and Reporting

5(a) Reporting to Agency

The CFPB is proposing that a financial institution within 60 calendar days after the end of each calendar quarter, who reported at least 75,000 covered loans, applications, and purchased covered loans, combined for the preceding calendar year, submit its LAR containing all required data. The CFPB believes that timelier data would allow it and the appropriate agencies to determine, in much closer to “real time,” whether financial institutions are fulfilling their obligations to serve the housing needs of communities in which they are located.

The CFPB is proposing to add a comment to clarify that a financial institution that reports on a quarterly basis must retain a copy of its complete LAR for its records for at least three years, the complete LAR is the LAR reflecting all data reported for the preceding calendar year. The record retention requirement would be satisfied by retaining the data for the calendar year combined on one LAR or on four quarterly LARs.

The CFPB proposes to delete commentary which permitted the paper filing of a LAR for financial institutions that report 25 or fewer entries.

The CFPB also proposes commentary to clarify that the retention of the LAR in an electronic format satisfies the record retention requirement.

Comments

The CFPB believes this proposed requirement is necessary and proper to effectuate the purposes of HMDA. Comments are solicited on whether this proposal is appropriate, including any increase in costs resulting from the requirement that financial institutions submit accurate HMDA data on a quarterly basis as opposed to once each year.

Is the proposed 75,000 transaction threshold justified by the benefits of quarterly reporting? Does this proposal provide financial institutions required to report on a quarterly basis sufficient time to prepare their quarterly data for submission?

Feedback is sought on the length of time beyond the effective date of the other proposed amendments to Regulation C, if any, that financial institutions would require to develop and implement the systems, policies, and procedures required to report HMDA data on a quarterly basis.

Are the proposed record retention comments appropriate? What concerns for additional costs imposed on small volume financial institutions are there for the elimination of the ability to utilize the paper format LAR? Is it appropriate commentary to allow for electronic record retention?

5(a)(3) Entity Identifier

The CFPB is proposing to require financial institutions to provide a globally-accepted Legal Entity Identifier (LEI) to replace the HMDA RID in HMDA submissions. The LEI is a unique, 20 digit alphanumeric identifier associated with a single legal entity and is intended to serve as a uniform international standard for identifying participants in financial transactions. The proposal specifies that the LEI must be issued by: (i) a utility endorsed by the Regulatory Oversight Committee (ROC) or (ii) a utility endorsed or otherwise governed by the GLEIF (Global LEI Foundation) (or any successor of the GLEIF) after the GLEIF assumes operational governance of the global LEI system.

Comments

Feedback is requested on whether the LEI would be a more appropriate entity identifier than the HMDA RID. Feedback is also requested regarding whether other identifiers, such as the RSSD number or the NMLSR Identifier would be an appropriate alternative.

5(b) Public Disclosure of Statement

The CFPB is proposing to all financial institutions to make its disclosure statement available to the public by making available a notice that clearly conveys that the disclosure statement may be obtained on the FFIEC website and include the FFIEC's website address on that notice. The CFPB believes that costs to financial institutions would be reduced by allowing institutions to refer members of the public who request disclosure statements to the FFIEC website. The CFPB believes that the burden to financial institutions associated with the provision of disclosure statements to members of the public upon request is likely not justified by any benefit to maintaining the current disclosure statement dissemination scheme. The CFPB is proposing that, no later than 3 business days after receiving notice that its disclosure statement is available, a financial institution shall make available to the public at its home office and each branch office located in each MSA and each MD a notice that clearly conveys that the institution's disclosure statement may be obtained on the FFIEC website and that includes the FFIEC website address. The CFPB is also proposing to amend commentary to provide that an institution may make the notice requirements under this section available in paper or electronic format.

Comments

Are these proposals appropriate? Any additional feedback is requested.

5(c) Public Disclosure of Modified Loan Application Register

The CFPB is proposing to amend this section to require that a financial institution make available to the public a modified LAR showing only the data fields that currently are released on the modified LAR.

The CFPB is proposing to modify this section to provide that a financial institution shall make its LAR available to the public after, for each entry: removing the information required to be reported under 1003.4(a)(1), the date required to be reported under 1003.4(a)(8), the postal address required to be reported under proposal 1003.4(a)(9), the age of the applicant or borrower required to be reported under proposed 1003.4(a)(10), and the information required to be reported under proposed 1003.4(a)(15) and (a)(17) through (39); and rounding the information required to be reported under proposed 1003.4(a)(7) to the nearest thousand.

Comments

The CFPB seeks comments on whether it should exempt smaller financial institutions from the obligation to release a modified LAR. Comments are also solicited on whether such an exception from the obligation to make a modified LAR available to the public is desirable, and if so, which financial institutions should qualify for the exception, including whether such exception should align with the quarterly reporting threshold proposed.

Is the proposal appropriate generally?

Comments are also solicited concerning any risks to applicant or borrower privacy interests posed by the continued release of currently-released data fields on the modified LAR. Comments are solicited on the benefits of disclosure of the currently released fields for HMDA purposes.

5(d) Availability of Data

The CFPB is proposing to delete the requirement that a financial institution make its HMDA data available for inspection and copying and to make additional technical modifications.

Comments

With the deletion of the reference to inspection and copying, the CFPB seeks comments on whether this modification is appropriate?

5(e) Notice of Availability

If the proposal is adopted to allow the institution's disclosure statement to be obtained on the FFIEC website and include that address, the proposed revisions to this section would revise the requirement to include the location of the institution's office where the disclosure statement is available for inspecting and copying. The CFPB is also proposing to clarify that the notice must be posted in a financial institution's home office and in each branch office located in an MSA or MD.

Finally, the CFPB is proposing minor changes to add language to the notice that HMDA data include the age of applicants and borrows and to provide additional information about the online availability of HMDA data.

Comments

The CFPB seeks comment on whether these changes are appropriate.

5(f) Aggregation

The CFPB is proposing to delete reference to central depositories and to instead explicitly reference the data's availability on the FFIEC website, to conform to current practices. Additionally, the word "produce" will be replaced with "make available."

Comments

The CFPB seeks feedback on these proposed modifications.

1003.6 Enforcement

6(b) Bona Fide Errors

Concern was raised by small financial institutions that with the adoption of any new data points, financial institutions may be more vulnerable to being cited in examinations for reporting errors that they consider minor, but exceed examiner tolerances. Although this current section provides that if an error was unintentional and occurred despite the maintenance of procedures adopted to avoid those errors, the census tract reporting errors are not violations. The error or omission is not a violation of HMDA or Regulation C provided that the institution corrects or completes the information prior to submitting the LAR to its regulatory agency. No revisions are expected in this section.

Comments

Feedback is requested generally regarding whether, in light of the new proposed reporting requirements, it would be appropriate to add new provisions to clarify compliance expectations and address compliance burdens or operational challenges? Is a more precise definition of what constitutes an error helpful? Are there ways to improve the current methods of calculating error rates? Would tolerance levels for error rates be appropriate?

General Comments

The CFPB seeks comments on the consideration of the potential benefits, costs and impacts of the proposed rule. The CFPB seeks additional comments associated with the costs this proposal may have on consumers. The CFPB believes that small changes in behavior, such as the required reporting revisions in HMDA, can have substantial aggregate effects. They seek comment and suggestions on whether such effects can be reliably estimated and possible ways of doing so.

The CFPB has proposed cost estimates associated with the implementation of the changes associated with this proposal. The CFPB did this based on low, moderate to high complexity financial institutions. The CFPB seeks additional information on the number of HMDA reporters that are moderate complexity, tier 2 institutions. Additionally, the CFPB seeks comments and data that might assist in producing more precise estimates than what is provided within the proposed regulation.

The CFPB seeks comment about the potential impact on financial institutions of aligning the HMDA data requirements with the MISMO/ULDD data standards.

The CFPB is also seeking additional information on the number of HMDA reporters that are of moderate complexity, tier 2 institutions.

The CFPB seeks additional comments and data to better understand the costs and benefits of data points. Specifically on the one-time and ongoing costs of implementing each proposed new data point, which data points are more costly to gather and report and estimates of the amount of this additional cost and supporting explanation. What data points are applicable to specific products or whether there are any alternatives to or adjustments in each data point that could reduce burden on small financial institutions while still meeting the purposes of HMDA.

Comments are also sought from interested parties to provide data, research results, and other factual information on the impact of the proposed rule on consumers in rural areas. This would include any evidence and supporting information indicating that access to credit would fall or the cost of credit would increase.

What skills are required for the preparation of the reports or records related to this proposed rule?

Are there any additional Federal rules that impose duplicative, overlapping, or conflicting requirements on servicers and potential changes to the proposed rules in light of duplicative, overlapping or conflicting requirements?

Comments are sought on whether the CFPB should eliminate the requirement that the modified LAR be made available to the public by smaller institutions. Should institutions be excluded from the obligation to make their modified LARs available to the public? If so, which institutions should be excluded?

The CFPB solicits comments on whether this proposed rule will have any impact on the cost of credit for small entities.

Comment Letters

Please submit a Comment Letter to:

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Comments should be identified by Docket No. CFPB-2014-0019 or RIN 3170-AA10

Electronically: <http://www.regulations.gov>; follow the instructions for submitting comments.

Please submit to the MCUL a copy of your response to the attention of:

Kieran Marion

Vice President Governmental Affairs
Michigan Credit Union League & Affiliates
38695 W. Seven Mile Road, Suite 200
Livonia, MI 48152-7097

E-mail: Kieran.Marion@MCUL.org

Fax: (734) 793-7155

We Appreciate Your Response.