Collection and Reporting of HMDA Data Under the New Rules

Northwest Compliance Conference
Seattle, WA
October 6, 2016

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A Very Brief History of HMDA

“Those who cannot remember the past are condemned to repeat it.” – George Santayana

• Enacted by Congress in 1975 in reaction to allegations by public officials and community advocates that lenders were redlining and disinvesting in urban communities

• Applied only to larger banks (not bank subsidiaries or non-bank mortgage lenders), which reported the number and dollar amount of home improvement and residential mortgage loans by location

• Government monitoring information (i.e., information on applicant race, ethnicity and sex) was not collected
A Very Brief History of HMDA

Key Amendments:

- **1988** – Coverage expanded to mortgage banking subsidiaries of bank and savings and loan holding companies, and to savings and loan service corporations that originate or purchase mortgage loans.

- **1989** – FIRREA (Congressional response to S&L crisis) – Coverage expanded to non-bank mortgage lenders and public disclosure of applicant race, gender, and income is required on an application-by-application basis.

- **2002** – Federal Reserve Board requires reporting of pricing information for higher-priced mortgage loans and identification of loans subject to HOEPA and required lenders to ask applicants for their ethnicity, race, and sex in telephone applications.
A Very Brief History of HMDA

Key Amendments:

- **2010** – Dodd-Frank Wall Street Reform and Consumer Protection Act enacted in response to the mortgage market crisis
  
  • Dodd-Frank Act moved HMDA rulemaking responsibility from the Fed to the CFPB and directed the CFPB to expand the HMDA dataset to include additional information that would be helpful to better understand whether lenders are serving the housing needs of their communities and to identify possible discriminatory lending patterns
  
  • Dodd-Frank specified new data points for collection and provided the Bureau with broad authority to require the collection of other data points and to change the format and submission requirements for HMDA reporting
The CFPB and HMDA Today

- CFPB issued Bulletin 2013-11 that provides guidance on collecting and reporting HMDA data and discusses factors the CFPB may consider when deciding whether to pursue public enforcement action under HMDA
- In 2013, CFPB took public enforcement actions against a bank and a non-bank mortgage lender for failure to accurately collect and report HMDA data
- Also aware of non-public supervisory actions taken against banks regarding issues with their HMDA data
- CFPB issued proposed rule to update the HMDA reporting requirements in July 2014
- CFPB released its final HMDA rule in October 2015
New HMDA Rule

- October 2015: CFPB released HMDA Final Rule
- Expanded data collection begins Jan. 1, 2018, with reporting in 2019
- CFPB has not decided what data will be publicly available
Who Will Report HMDA Data?

• In 2018, Financial Institutions (FI) will be covered if they make at least 25 closed-end loans or 100 home-equity lines of credit in each of the previous two calendar years, and meet other criteria

• Other criteria:
  – Presence in an MSA
  – Asset threshold for depositories
Impact of New Coverage Rule

- More non-depositaries will be covered
- New rule takes away asset and other tests that limit non-depository coverage today
- Some depositories who are currently reporting will be exempted under the 25-loan test
HMDA Effective Dates

• Rule is effective for transactions for which **final action** is taken on or after January 1, 2018, with reporting by March 1, 2019
  – **Except for:**
    • Depository institution coverage; fewer than 25 closed-end loans, January 1, 2017
    • Expanded race and ethnicity categories; applications taken on or after January 1, 2018
    • Quarterly reporting, January 1, 2020
Quarterly Reporting: High Volume Reporters

• Today, HMDA data reported more than a year after collection
• FIs that report at least 60,000 entries (not purchases though) in previous calendar year
• Safe harbor for correction of errors and omissions
Expanded Loan Coverage

• Today: Home purchase, refi, and home improvement purpose-loans required
• Today: Closed-end required, HELOCs optional
• 2018: Any dwelling-secured loan or line (subject to a threshold) for consumer purpose, and some commercial purpose loans/lines
Expanded Loan Coverage

• HELOC reporting
  – Only FIs who make at least 100 covered HELOCs in each of the two preceding calendar years will be required to report HELOCs

• Closed-end mortgage loan reporting
  – Only FIs who make at least 25 closed-end mortgage loans in each of the two preceding calendar years will be required to report closed-end mortgage loans
HMDA Data Points

• Application/loan information
  – Preapproval request (modified) approved but not accepted mandatory
  – Loan amount (modified)
  – Reason for denial (modified) includes free form field for other
HMDA Data Points

• Application/loan information
  – Application channel (new)-wholesale vs. retail
  – Reverse mortgage Flag (new)
  – Open-end (new)-HELOCs
  – Business or commercial purpose Flag (new)
HMDA Data Points

• Property information
  – Occupancy type (modified)
  – Construction method (modified) site built vs. manufactured home
HMDA Data Points

• Property information
  – Manufactured home secured property type (new)-secured by land or not
  – Manufactured home land property interest (new)-is land owned or leased
HMDA Data Points

• Property information
  – Property address (new)-street address
HMDA Data Points

• Property information
  – Property value (new)
  – Total units (new)
  – Multifamily affordable units (new)-income restricted units

• Identifiers
  – Mortgage Loan Originator (MLO) Identifier (new)
  – Legal Entity Identifier (LEI) (new)-identifies reporting institution
  – Uniform Loan Identifier (ULI) (new)
HMDA Data Points

• Applicant information (GMI)
  – Whether collected by visual observation or surname
  – Ethnicity (modified)-allow subcategories, “other”
  – Race (modified)-allow subcategories, “other”
  – Sex
  – Age in years as computed from date of birth on application
HMDA Data Points

Applicant/underwriting information

- Income (clarified)
- DTI ratio-relied on
- CLTV ratio
- Credit score-score, name, version
- AUS results-result, system that is “used to evaluate”
• **Pricing information**
  – Total loan costs (new)
    • From TRID Closing Disclosure or “points and fees” for loans not subject to TRID
  – Origination charges (new)
    • From TRID Closing Disclosure
  – Discount points (new)
    • From TRID Closing Disclosure
  – Lender credits (new)
    • From TRID Closing Disclosure
  – Interest rate (new)
    • For loans and lines of credit, and applications that are approved
HMDA Data Points

• Pricing information
  – Rate spread (modified)-expanded to all Reg Z loans
  – Type of purchaser
  – HOEPA status
  – Lien status
HMDA Data Points

• Loan features
  – Loan term (new)
  – Prepayment penalty term (new)
  – Introductory rate period (new)
  – Non-amortizing features (new)
Impact on Fair Lending Compliance

• Data to be reported under CFPB’s proposal is likely to inflame the current fair lending regulatory environment
  – Proposal allows regulators to analyze mortgage lending practices by applicants' age as well as by race, ethnicity, and sex
  – Information that is currently proprietary, like applicants' credit scores and debt-to-income ratios and loan fees and interest rates, will now be shared annually with the CFPB and other regulators
  – Regulators will no longer need to wait until examination time to assess a lender’s compliance with the anti-discrimination laws – they will have annual access to a panoply of sensitive data from almost every mortgage lender
  – Agencies will be able to routinely crunch and compare data from across the industry and in any geographic area
Impact on Fair Lending Compliance

• It may be only a matter of time until the enhanced data becomes public, facilitating analyses by the media and advocacy groups

• CFPB “Balancing Test”
  “Considering the public disclosure of HMDA data as a whole, applicant and borrower privacy interests arise under the balancing test only where the disclosure of HMDA data may both substantially facilitate the identification of an applicant or borrower in the data and disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive.”

• In other words, protecting the privacy of mortgage applicants will be the only limit on how the data is released
Garbage In, Garbage Out: Part I

- Integrity of HMDA and CRA data is current focus of regulators
- Examiners are sampling records in advance of a compliance examination to determine error rates
- Examples of HMDA errors:
  - Missing or inaccurate GMI
  - Improper use of withdrawn and/or incomplete designations
  - Wrong geocodes
- Examples of CRA errors:
  - Incorrect revenue information for small business loans
  - Improper census tract income information
Garbage In, Garbage Out: Part II

• Where error rate exceeds regulatory thresholds, the agency may require the institution to:
  – Correct and resubmit HMDA and/or CRA data
  – Enter into an MOU or MRA to correct the processes that led to the deficiencies
  – For HMDA only, pay a civil money penalty
    • The CFPB imposed two such penalties in 2013
    • Director Richard Cordray: “When financial institutions report inaccurate information, it obstructs the purpose of the Home Mortgage Disclosure Act and makes it more difficult for the CFPB to discover and stop discriminatory lending. Today we are sending a strong signal that no mortgage lending institution – whether bank or nonbank – should be able to mislead the public with erroneous data.”
HMDA Data Accuracy: CFPB Resubmission Standards

- CFPB’s HMDA resubmission schedule and guidelines
  - Institutions should use guidelines to manage compliance and facilitate corrective action on self-identified errors
  - HMDA exam teams will ask institutions to correct and resubmit their LARs when errors on the CFPB’s expanded sample exceed:
    - 10% or more (5% in an individual field) for institutions with fewer than 100,000 entries
    - 4% or more (2% in an individual field) for institutions with 100,000 or more entries
How to Prepare

• Make sure your institution is able to accurately collect and report the new HMDA fields
• Analyze your application data as if the rule was in effect
• Investigate any disparities in underwriting or pricing
• Address any unexplained disparities
Questions

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