Banking and Finance Law Daily Wrap Up, TOP STORY—CFPB wants more HMDA data from smaller number of lenders, (Oct. 15, 2015)

Banking and Finance Law Daily Wrap Up

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By Richard A. Roth, J.D.

The Consumer Financial Protection Bureau has amended Reg. C—Home Mortgage Disclosure (12 CFR Part 1003) to reduce the number of lenders that must file reports but require more data to be collected and reported. According to the bureau, the amendments will reduce the number of banks and credit unions that must file Home Mortgage Disclosure Act reports by about 22 percent, but will require those that must report to collect up to 48 data points for each loan or application. The amendments also are intended to make it easier for institutions to file reports by making data collection consistent with established industry standards.

The version of the final rule published on the CFPB's website runs a lengthy 797 pages. In an effort to explain the amendments, the bureau has provided a summary of the rule and a separate summary of the data points that must be collected. The CFPB also has provided an implementation timeline for the amendments that shows no changes for 2016. Compliance will be phased in beginning Jan. 1, 2017, and full compliance will be required with reports to be filed in 2020.

HMDA requires lenders to collect and report information on home loan applications, originations, and purchases. The information is published and can be used for several regulatory purposes, including identifying potential home loan discrimination. According to the bureau, the Dodd-Frank Act expanded the information that is to be collected in an effort to make available information about practices that were seen as having contributed to the mortgage crisis, such as adjustable-rate loans and loans with non-amortization features. A proposal to implement the changes was announced in July 2014 (see *Banking and Finance Law Daily*, July 24, 2014).

Covered institutions. The rule amendments retain and expand existing exemptions for smaller financial institutions. The bureau says that a new reporting threshold will exclude small depository institution lenders with low loan volumes. Institutions that originated fewer than 25 closed-end loans or 100 open-end loans during the two previous calendar years will be exempt from reporting obligations.

According to the bureau, these lenders are involved in such a small number of loans that exempting them will not affect the usefulness of the total HMDA data that is collected.

The rule retains existing asset-size, location, loan activity, and "federally-related" tests for which institutions are covered. Beginning in 2018, bank, thrift, and credit unions lenders will be covered if they meet all four tests and the loan-volume threshold, while non-bank lenders will be covered if they meet only the location and loan-volume threshold, the bureau's summary says. All lenders will be subject to the same loan-volume threshold after the amendments take effect.

Covered transactions. The definition of the types of transactions that are covered by the HDMA rule is being changed to what the CFPB calls a "dwelling-secured standard," as opposed to the current "purpose-based test," for consumer-purpose loans and applications. For business-purpose loans, the rule will use both a dwelling-secured test and purpose-based test.

Loans or credit lines for commercial purposes are not covered by the amended rule unless they are for home purchase, home improvement, or refinancing purposes. Home improvement loans that are not secured by a dwelling are excluded from the rule's coverage, as are agricultural-purpose loans.

The treatment of preapproval requests also is being changed. Covered institutions will be required to report information on home purchase loan preapproval requests that are approved but not accepted. Requests for

preapprovals of open-end lines of credit, reverse mortgages, and purchase loans to be secured by multifamily residences will not be reportable covered transactions.

Data points. The summary of reportable data provided by the bureau shows that the amendments require lenders to collect and report 25 new data points and that 12 existing data points are being modified. The CFPB's notice says that the total 48 data points can be separated into four categories:

- information about applicants, borrowers, and underwriting, including age, credit score, debt-to-income ratio, and automated underwriting system results;
- information about the property securing the loan, such as construction method and property value, as well as additional information about manufactured and multifamily housing;
- information about the loan's features, such as additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan; and
- unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution.

Additionally, lenders that collect information about applicants' ethnicity, race, or gender based on visual observation or surname must disclose that they do so. If ethnicity and race information is provided by the applicant or borrower, the financial institution must permit that applicant or borrower to self-identify using disaggregated ethnic and racial categories.

Reporting burden. According to the bureau, it will be easier for covered institutions to file reports because many of the data points to be collected are the same as or similar to data that institutions already collect for processing, underwriting, pricing, or secondary-market sale purposes. The data points also "align with well-established industry data standards." This consistency will reduce the reporting burden and also provide better quality, more useful data, the CFPB believes.

The CFPB will eliminate the loan/application register (HMDA-LAR) using a two-step process. Institutions will be required to submit LARs electronically in 2018. Beginning in 2019, they will be required to use a new online submission tool and revised submission procedures.

Beginning in 2020, lenders that reported at least 60,000 originated loans and applications in the preceding year will be required to file quarterly reports.

The amendments will relieve lenders of the obligation to provide a disclosure statement or modified LAR on request. Instead, they will be permitted simply to refer the requestor to the CFPB's website.

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