

HMDA Reporting and Multifamily Finance

The CFPB should amend HMDA regulations (Regulation C) to exempt business-to-business loans secured by multifamily property.

BACKGROUND

The Home Mortgage Disclosure Act (HMDA) requires mortgage lenders to collect and report information on specific data points pertaining to their lending practices. The Dodd-Frank Act of 2010 transferred administration of HMDA to the Consumer Financial Protection Bureau (CFPB). It also authorized the CFPB to require the collection of additional mortgage lending information.

The CFPB implements HMDA under "Regulation C." The CFPB finalized the new rules amending Regulation C on October 15, 2015. Most new HMDA provisions took effect on January 1, 2018. We summarize key provisions below.

Covered Transactions

Financial institutions must report data for all applications, originations (including assumptions), and purchased loans relating to commercial mortgage loans secured by multifamily properties and small business loans secured by a dwelling. Covered institutions must also collect and report data on loan applications that are approved but not accepted.

In our view, business-to-business loans secured by multifamily property should be exempt transactions. They do not involve consumers, so these transactions should fall outside of the CFPB's statutory consumer-focused mission and objectives, and applying HMDA reporting requirements designed with single-family lending in mind to multifamily lending is unduly burdensome.

Covered Institutions

Financial institutions that originate at least 25 covered commercial mortgage loans secured by a multifamily property in each of the two preceding calendar years, and meet other specifications for either depository or non-depository financial institutions, will be required to collect and report HMDA data.

The Economic Growth, Regulatory Relief, and Consumer Protection Act, enacted May 24, 2018, provides banks and credit unions with partial exemptions from reporting certain HMDA data points (new data points mandated by Dodd-Frank) for closed-end mortgage loans if the institution originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years, and for open-end

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lines of credit if the institution originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. The CFPB released an interpretive rule to implement the change August 31, 2018.

Data Points

The final rule requires covered institutions to report more data than were previously required. New and modified data include more detailed information on loan terms, interest rates, loan identification numbers, location and affordable housing units. The CFPB did exclude several borrower specific data points from multifamily reporting requirements, in line with MBA's view that the information is not applicable to commercial/multifamily lending given the fundamental nature of these transactions.

Privacy Policy

On December 21, 2018, the CFPB released its final privacy guidance governing how it will publicly disclose the 2018 HMDA data reported in early 2019. Specific to multifamily, the Bureau agreed with MBA's recommendation that the number of units should be disclosed only in bands (5 to 24; 25 to 49; 50 to 99; 100 to 149; and 150 and over) and that the affordable units should be disclosed as a percentage rather than number of units. However, the Bureau did not agree that information from the fields *ACTIONS TAKEN* and *REASONS FOR DENIAL* on multifamily loans should be excluded from the public HMDA data; that multifamily data should be disclosed only at the state rather than census tract level; or that multifamily loan size should be disclosed in bins with greater than \$10,000 increments.

ADVOCACY AND RECOMMENDATIONS

The CFPB has indicated that it intends to issue a proposal to amend Regulation C in May 2019. MBA is advocating that these amendments include a change to exempt business-to-business loans secured by multifamily properties. Reporting on such loans is inconsistent with the Bureau's consumer-focused mission and objectives, and the burden of HMDA reporting of multifamily loans is substantial. MBA also supports efforts to increase substantially the current 25-transaction threshold for HMDA reporting, which would provide relief for some members.

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