

HMDA – Existing and New Rule

Alice Judd, MBA, CRCM
Managing Director, Mid-Atlantic Region

Sharon Blanchette, CPA, CIA, CRCM, CAMS, MBA
Director, Risk Management Solutions

FIS Risk, Information Security and Compliance

Empowering
the Financial World



Existing HMDA Rule



Home Mortgage Disclosure Act (HMDA)

12 CFR 1003

- **Purpose:**

- Detect illegal discrimination
- Detect predatory lending

- **Who is required to report? Depository institutions**

- Banks, savings associations and credit unions
 - Office in Metropolitan Statistical Area; and
 - Total assets of \$43 million as of Close of Business December 31, 2013; and
 - Originated at least one home purchase loan (excluding temporary financing such as a construction loan) or refinancing of a home purchase loan secured by a first lien on a one- to-four-family dwelling

- **Requires:**

- Collection and Reporting of Government Monitoring Information
 - Loan Application Register (“HMDA LAR”)

HMDA - What Types of Loans are Covered?

12 CFR 1003

- **Consumer and business purpose applications for and purchases of:**
 - Home purchase loans
 - Certain home improvement loans
 - Refinancing
- **Collect certain government monitoring information (GMI)**

Home Purchase Loans

- Secured by any dwelling, not necessarily the dwelling being purchased
- Funds used to purchase a dwelling/lien status is irrelevant
 - Example: Loan to buy rental property secured by personal residence

Home Improvement Loans

- Loan is considered for home improvement if any portion of proceeds is for home improvement
- Only report home improvement loans that are dwelling-secured or
- If not dwelling-secured, that you classify as home improvement for internal purposes
- Improve dwelling or land where dwelling is, for example swimming pools, patios, driveways

Refinancing

- Dwelling-secured loan to the same borrower completely paid off by another dwelling-secured loan
- Irrelevant - Loan purpose of original loan/purpose of additional money/lien status

Dwellings under HMDA

12 CFR 1003

- **What is a dwelling?**

- Residential structure
 - Does not have to be attached to real property
 - Mobile home o.k. (if certain requirements are met)
 - Not limited to 1-4 family
 - Multi-unit apartment building qualify
 - Located in United States of America, District of Columbia or Puerto Rico
 - Non-state territories do not apply
i.e. Guam, U.S. Virgin Islands



- **What is not a dwelling?**

- Recreational vehicles
- Boats
- Other types of mobile structures
 - Whether or not “permanently” located
- Temporary residences
 - Rooming houses, dormitories
 - Timeshares
 - Nursing homes, extended care facilities



HMDA - Exceptions to Reporting and Optional Reporting

12 CFR 1003

- **Exceptions to HMDA reporting requirements**
 - Broker Rule
 - Submit application to secondary market
 - Do not report if secondary market approves
 - Report if you deny for any reason
 - Report if you made the credit decision
 - Loan modifications (see next slide)
 - Temporary financing
- **Optional Reporting Home Equity Lines of Credit**
 - Use Regulation Z definition
 - Revolving credit
 - Consumer purpose
 - Secured by borrower's residence



- **Optional reporting but...**
 - Be consistent!
 - Report all HELOCs or none

HMDA - Exceptions to Reporting and Optional Reporting

12 CFR 1003

***Loan Mods are historically are not reportable transactions. However, Federal Reserve-supervised institutions are expected to report loan modifications, per an article published by the Federal Reserve in the Second Quarter 2011 Compliance Outlook publication, where the Fed had reversed this position.**

See <http://www.consumercomplianceoutlook.org/>

Tricky HMDA Issues

12 CFR 1003

50%

- **Mixed use properties**
 - 50% rule
- **Reporting loans with different properties**
 - Home purchase or refinance of home purchase loan
 - Report property taken as collateral
 - If more than one taken as collateral, report property being purchased
 - If more than one property is collateral and being purchased, two options:
 - Pick one property and report it
 - Allocate loan between properties and report multiple entries
 - Home improvement or refinance of home improvement loan
 - Report property being improved
 - If more than one, use two options above
 - Do not report property taken as collateral (if any)

Government Monitoring Information

12 CFR 1003

In Person

1. Applicant completes information
2. Report what the applicant writes
3. If applicant declines to give information, loan officer reports on visual observation or surname

Phone

1. Request information orally (read script)
2. If applicant declines, note on application
3. Cannot report anything based on person's voice or later visual observation

Internet / Mail

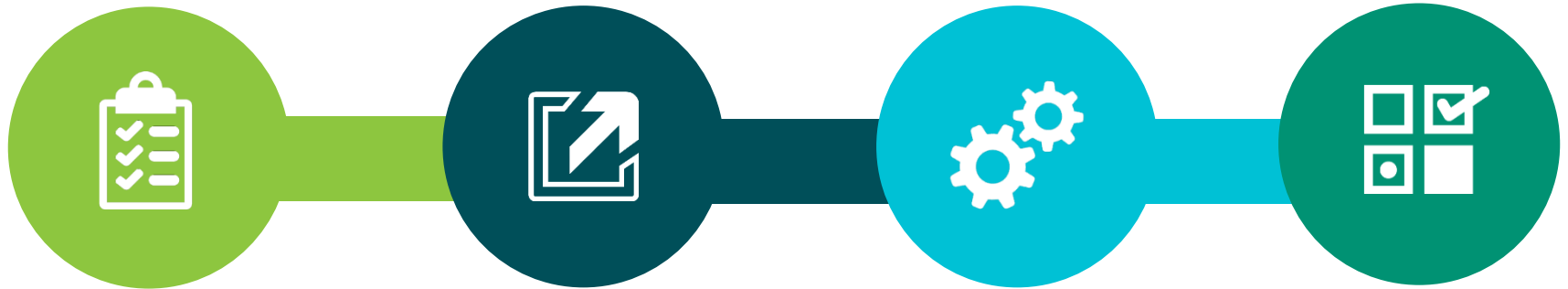
1. Provide form to applicant, who provides info
2. If applicant declines, note on application
3. Cannot report anything based on later visual observation

New HMDA Rule



Home Mortgage Disclosure Act

Agenda



Overview

- Timeline
- Reporting requirements
- Dodd-Frank changes
- Who & When to file
- Exclusions

HMDA Data Fields / How to Prepare

- Existing, but modified data fields
- New data fields
- GMI provisions

The Process

- Data submission process
- Quarterly reporting
- Disclosure requirements

Concerns

- Business, Operational, and Cost
- Regulatory and Compliance risks

Overview

- **The HMDA Final Rule Amendments change the...**
 - Types of institutions that are subject to Regulation C.
 - Types of transactions that are subject to Regulation C.
 - Specific information that covered institutions are required to collect, record, and report.
 - Several new fields to LAR
 - Processes for reporting and disclosing data

Home Mortgage Disclosure Act

Important Dates

- Changes to the regulation will be phased in over several years
- Loan data collected during calendar year 2017 will be reported by March 1, 2018 under the **old rules**
- New web-based report submission tool to be introduced for reporting 2017 data gathered under the **old rules**
- The most important changes for most FIs will take effect **January 1, 2018**
- Will control the form and content of the FI's Loan Application Register (LAR) to be filed by March 1, **2019**
- They also will cover loans purchased on/after **January 1, 2018**

Home Mortgage Disclosure Act

Timeline

- **Effective dates of principal provisions for FIs that reported fewer than 60,000 covered loans and lines in the preceding calendar year**

January 1, 2017: FIs that did not originate 25+ home purchase loans (including refinancings of purchases) in each of the 2 preceding calendar years excused from HMDA reporting

March 1, 2018: Report calendar 2017 data collected under **old** rules

2017

2018

2016

January 1, 2016:
Current rules remain in effect full calendar year

2018

January 1, 2018: New rules take effect for

- Institutional coverage
- Transactional coverage
- Data collection, reporting, disclosure

2019

March 1, 2019:
Report calendar 2018 data collected under **new** rules

Home Mortgage Disclosure Act

Simplifying Reporting Requirements?

- **Make reporting requirements easier**
 - Which means small depository institutions that are located outside an MSA will remain excluded from coverage.
 - Small depository institutions that have a low volume will no longer have to report data.
- **Align reporting requirements with industry data standards**
 - *Some* institutions are already collecting similar HMDA/LAR data
 - Collection could be informal or ad hoc at this point.
 - Is the data accurate and final? Where does it reside?
 - The activities that would generate the additional data include the processing, underwriting, and pricing of loans.

Highlights of HMDA

- **Number of data fields is greatly expanded; others have been modified.**
 - GMI for ethnicity and race is greatly expanded.
- **Gone from the definition of a reportable application is anything about Purchase, Home Improvement, or Refinance for consumer applications.**
 - This is retained for business/commercial applications.
- **HELOCs are no longer optional. Reverse mortgages are reported.**

Highlights of HMDA

- **Clarification regarding coding conditional approvals that don't end up originating.**
 - Clarifications regarding which conditions are closing conditions and which are creditworthiness conditions.
- **Increased Fair Lending risk.**
- **Preparation will take the entire 18 months.**

What Applications Must Be Reported on a LAR?

Reportable Transactions

- Dwelling Secured Loans/Applications for personal, family or household purposes
 - Closed End
 - Open End Line of Credit (HELOCs are no longer optional)
 - Reverse Mortgages
- Removes the standard for home purchase, home improvement or refinance on these consumer purpose-type loans, applying the dwelling-secured standard
- Commercial purpose loans are covered *i.e. loans and lines of credit not for personal, family or household purposes*, **only if** for home purchase, home improvement or refinance
- Pre-approval programs – only for
 - Denied
 - Approved but not accepted or
 - Results in an origination

Exempt Transactions

- Temporary financing
- A closed-end mortgage loan or open-end line of credit originated or purchased by a financial institution acting in a fiduciary capacity
- Unimproved land
- Agricultural loans
- Unsecured home improvement loans
- The purchase of an interest in a pool of closed-end mortgage loans or open-end LOCs
- The purchase solely of the right to service closed-end mortgage loans or open-end LOCs
- The purchase of closed-end mortgage loans or open-end lines of credit as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch
- Applications for loans and lines less than \$500
- The purchase of a partial interest in a loan or line
- Preapprovals for
 - Open-end lines
 - Reverse mortgages
 - Loans secured by multi-family dwellings

Home Mortgage Disclosure Act

The Exclusionary Subsections

- Purchase of closed-end mortgage loans and open-end lines of credit by merger or **acquisition**
- Closed-end mortgage loans and open-end lines of credit under **\$500**
- Purchase of a **partial** interest in a closed-end mortgage loan or an open-end line of credit
- **Agricultural** closed-end mortgage loans and open-end lines of credit
- **Business- or commercial-** purpose credit **unless** it is for home purchase, home improvement, or refinancing.
 - This means we have two **very different** ways to decision business/commercial applications vs. consumer/residential applications. Two **very different** definitions of what's HMDA reportable.

Who Must Report a HMDA LAR?

- **Depository institutions meeting BOTH of the following criteria:**

- Originated 25 or more closed-end covered loans in each of the two previous calendar years; **or**
- Originated 100 or more open-end covered loans in each of the two previous calendar years.

AND

- On 12/31 of the previous calendar year, the institution had a home office or branch office located within a Metropolitan Statistical Area (MSA); **and**
- Satisfy an asset-size threshold.
 - For 2016 it's \$44 million
 - **Non-Depository Institutions** have no asset size thresholds.

New Data Fields

Some from Dodd-Frank, some from the CFPB

- **Twenty-five (25) new data fields.**
 - Only a few of the *proposed* data fields in the 2014 *proposed* rules were not included in the Final Rule.
 - There are now a total of 48 HMDA data fields.
- **The new data fields are grouped into four general categories**
 1. Information about applicants, borrowers, and the underwriting process, such as age, credit score, debt-to-income ratio, and automated underwriting system results.

New Data Fields

Some from Dodd-Frank, some from the CFPB

2. Information about the property securing the loan, such as construction method, property value, and additional information about manufactured and multifamily housing.
3. Information about the features of the loan, such as additional pricing information, loan term, interest rate, introductory rate period, non-amortizing features, and the type of loan.
4. Certain unique identifiers, such as a universal loan identifier, property address, loan originator identifier, and a legal entity identifier for the financial institution.

HMDA Data Fields



Existing HMDA Data Fields-Untouched

- **Application Date**
- **Loan Type**
- **Action Taken**
- **Action Taken Date**
- **Income** (retains exception for bank's employees)
- **Property Location** (note, "Street Address" is a new field)
- **HOEPA**



Existing HMDA Data Fields-Modified

- **Universal Entity Identifier (UEI)**
- **Universal Loan Identifier (ULI)**
 - Begins with FI's Legal Entity Identifier (LEI)
 - Follows with as many as 23 additional characters
 - Must not directly identify the applicant (e.g. SSAN)
 - Ends with 2-digit check number calculated per new Appendix C
- **Loan Type.... whether loan is for**
 - Home purchase
 - Home improvement
 - Refinancing (**cash-out vs. not**) or
 - Other purpose

Existing HMDA Data Fields-Modified

- **Preapproval**
- **Construction Method**
- **Occupancy** (Report whether it is a principal residence, second residence, or investment property.)
- **Loan Amount** (not rounded, report exact dollar amt.)
- **Ethnicity, Race, Sex** (see entire section on this)

Existing HMDA Data Fields-Modified

- **Type of Purchaser**
- **Rate Spread** (The difference between the APR and the APOR for a comparable transaction as of the date the interest rate is set, excludes purchased loans and assumptions. Only pertains to Reg Z loans.)
- **Lien Status** (This will include purchased loans.)
- **Reason for Denial** (mandatory now, up to 4 reasons)

Newly-Added HMDA Data Fields

NEW

- Property Address
- Age
- Credit Score (except purchased loans)
- Total Loan Costs or Total Points & Fees
- Origination Charges
- Discount Points
- Lender Credits
- Interest Rate at closing
- Prepayment Penalty Term (except reverse mortgages and purchased loans)
- Debt-to-Income Ratio if consumer-purpose (except purchased loans)
- Loan-to-Value Ratio (except purchased loans)
- Loan Term in Months
- Introductory Rate Period
- Non-Amortizing Features



Newly-Added HMDA Data Fields

NEW

- Property Value
- Mnfctr'd Home Type
- Mnfctr'd Home Land Property Interest (own or lease)
- Total Dwelling Units
- Multi-Family Affordable Units
- Application Channel (except purchased loans)
- NMLS#
- Automated Underwriting System used and result it generated (except purchased loans)
- Reverse Mortgage
- Open End Line-of-Credit
- Business/CML

HMDA Data Fields

- **If loan is subject to repayment ability rules of 1026.43(c), amount of total loan costs shown on TRID Closing Disclosure.**
- **If loan is not subject to 1026.43(c) and not a purchased loan, total points and fees charged.**
- **If closed-end other than reverse mortgage, total of lines for origination charges borrower-paid at/before closing shown on Closing Cost Details page of Closing Disclosure.**
- **For same loans, points paid to reduce interest rate.**

GMI



Changes to Ethnicity, Race & Sex Data Fields

- Financial institutions must report whether ethnicity, race, or sex information was collected on the basis of visual observation or surname when an application is taken in person and the applicant does not provide the information.
- For transactions where ethnicity and race information is provided **by the applicant** or borrower, the final rule requires financial institutions to permit applicants and borrowers to self-identify using disaggregated ethnic and racial categories.
- When ethnicity and race data is completed **by the financial institution**, the final rule retains the current requirements, requiring financial institutions to provide only aggregated ethnic or racial data.

Focus on Ethnicity Data Fields

- **Same 2 ethnicities as before**
 - Hispanic or Latino
 - Not Hispanic or Latino
- **Applicant may still select either or both. Hispanic or Latino will be given subcategories**
 - Mexican, Puerto Rican, Cuban, Other
 - Subcategories are optional, and solely for the applicant to select
 - Applicant may select one or more (or all) of the subcategories

Focus on Ethnicity Data Fields

Ethnicity Data Collection Form

- Hispanic or Latino- Check one or more:
- Mexican
- Puerto Rican
- Cuban
- Other Hispanic or Latino – Print origin, for example Argentinean, Colombian, Dominican, Salvadoran, Spaniard, and so on: _____
- Not Hispanic or Latino
- I do not wish to provide this Information

Focus on Ethnicity Data Fields

- If Hispanic or Latino applicant picks Other subcategory, also gets 19 characters of free text.
- FI must report whatever the applicant selects, no matter how unlikely it appears.
- Applicant who selects Not Hispanic or Latino is allowed no subcategories and no free text.

- Ethnic subcategories are for the **applicant's** use only.
- FI should not select any subcategories based on visual observation or surname.

Focus on Race Data Fields

- **Same 5 categories of race remain**
 - American Indian or Alaska Native
 - Asian
 - Black or African-American
 - Hawaiian or Other Pacific Islander
 - White
- **American Indian or Alaska Native will be allowed no subcategories, but will be given 19 characters of free text.**
- **Black or African-American and White will be allowed no subcategories and no free text.**
- **Asian and Native Hawaiian or Other Pacific Islander will be allowed subcategories plus 19 characters of free text.**

Focus on Race Data Fields

- **Subcategories allowed for Asian**

- Asian Indian
- Chinese
- Filipino
- Japanese
- Korean
- Vietnamese
- Other Asian

- **Subcategories allowed for Native Hawaiian or Other Pacific Islander**

- Native Hawaiian
- Guamanian or Chamorro
- Samoan
- Other

Focus on Race Data Fields

Race Data Collection Form

- Asian
 - Asian Indian
 - Chinese
 - Filipino
 - Japanese
 - Korean
 - Vietnamese
 - Other Asian - *Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on:* _____
- White

Focus on Race Data Fields

Race Data Collection Form

Race: *Check one or more*

- American Indian or Alaska Native - *Print name of enrolled or principal tribe: _____*
- Black or African American
- Native Hawaiian or Other Pacific Islander
 - Native Hawaiian
 - Guamanian or Chamorro
 - Samoan
 - Other Pacific Islander - *Print race, for example, Fijian, Tongan, and so on: _____*
- I do not wish to provide this information

Focus on Race Data Fields

- **Institution must report applicant's race choices for up to the full five categories.**
- **If applicant selects all five races (as is permitted) plus some subcategories (also permitted), the institution should report only the five categories (no subcategories).**
- **If applicant selects less than five categories and some subcategories, institution must report all race categories selected plus subcategories up to a total of five entries (the institution chooses which subcategories).**

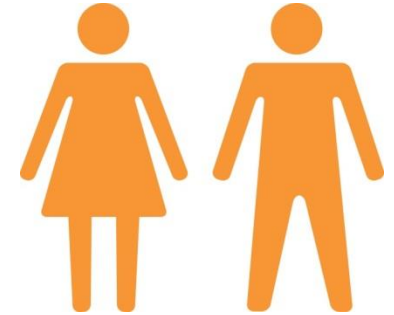
Focus on Race Data Fields

- If applicant selects either (or both) of the Other Asian or Other Pacific Islander subcategories, that subcategory plus the 19 characters of free text count as only one of the five items (Got it?)

- Race subcategories are for the **applicant's** use only.
- FI should not select any subcategories based on visual observation or surname.

Focus on Sex Data Fields

- **No changes whatsoever**
- **Same two choices as before**
 - Male
 - Female
- **Based solely on applicant's anatomical features, not identification or preference.**
- **No subcategories, no free text.**
- **Just as under present rule, if applicant declines to select one, FI is required to determine and report it based on visual observation.**



Miscellaneous GMI Provisions

- **One co-applicant may provide GMI on an absent co-applicant**
- **Starting January 1, 2018, FIs must collect GMI on applicant and 1st co-applicant only (change from present rules).**
- **Report Not Applicable if applicant or co-applicant is not a human being, but rather a corporation, partnership, LLC, LLP, trust, etc.**
- **We expect mistakes here involving family living trusts, given recent unrelated revision to commentary to Regulation Z, section 1026.3(a).**
- **Do not collect or report GMI on guarantors.**

How to Prepare

1. **Create your HMDA Implementation Team for the new Rule.**
2. **Attend additional training.**
 - Some of the new data fields might not be familiar to consumer regulatory compliance staff.

(For the following steps, do them separately for resi/consumer lending, commercial lending, and purchased loans because the approach is totally different.)

3. **Perform overview training with lenders, processors, etc.**
4. **Place the 48 HMDA data fields into a grid and work with lenders to identify where each piece of data resides... what is the source document or system for each.**

How to Prepare

5. Redesign your HMDA coding sheet.
6. Prepare detail-level training using the mapping grid and coding sheet.
7. After your tools are prepared and training is complete, code a test quarter to see how many of the 48 fields you currently have data for. Focus on those you don't.
8. Determine who will perform the HMDA coding starting 1/1/18.
9. Determine who will scrub the LAR.

The Reporting Process

- **Data Submission Process**

- CFPB is providing a new web-based submission tool for reporting which will be available in 2018

- **Quarterly Reporting**

- The rule will require quarterly reporting if an institution reported a combined total of at least 60,000 applications and covered loans in the preceding year. The first quarterly submission is Q1 of 2020

Disclosure Requirements

- **Starting in 2018 (on data collected in 2017) covered institutions will no longer have to provide a disclosure statement or a modified LAR to the public upon request.**
- **When a request is made, a covered institution will provide a notice that its disclosure statement and modified LAR are available on the CFPB's website.**
 - Short written notice of such handed to the requesting party and
 - Notice on the FI's website.
 - Model language in new commentary to 1003.5 for combined notice regarding LAR and Disclosure Statement.
 - Slightly different model language also provided there for notice to be posted in lobby of home office and each branch physically located in an MSA.

Business, Operational and Cost Concerns

- **Systems modifications for collection and reporting of data on to the LAR. Where does data reside? How to ensure it's accurate and final? LOS additional fields?**
- **Changes in collection procedures.**
- **Costs in staff training.**
- **Costs in possible Fair Lending violations from problem identification in new LAR fields.**



Business, Operational and Cost Concerns

- **How should my policy change?**

- If certain loan types will be added to product mix or rescinded from product mix, and the reasons.

- **What procedural considerations should be made?**

- How will new information be collected and when.

- **What changes should be adopted for training?**

- Training staff that collects information.
- Training staff that reports information collected.
- Training staff that reviews information reported.
- Training staff that audits information reviewed.
- Board of Directors training.
 - Do they really need to know how to collect GMI?
 - They need to know why there's a higher expense in this category.
 - They need to know why additional training costs are justified.



Privacy Concerns

- **Gramm-Leach-Bliley and Privacy Ramifications**

- Detailed personal information on applicants might allow identification, location of individuals from published HMDA data
 - Age
 - Sex
 - Street address (CFPB will collect, despite objections; hints that it may not publish)
 - Gross annual income
 - Credit score
 - DTI
 - Loan amount, term
 - Reasons for denial (up to 4, based on unrelated Regulation B commentary)

Privacy Concerns

- A criminal/predator who obtained those data from CFPB website could easily locate chosen types of individuals and target them for fraud, robbery, terrorism, and other financial crimes.
- CFPB says it has adopted a balancing test to determine whether/how data should be modified before release to the public while also fulfilling HMDA's purposes.
- CFPB says it will provide at a later date a process for the public to provide input on the application of the balancing test to determine the HMDA data to be publicly disclosed.
- Until that process is completed and decisions announced, the risks are not calculable.

Thank You.

Can we answer questions for you?

Alice Judd, MBA, CRCM

Managing Director, Mid Atlantic Region

Alice.Judd@fisglobal.com

Sharon Blanchette, CPA, CIA, CRCM, CAMS, MBA

Director, Special Projects

Sharon.Blanchette@fisglobal.com

FIS Risk, Information Security, and Compliance (RISC)

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