Consumer Financial Protection Bureau
1700 G Street NW, Washington, DC 20552

CFPB Bulletin 2013-11

Date: October 9, 2013

Subject: Home Mortgage Disclosure Act (HMDA) and Regulation C – Compliance Management; CFPB HMDA Resubmission Schedule and Guidelines; and HMDA Enforcement

In this bulletin, the Consumer Financial Protection Bureau (CFPB or Bureau) addresses mortgage lenders' compliance with the Home Mortgage Disclosure Act (HMDA)[1] and its implementing regulation, Regulation C.[2] Specifically, this bulletin:

1. Provides guidance on compliance with HMDA and Regulation C to depository and non-depository mortgage lenders subject to the CFPB's jurisdiction that must collect and accurately report data under HMDA, by highlighting how mortgage lenders may effectively structure HMDA compliance management systems;

2. Announces the CFPB's HMDA Resubmission Schedule and Guidelines, which will apply to the Bureau's HMDA data integrity reviews beginning on or after January 18, 2014; and

3. Discusses factors that the CFPB may consider when evaluating whether to pursue a public HMDA enforcement action.

HMDA and Regulation C

HMDA and Regulation C require certain lenders to collect and report information about most mortgage applications as well as most originated and purchased

[1] 12 U.S.C. §§ 2801–2810.
[2] 12 C.F.R. pt. 1003.

mortgage loans (HMDA data). Ensuring the accuracy of HMDA data is vital to carrying out the statute's purposes, which are to provide the public with loan data that can be used to:

1. Help determine whether financial institutions are serving the housing needs of their communities;
2. Assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and
3. Assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.[3]

In addition, the Bureau uses HMDA data extensively in discharging the rule-writing, research, supervisory, and enforcement responsibilities conferred upon it by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[4] Accordingly, the CFPB views the accuracy of HMDA data as an important element of its consumer protection mission.

HMDA Compliance Management

Given the importance of accurate HMDA data to fulfilling the statute's purposes, the CFPB is committed to ensuring that Bureau-supervised mortgage lenders, whether depository or non-depository institutions, develop and/or maintain appropriate HMDA compliance management systems designed to ensure the accuracy of HMDA data. The scope, complexity, and size of each CFPB-supervised institution's lending operations vary, and we expect that compliance management systems will be calibrated accordingly. Based on the CFPB's supervisory experience, effective HMDA compliance management systems frequently include:

- Comprehensive policies, procedures, and internal controls to ensure on-going compliance with the collection and reporting requirements set forth in HMDA and Regulation C;
- As appropriate to the size and complexity of the institution, comprehensive and regular internal, pre-submission HMDA audits, to test and evaluate data accuracy, and that include a reasonable amount of transactional analysis, written reports detailing findings, and recommendations for corrective actions;

[3] 12 C.F.R. § 1003.1(b)(1).
[4] *See* 12 U.S.C. § 5493(b)(1)(B); § 5511; § 5512(c)(1).

- Reviews of any regulatory changes that may have occurred since the prior examination and/or data collection and reporting cycle;
- Reporting systems that are appropriate given the volume of the institution's lending operations;
- One or more individuals assigned responsibility for oversight, data entry, and data updates, including the timely and accurate reporting of the institution's data;
- Appropriate, sufficient, and periodic employee training to ensure that responsible personnel understand HMDA and Regulation C standards and reporting requirements;
- Effective corrective action in response to previously identified deficiencies; and
- As appropriate, board and management oversight.

Each institution should ensure that its HMDA compliance management system is tailored appropriately to its operations. The CFPB also encourages institutions to apply the Bureau's HMDA Resubmission Schedule and Guidelines, which are discussed below, to manage HMDA compliance and facilitate effective corrective action on self-identified errors.

CFPB HMDA Resubmission Schedule and Guidelines

The CFPB's HMDA Resubmission Schedule and Guidelines[5] (Resubmission Schedule) take an approach that is similar to the approach taken by other federal regulators: examination teams should ask institutions to correct and resubmit the HMDA Loan Application Register (LAR) when the number of errors in a sample exceeds a resubmission threshold.[6] However, the Bureau's guidelines will apply different standards depending on whether or not the institution has 100,000 or more HMDA LAR entries.

Under the Resubmission Schedule, which sets forth guidance to CFPB examination teams, institutions reporting fewer than 100,000 HMDA LAR entries should correct and resubmit HMDA data when 10 percent or more of a sample of HMDA LAR entries contains errors. In certain cases, sample error rates below 10 percent

[5] The CFPB HMDA Resubmission Schedule and Guidelines are part of the CFPB's HMDA Examination Procedures, *available at* http://www.consumerfinance.gov/guidance/supervision/manual/

[6] The CFPB currently applies the Federal Reserve Board's resubmission thresholds, *available at* http://www.federalreserve.gov/boarddocs/caletters/2004/0404/CA04-4Attach3.pdf. For HMDA data integrity reviews that are scheduled to begin on or after January 18, 2014, the thresholds in the CFPB HMDA Resubmission Schedule and Guidelines will apply.

— or below five percent in an individual data field — may call for resubmission if the errors prevent an accurate analysis of the institution's lending.

Given the significance of their impact on access to mortgage credit, institutions reporting 100,000 or more HMDA LAR entries should correct and resubmit HMDA data when at least four percent or more of a sample of entries from the HMDA LAR contains errors. Resubmission thresholds are lower at institutions with 100,000 or more HMDA LAR entries because a lower sample error rate at these institutions could nonetheless reflect a larger number of HMDA LAR entries with errors than a comparable error rate at an institution with a smaller HMDA LAR. In certain cases, error rates below the four percent threshold — or below two percent in an individual field — may call for resubmission if the errors prevent an accurate analysis of the institution's lending.

The CFPB will take appropriate corrective action to ensure that the institution's HMDA data set is accurate, and that any compliance management weaknesses that led to the errors are corrected.

<u>Enforcement of HMDA and Regulation C</u>

In addition to requiring correction and resubmission of HMDA data by certain institutions based on the applicable resubmission thresholds, the CFPB may, in appropriate circumstances, also take public enforcement action. In determining whether to pursue a public enforcement action, the Bureau will consider relevant factors, including, for example:

- The size of an institution's HMDA LAR and the observed error rate;
- Whether an institution self-identified its HMDA errors outside the context of an active examination or examination-related activity, and independently took appropriate corrective action; and
- If the institution has previously been on notice regarding high HMDA LAR errors such that the institution should have known of on-going HMDA LAR error rates in excess of the resubmission threshold:
    - whether error rates observed during the current exam are sufficiently lower such that they should be viewed as a sign of substantial progress in improving HMDA compliance management; or
    - whether, despite notice, error rates have remained high or have increased.

Through a public enforcement action, the CFPB may seek civil money penalties and other corrective action as appropriate. In determining the appropriate size of any penalty it seeks, the Bureau will consider the factors set forth above as well as the following factors, as appropriate, which are set forth in the Consumer Financial Protection Act of 2010:

- The size of financial resources and good faith of the person charged;
- The gravity of the violation or failure to pay;
- The severity of risks to or losses of the consumer, which may take into account the number of products or services sold or provided;
- The history of previous violations; and
- Such other matters as justice may require.[7]

[7] 12 U.S.C. § 5565(c)(3).

HMDA Resubmission Schedule and Guidelines

These guidelines describe transaction testing that the CFPB will conduct to verify the accuracy of institution-reported HMDA data during HMDA reviews. The guidelines also describe when institutions should be required to correct and resubmit HMDA data.

HMDA Transaction Testing

Before starting a HMDA review, CFPB examination teams should select a random sample of entries from the institution's HMDA Loan Application Register (LAR). CFPB examination teams should also ask the institution to pull the loan or application files that correspond to the HMDA LAR sample entries.

Once on-site, CFPB examination teams should check the data in the HMDA LAR sample entries against the loan or application files. The size of the HMDA LAR sample will depend on the size of the institution's HMDA LAR, as shown in the HMDA Resubmission Schedule (Appendix B).

If an institution's HMDA data are collected through multiple data collection and reporting systems, the CFPB may test samples of entries from each system independently (i.e., select more than one HMDA LAR sample), and may select additional HMDA LAR samples from the system(s) posing the greatest compliance risk. In addition, purchased loans may be sampled separately if they constitute a sufficiently large portion of a covered institution's HMDA LAR entries.

CFPB examination teams will follow these steps when verifying the accuracy of HMDA data:

1) Examination teams will review a HMDA LAR sample and note any errors. The size of the HMDA LAR sample depends on the size of the institution's HMDA LAR (see Appendix B, HMDA Resubmission Schedule, column A).

   Examination teams may start the review using the smaller sample shown in Appendix A, Sample Sizes and Thresholds for Streamlined HMDA Review (Streamlined Schedule). If no errors or only a very small number of errors are found during the streamlined review (no more than the number shown in column C of the Streamlined Schedule), no further action is needed and the examination teams may stop the verification procedure.

   When examination teams identify a number of errors exceeding the number in column C of the Streamlined Schedule, they should always complete a review of the total random sample, as set forth in column B of the HMDA Resubmission Schedule in Appendix B, in order to determine the total number of errors in the full sample and whether the Resubmission Threshold in column C is met. This is necessary — even if errors exceeding the Resubmission Threshold are identified before the review is complete — in order to gauge the full extent of the errors on the overall HMDA LAR and determine any appropriate corrective action.

2) If, after reviewing the full HMDA LAR sample, the total number of errors equals or exceeds the number in column C of the HMDA Resubmission Schedule (the Resubmission Threshold), the institution should be required to correct and resubmit its HMDA data.

Resubmission Guidelines

I. HMDA Reporters with Fewer than 100,000 Entries on the HMDA LAR

Institutions reporting fewer than 100,000 loans or applications on the HMDA LAR should be required to correct and resubmit HMDA data when 10 percent or more of the HMDA LAR sample entries contain errors. This threshold is set forth in column C of the HMDA Resubmission Schedule, Appendix B below. For example, if a reporting institution's HMDA LAR contains 1,000 entries, examination teams will review a random sample of 79 files. If there are at least eight HMDA LAR entries with errors (10 percent of the 79 files), the institution should be required to correct and resubmit its entire HMDA LAR. If there are at least four LAR entries with errors within an individual data field (five percent of the 79 files), the institution should be required to correct and resubmit that field. In certain cases, sample error rates below 10 percent — or below five percent in an individual data field — may require resubmission if the errors make analysis of the institution's data unreliable.

II. HMDA Reporters with 100,000 or More Entries on the HMDA LAR

For reporting institutions with 100,000 or more entries on the HMDA LAR, examination teams will review a larger number of entries to ensure that the CFPB has a more precise estimate of the institution's HMDA LAR error rate. Furthermore, the resubmission standard is more stringent (i.e., the threshold error rate is lower) for these institutions because a lower sample error rate at these institutions could reflect a larger number of errors than a higher sample error rate at an institution with a smaller HMDA LAR.

Therefore, institutions with 100,000 or more HMDA LAR entries should be required to correct and resubmit HMDA data when four percent or more of the sample entries contain errors. This threshold is set forth in column C of the HMDA Resubmission Schedule, Appendix B below. For example, if a reporting institution's HMDA LAR contains 100,000 or more entries, examination teams will review 200 entries; and if there are at least eight entries with errors (four percent of 200 files), the institution should be required to correct and resubmit its entire HMDA LAR. If the error rate in an individual data field is between two and four percent, the institution should be required to correct and resubmit that field. In certain cases, sample error rates below four percent — or below two percent in an individual data field — may require resubmission if the errors make analysis of the institution's lending unreliable.

Illustrative Examples

The full HMDA Resubmission Schedule and Sample Sizes and Thresholds for Streamlined HMDA Review are available as Appendices (attached) and are also excerpted below.

Sample Sizes and Thresholds for Streamlined HMDA Review

Total HMDA LAR entries (A)	**Streamlined Review Sample Size** (B)	**Full review threshold** *If errors exceed this number, examination teams will continue with review* (C)
1,101–99,999	32	1
≥ 100K	90	2

HMDA Resubmission Schedule

Total HMDA LAR entries (A)	**Total random sample** (B)	**Resubmission threshold** *Institutions should be required to resubmit if errors equal or exceed this number* (C)
1,101–99,999	79	8
≥ 100K	200	8

Example 1

Institution A has 2,000 entries on its HMDA LAR. The examination team selects a full sample of 79 loans to review. In the first 32 loans reviewed, the examination team does not identify any HMDA LAR entries with errors. The examination team then stops the review, consistent with Appendix A, Samples Sizes and Thresholds for Streamlined HMDA Review.

Example 2

Institution B has 200,000 entries on its HMDA LAR. The examination team selects a full sample of 200 loans to review. In the first 90 loans reviewed, the examination team identifies three errors. Therefore the examination team continues to review the additional loans in the sample to determine whether the resubmission threshold is met. The examination team completes the full review of the 200 loans and identifies a total of nine errors. The total number of errors in the sample exceeds the Resubmission Threshold in Appendix B, HMDA Resubmission Schedule, so Institution B should be required to correct and resubmit its HMDA LAR.

Appendix A

Sample Sizes and Thresholds for Streamlined HMDA Review

If the number of errors in the Streamlined Review Sample is less than or equal to the number in column C below, the review is complete. If the number of errors exceeds the number in column C below, examiners should review the full sample indicated in column B of Appendix B, HMDA Resubmission Schedule, in order to determine whether the Resubmission Threshold is met.

Total HMDA LAR entries (A)	Streamlined Review Sample Size (B)	Full review threshold (C)
1–11	Review all	
12–20	12	0
21–30	13	0
31–50	15	0
51–70	17	0
71–90	18	0
91–110	28	1
111–130	29	1
131–140	29	1
141–170	29	1
171–190	30	1
191–270	30	1
271–380	30	1
381–750	31	1
751–1,100	31	1
1,101–99,999	32	1
≥ 100K	90	2

Appendix B

HMDA Resubmission Schedule[1]

Institutions should be required to resubmit if the number of errors in the sample equals or exceeds the number in column C.

Total HMDA LAR entries (A)	Total random sample (B)	Resubmission threshold (C)
1–11	All	
12–20	All	2
21–30	All	2
31–50	28	3
51–70	29	3
71–90	38	4
91–110	39	4
111–130	47	5
131–140	49	5
141–170	56	6
171–190	57	6
191–270	59	6
271–380	68	7
381–750	69	7
751–1,100	79	8
1,101–99,999	79	8
≥ 100K	200	8

[1] The HMDA Resubmission Schedule and the Streamlined HMDA Review Schedule apply to both depository and non-depository HMDA reporting institutions.

National Credit Union Administration (/)

Protecting credit unions and the consumers who own them through effective regulatior

Search this site... (javascript:S ())
Advanced Search (/Search/Pages/AdvanceSearch.

()

()

Federal Regulators Provide Guidance On Qualified Mortgage Fair Lending Risks

Joint Release

Board of Governors of the Federal Reserve System
Consumer Financial Protection Bureau
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency

For Immediate Release October 22, 2013

Federal Regulators Provide Guidance On Qualified Mortgage Fair Lending Risks

WASHINGTON– Five federal regulatory agencies today issued a statement to address industry questions about fair lending risks associated with offering only Qualified Mortgages. Creditors have asked for clarity regarding whether the disparate impact doctrine of the Equal Credit Opportunity Act (ECOA) and its implementing regulation, Regulation B, allows them to originate only Qualified Mortgages. For the reasons described in the statement, the five agencies do not anticipate that a creditor's decision to offer only Qualified Mortgages would, absent other factors, elevate a supervised institution's fair lending risk.

The Consumer Financial Protection Bureau's Ability-to-Repay Rule implements provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act that require creditors to make a reasonable, good faith determination that a consumer has the ability to repay a mortgage loan before extending credit to the consumer. Lenders are presumed to have complied with the Ability-to-Repay Rule if they issue Qualified Mortgages, which must satisfy requirements that prohibit or limit risky features that harmed consumers in the recent crisis.

The ECOA makes it illegal for a creditor to discriminate in any aspect of a credit transaction based on characteristics including race, religion, marital status, color, national origin, sex, and age.

The agencies note the decisions creditors will make about product offerings in response to the Ability-to-Repay Rule are similar to decisions creditors have made with regard to other significant regulatory changes affecting particular types of loans. The statement counsels that creditors should continue to evaluate fair lending risk as they would for other types of product selections, including by carefully monitoring policies and practices and implementing effective compliance management systems.

The agencies issuing the statement with supervisory authority for the Fair Housing Act (FHA) believe that the same principles apply in determining compliance with the FHA and its implementing regulation.

The statement is being issued by the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

A copy of the statement is available at: www.ncua.gov/News/Press/StmtFairLendingCompliance20131022.pdf (/News/Press/StmtFairLendingCompliance20131022.pdf).

Media Contacts:

Federal Reserve	Susan Stawick	202-452-2955 (#)
CFPB	Sam Gilford	202-435-7673 (#)
FDIC	Andrew Gray	202-898-7192 (#)
NCUA	Ben Hardaway	703-518-6333 (#)
OCC	Stephanie Collins	202-649-6870 (#)

NCUA is the independent federal agency created by the U.S. Congress to regulate, charter and supervise federal credit unions. With the backing of the full faith and credit of the U.S. Government, NCUA operates and manages the National Credit Union Share Insurance Fund, insuring the deposits of more than 95 million account holders in all federal credit unions and the overwhelming majority of state-chartered credit unions.

--NCUA--

Office of Public & Congressional Affairs
703.518.6330 (#)
pacamail@ncua.gov (mailto:pacamail@ncua.gov)

Contacts:

John Fairbanks
Office: 703.518.6336 (#)
jfairbanks@ncua.gov (mailto:)

Ben C. Hardaway
Office: 703.518.6333 (#)
Mobile: 703.298.5223 (#)
bhardaway@ncua.gov (mailto:)

Kenzie Snowden
Office: 703.518.6334 (#)
ksnowden@ncua.gov (mailto:)

"Protecting credit unions and the consumers who own them through effective regulation"

Federal Financial Regulators Proposing Joint Standards for Assessing Diversity Policies and Practices of Regulated Entitie Pursuant to Section 342 of the Dodd-Frank Act

Joint Release

Board of Governors of the Federal Reserve System
Consumer Financial Protection Bureau
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency
Securities and Exchange Commission

For Immediate Release October 23, 2013

Federal Financial Regulators Proposing Joint Standards for Assessing Diversity Policies and Practices of Regulated Entities Pursuant to Section 342 of the Dodd-Frank Act

WASHINGTON– Six federal financial regulatory agencies are proposing joint standards for assessing the diversity policies and practices of the institutions they regulate.

The proposed standards are intended to promote transparency and awareness of diversity policies and practices within the institutions.

The assessment standards cover four key areas:

- Organizational commitment to diversity and inclusion;
- Workforce profile and employment practices;
- Procurement and business practices and supplier diversity; and
- Practices to promote transparency of organizational diversity and inclusion.

In developing these proposed standards, the six agencies tailored the standards to account for variables including asset size, number of employees, governance structure, income, number of members or customers, contract volume, location, and community characteristics. The agencies recognize standards may need to change and evolve over time.

Each of the federal financial regulatory agencies houses an Office of Minority and Women Inclusion (OMWI). Under Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, each OMWI is required to develop standards for assessing diversity policies and practices in the regulated entities.

The agencies' OMWI directors held roundtable discussions with a range of parties, including representatives from depository institutions, holding companies, credit unions, and industry trade groups to solicit input on assessment standards and to learn about the challenges and successes of current diversity programs and policies. Roundtable discussions also were held with financial professionals, consumer advocates, and community representatives to gain a greater understanding of issues facing minorities and women in employment and in business contracting in the financial sector. Information obtained from those discussions helped shape the proposed standards.

Once published in the Federal Register, the proposed policy statement will be available for public comment for 60 days.

The agencies issuing the proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies are the Board of Governors of the Federal Reserve System, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission.

Attachment (/News/Press/DiversityStandardsStatement.pdf)

# # #

Media Contacts:

Federal Reserve	Barbara Hagenbaugh	202-452-2955 (#)
CFPB	Michelle Muth Person	202-435-7857 (#)
FDIC	David Barr	202-898-6992 (#)
NCUA	John Fairbanks	703-518-6336 (#)
OCC	Stephanie Collins	202-649-6870 (#)
SEC	Kevin Callahan	202-551-4120 (#)

NCUA is the independent federal agency created by the U.S. Congress to regulate, charter and supervise federal credit unions. With the backing of the full faith and credit of the U.S. Government, NCUA operates and manages the National Credit Union Share Insurance Fund, insuring the deposits of more than 95 million account holders in all federal credit unions and the overwhelming majority of state-chartered credit unions.

--NCUA--

Office of Public & Congressional Affairs
703.518.6330 (#)
pacamail@ncua.gov (mailto:pacamail@ncua.gov)

Contacts:

John Fairbanks
Office: 703.518.6336 (#)
jfairbanks@ncua.gov (mailto:)

Ben C. Hardaway
Office: 703.518.6333 (#)
Mobile: 703.298.5223 (#)
bhardaway@ncua.gov (mailto:)

Kenzie Snowden
Office: 703.518.6334 (#)
ksnowden@ncua.gov (mailto:)

"Protecting credit unions and the consumers who own them through effective regulation"