

# HOME MORTGAGE DISCLOSURE ACT (HMDA)

## EXAMINATION PROCEDURES

### Examination Objectives

- Determine whether the credit union meets the criteria that triggers HMDA reporting
- Determine whether the credit union complies with the reporting requirements of the Act and Regulation
- Determine whether the credit union has implemented adequate policies, practices, and internal controls to ensure compliance with the Act and Regulation

### Examination Procedures

#### A. Initial Procedures

If there were any mergers or acquisitions since January 1, of the preceding calendar year, determine whether all required HMDA data for the acquired financial institutions were reported separately or in consolidation. Examination procedures that follow concerning accuracy and disclosure also apply to an acquired financial institution's data, even if separately reported. Use the following rules to decide if transactions by either institution during the year of the merger must be reported.

- a. If neither institution was required to report under HMDA that year the merged institution does not have to report transactions that occurred during the year of the merger. Data collection should begin on January 1, of the following calendar year.
- b. If a reporting institution merged with a non-reporting institution, and the reporting institution is the surviving institution, for the year of the merger, data collection is required for the reporting institution's transactions; data collection is optional for the transactions handled in offices of the previously exempt non-reporting institution.
- c. If a reporting institution merged with a non-reporting institution, and the non-reporting institution is the surviving institution, or a new institution is formed, for the year of the merger, data collection is required for the reporting institution for transactions that occurred prior to the merger; data collection is optional for transactions that occurred after the merger date.
- d. If both institutions were HMDA reporters, data collection is required for the entire year of the merger. The merged institution may file either a consolidated submission or separate submissions.

## **B. Evaluation of Compliance Management**

Examiners should obtain information necessary to make a reasonable assessment regarding the institution's ability to collect data regarding applications for, and originations and purchases of, home purchase loans, home improvement loans, and refinancings for each calendar year in accordance with the requirements of the HMDA and Regulation C.

Examiners should determine, through a review of written policies, internal controls, the HMDA Loan Application Register (HMDA-LAR), and discussions with management, whether the financial institution adopted and implemented comprehensive procedures to ensure adequate compilation of home mortgage disclosure information in accordance with 12 CFR 1003.4(a)-(e).

During your review of the financial institution's system for maintaining compliance with HMDA and Regulation C obtain and review policies and procedures along with any applicable audit and compliance program materials to determine whether:

1. Policies and procedures as well as training are adequate, on an ongoing basis, to ensure compliance with the Home Mortgage Disclosure Act and Regulation C.
2. Internal review procedures and audit schedules comprehensively cover all of the pertinent regulatory requirements associated with HMDA and Regulation C.
3. The audits or internal analysis performed include a reasonable amount of transactional analysis, written reports that detail findings and recommendations for corrective actions.
4. Internal reviews include any regulatory changes that may have occurred since the prior examination.
5. The financial institution has assigned one or more individuals responsibility for oversight, data update, and data entry, along with timeliness of the financial institution's data submission. Also determine whether the Board of Directors is informed of the results of all analyses.
6. The individuals who have been assigned responsibility for data entry receive appropriate training in the completion of the HMDA-LAR and receive copies of Regulation C, Instructions for Completion of the HMDA-LAR (Appendix A), the Staff Commentary to Regulation C, and the FFIEC's "Guide to HMDA Reporting: Getting it Right!" in a timely manner.
7. The institution has ensured effective corrective action in response to previously identified deficiencies.
8. The financial institution performs HMDA-LAR volume analysis from year-to-year to detect increases or decreases in activity for possible omissions of data.
9. The financial institution maintains documentation for those loans it packages and sells to other institutions.

## **C. Evaluation of Policies and Procedures**

Evaluate whether the institution's informal procedures and internal controls are adequate to ensure compliance with HMDA and Regulation C. Consider the following:

1. Whether the individual(s) assigned responsibility for the institution's compliance with HMDA and Regulation C possess(es) an adequate level of knowledge and has established a method for staying abreast of changes to laws and regulations.
2. If the institution ensures that individuals assigned compliance responsibilities receive adequate training to ensure compliance with the requirements of the regulation.
3. Whether the individuals assigned responsibility for the institution's compliance with HMDA and Regulation C know whom to contact, at the financial institution or their supervisory agency, if they have questions not answered by the written materials.
4. If the institution has established and implemented adequate controls to ensure that separation of duties exists (e.g., data entry, review, oversight, and approval).
5. Any internal reports or records documenting policies and procedures revisions as well as any informal self-assessment of the institution's compliance with the regulation.
6. If the institution offers preapprovals, whether the institution's preapproval program meets the specifications detailed in the HMDA regulation. If so, whether the institution's policies and procedures provide adequate guidance for the reporting of preapproval requests that are approved or denied in accordance with the regulation.
7. Whether the institution's policies and procedures address the reporting of (1) non-dwelling secured loans that are originated in whole or in part for home improvement and classified as such by the institution; and (2) dwelling-secured loans that are originated in whole or in part for home improvement, whether or not classified as such.
8. Whether the institution established a method for determining and reporting the lien status for all originated loans and applications.
9. Whether the institution's policies and procedures contain guidance for collecting ethnicity, race, and sex for all loan applications, including applications made by telephone, mail, and Internet.
10. Whether the institution's policies and procedures address the collection of the rate spread (difference between the APR and the average prime offer rate for a comparable transaction as of the date the interest rate is set) and whether the institution has established a system for tracking rate lock dates and calculating the rate spread.

11. Whether the institution's policies and procedures address how to determine if a loan is subject to the Home Ownership and Equity Protection Act and the reporting of applications involving manufactured home loans.
12. Whether the HMDA-LAR is updated within 30 days after the end of each calendar quarter.
13. Whether data are collected at all branches, and if so, whether the appropriate personnel are sufficiently trained to ensure that all branches are reporting data under the same guidelines.
14. Whether the financial institution's loan officers, including loan officers in the commercial loan department who may handle loan applications reportable under HMDA (including loans and applications for multi-family or mixed-use properties and small business refinances secured by residential real estate), are informed of the reporting requirements necessary to assemble the information.
15. Whether the Board of Directors has established an independent review of the policies, procedures, and HMDA data to ensure compliance and accuracy, and is advised each year of the accuracy and timeliness of the financial institution's data submissions.
16. What procedures the institution has put in place to comply with the requirement to submit data in machine-readable form and whether the institution has some mechanism in place to ensure the accuracy of the data that are submitted in machine-readable form.
17. Whether the financial institution's loan officers are familiar with the disclosure, reporting and retention requirements associated with the loan application registers and the FFIEC public disclosure statements.
18. Whether the financial institution's loan officers are familiar with the disclosure statements that will be produced from the data.
19. Whether the financial institution's loan officers are aware that civil money penalties may be imposed when an institution has submitted erroneous data and has not established adequate procedures to ensure the accuracy of the data.
20. Whether the financial institution's loan officers are aware that correction and resubmission of erroneous data may be required when data are incorrectly reported for at least 5 percent of the loan application records.

#### **D. Transaction Testing**

Verify that the financial institution accurately compiled home mortgage disclosure information on a register in the format prescribed in Appendix A, by testing a sample of loans and applications.

The review of the HMDA-LAR, for submitted data, should include a sample of the applications represented on the HMDA-LAR to verify the accuracy of each entry. A sample of the current year's data should also be reviewed. The samples may include the following:

1. Approved and denied transactions subject to HMDA;
2. Housing-related purchased loans;
3. Withdrawn housing-related loan applications.

## **E. Disclosure and Reporting**

### 1. Determine whether the financial institution:

a. Submits its HMDA-LAR to the appropriate supervisory agency no later than March 1 following the calendar year for which the data are compiled and maintains its HMDA-LAR for at least three years thereafter. NOTE: Financial institutions that report 25 or fewer entries on their HMDA-LAR may collect and report HMDA data in a paper form. Any financial institution opting to submit its data in such a manner must send two copies that are typed or computer printed. They must use the format of the HMDA-LAR, but need not use the form itself.

b. Makes its FFIEC disclosure statement available to the public at its home office no later than three business days after receiving its statement from the FFIEC (which effectively occurs when the FFIEC posts its disclosure statement on the FFIEC website and provides notice of that fact to the institution).

c. Either

(1) makes its FFIEC disclosure statement available to the public in at least one branch office in each additional MSA or MD where the financial institution has offices within 10 business days after receiving the disclosure statement from the FFIEC (which effectively occurs when the FFIEC posts the disclosure statement on the FFIEC website and provides notice of that fact to the institution); or

(2) posts the address for sending written requests for the disclosure statement in the lobby of each branch office in additional MSAs or MDs where the institution has offices and mails or delivers a copy of the disclosure statement within 15 calendar days of receiving the written request.

d. Makes its modified HMDA-LAR (loan application number, date application received, and date action taken excluded from the data) available to the public by March 31, for requests received on or before March 1, and within 30 days for requests received after March 1.

- e. Maintains its modified HMDA-LAR for three years and its disclosure statement for five years and has policies and procedures to ensure its modified HMDA-LAR and disclosure statement are available to the public during those terms.
  - f. Makes available the modified HMDA-LAR and disclosure statement for inspection and copying during the hours the office is normally open to the public for business. If it imposes a fee for costs incurred in providing or reproducing the data, the fee is reasonable.
  - g. Posts a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA.
  - h. Provides promptly upon request the location of the institution's offices where the statement is available for inspection and copying, or includes the location in the lobby notice.
2. If the financial institution has a subsidiary covered by HMDA, determine that the subsidiary completed a separate HMDA-LAR and either submitted it directly or through its parent to the parent's supervisory agency.
  3. Determine that the HMDA-LAR transmittal sheet is accurately completed and that an officer of the financial institution signed and certified to the accuracy of the data contained in their register. See Appendix A. NOTE: If the HMDA-LAR was submitted via the Internet, this signature should be retained on file at the institution.
  4. Review the financial institution's last disclosure statement, HMDA-LAR, modified HMDA-LAR, and any applicable correspondence, such as notices of noncompliance. Determine what errors occurred during the previous reporting period. If errors did occur, determine what steps the financial institution took to correct and prevent such errors in the future.
  5. Determine if the financial institution has the necessary tools to compile the geographic information.
    - a. Determine if the financial institution uses the U.S. Census Bureau's Census Tract Street Address Lookup Resources for 2010, the Census Bureau's 2000 Census Tract Outline Maps, LandView 6 equivalent materials available from the Census Bureau or from a private publisher, or an automated geocoding system in order to obtain the proper census tract numbers.

(Once the 2010 versions are available, the financial institution should use the latest versions.).
    - b. If the financial institution relies on outside assistance to obtain the census tract numbers (for example, private "geocoding" services or real estate appraisals), verify that adequate procedures are in place to ensure that the census tract numbers are obtained in instances where they are not provided by the outside source. For example, if the financial institution usually uses property appraisals to determine census tract numbers, it must

have procedures to obtain this information if an appraisal is not received; such as in cases where a loan application is denied before an appraisal is made.

c. Verify that the financial institution has taken steps to ensure that the provider of outside services is using the appropriate 2000 Census Bureau data.

d. Verify that the financial institution uses current MSA and MD definitions to determine the appropriate MSA and MD numbers and boundaries. MSA definitions and numbers (and state and county codes) are available from the supervisory agency, the Office of Management and Budget, or the FFIEC's publication "A Guide to HMDA Reporting: Getting it Right!"

## **References**

### **CFPB Examination Manual**

<http://www.ffiec.gov/hmda/pdf/2010guide.pdf>