



HMDA Rewrite

Cite

CFPB, Request for Information Regarding the HMDA Rule Assessment

Recommended Distribution

Mortgage Finance, Compliance, Risk Management, Legal, Government Relations

Website

https://files.consumerfinance.gov/f/documents/cfpb_hmda-rule-assessment_rfi_2021-11.pdf

Impact Assessment

- Substantive changes to HMDA reporting would increase transparency and thus enhance identification of possible mortgage discrimination and/or redlining.
- Transparency also heightens lender legal and reputational risk along with possible operational cost.
- To the extent data on practices related to pricing, terms, appraisals, and other actions argue for remediation, significant changes in mortgage-credit availability and cost are likely. This may well increase inclusion and equity, but unintended consequences (e.g., fewer small and/or nonbank lenders) are also possible.

Overview

The CFPB has followed a study earlier this year finding significant mortgage product and price discrepancies based on race or ethnicity¹ with a request for input (RFI) on the HMDA data on which the study was based. This is a preliminary effort with no immediate regulatory or supervisory consequences, but it likely presages a significant HMDA-regulatory rewrite in no later than 2023 to provide still more firepower for ongoing CFPB, Department of Justice, and bank-regulatory actions against credit discrimination and redlining.

¹ See **GSE-082321**, *GSE Activity Reports*, August 23, 2021.

Impact

This RFI executes a Dodd-Frank Act requirement² that the Bureau review its significant rules every five years. Even though current HMDA rules do not count as "significant" under the law's specific requirements, the Bureau believes they have this impact and thus is undertaking this voluntary reconsideration under the Act's procedural requirements. These start with an overall assessment based on public comment, such as the one now initiated by the Bureau.

Except for express demands that comment rest on data or factual analysis, the RFI is wholly noncommittal. Questions run the gamut from a focus on reducing discrimination and increasing community reinvestment to operational burden and lender cost. Still, the qualitative discussion in the RFI reinforces the strong emphasis on anti-discrimination enforcement outlined shortly before its release by Director Chopra.³

What's Next

This RFI was issued on November 16. Comments are due sixty days after the date of publication in the *Federal Register*. The RFI makes it clear that any changes resulting from this assessment will proceed through the public-notice-and-comment process after a report on this assessment process is released no later than January of 2023.

Analysis

A. CFPB Assessment Plan

The CFPB is particularly interested in the following issues and the interaction among them:

- who is reporting on which loans;
- how lenders operationalize HMDA reporting as well as on the need for different reporting thresholds, data points, and covered transactions;
- the extent to which HMDA reports have enhanced market transparency with regard to community service, public investment, and discriminatory-lending identification and enforcement. Comment is also sought on reporting gaps in this context; and
- the cost-benefit impact of current data points and lender obligations.

In addition to considering comment on these points, the Bureau announced its own research agenda, using an array of data sources including HMDA to assess implications for loan origination, underwriting, and related matters.

B. Request for Comment

The CFPB also seeks views on:

² See CONSUMER14, *Financial Services Management*, July 19, 2010.

³ See *Client Report COMSUMER37*, October 27, 2021.

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- this assessment plan with particular regard to the outcomes described above and recommended improvement;
 - data and factual information germane to these issues and any others that affect HMDA consideration;
 - the nature and magnitude of HMDA-compliance burden; and
 - data and facts on HMDA effectiveness.