# CFPB Provides Additional Guidance on HMDA Partial Exemption

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The CFPB recently released an interpretive and procedural rule to implement and clarify the partial exemption from the Home Mortgage Disclosure Act (HMDA) adopted in the Economic Growth, Regulatory Relief, and Consumer Protection Act (also known as S.2155).

As we reported previously, the Act amended HMDA to create an exemption applicable to the new data categories added by Dodd-Frank and the HMDA rule adopted by the CFPB for insured depository institutions and insured credit unions that originate mortgage loans below certain thresholds. Additionally, depository institutions must meet certain Community Reinvestment Act rating criteria.

For closed-end mortgage loans, the partial exemption will apply if the institution or credit union originated fewer than 500 such loans in each of the preceding two calendar years. For home equity lines of credit (HELOCs), the partial exemption will apply if the institution or credit union originated fewer than 500 HELOCs in each of the preceding two calendar years. The HELOC change will not initially affect reporting because, for 2018 and 2019, the threshold to report HELOCs is 500 transactions in each of the preceding two calendar years under a temporary CFPB rule.

Even if a depository institution originates loans or HELOCS below the applicable threshold, the Act's partial exemption from reporting the new HMDA data categories does not apply if the institution received a rating of "needs to improve record of meeting community credit needs" during each of its two most recent CRA examinations, or "substantial noncompliance in meeting community credit needs" on its most recent CRA examination.

In July 2018 the CFPB advised that the partial exemption will not affect the format of 2018 Loan Application Registers (LARs) and that:

- LARs will be formatted according to the previously-released 2018 Filing Instructions Guide for HMDA Data Collected in 2018 (2018 FIG).
- If an institution does not report information for a certain data field due to the partial exemption, the institution will enter an exemption code for the field specified in a revised 2018 FIG that the CFPB expects to release later this summer.
- All LARs will be submitted to the same HMDA Platform.

The CFPB also advised that it expected later in the summer to provide further guidance on the applicability of the partial exemption to HMDA data collected in 2018. The interpretive and procedural rule contains the further guidance. As previously indicated, the CFPB also issued a revised FIG for 2018 data to account for the partial exemption.

The interpretive and procedural rule:

- Clarifies the HMDA data points that are covered by the partial exemption. A table in the rule reflects that 26 data points are covered by the partial exemption, and that 22 data points still must be reported by institutions or credit unions that qualify for the partial exemption.
- Provides that institutions and credit unions that qualify for the partial exemption may elect to report the exempted data, provided that they report all data fields within any exempt data point for which they report data. For example, if an institution or credit union elects to report a data field that is part of the property address, it must report all other data fields that are part of the property address data point.
- Clarifies that only closed-end loans and open-end lines of credit that are otherwise reportable under HMDA count toward the 500 loan and 500 line of credit thresholds.
- Provides that if an institution or credit union elects not to report a universal loan identifier for an application or loan, it must report a non-universal loan identifier that meets specified requirements and must be unique within the institution or credit union.
- Clarifies the exception to the partial exemption for negative CRA history must be assessed as of December 31 of the preceding calendar year.

The interpretative and procedural rule will become effective upon publication in the Federal Register. The CFPB advises that it expects to initiate a notice-and-comment rulemaking to incorporate the interpretations and procedures contained in the rule into Regulation C and to further implement the Act.



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