



December 27, 2011

CFPB Interim Final Rule – Home Mortgage Disclosure (Regulation C)

The Consumer Financial Protection Bureau (CFPB) has issued an interim final rule that replaces the Federal Reserve Board's (Fed) Regulation C which implements the Home Mortgage Disclosure Act (HMDA). The interim final rule substantially duplicates the Fed's Regulation C as the CFPB's new Regulation C, 12 C.F.R. Part 1003, making only certain non-substantive, technical, formatting, and stylistic changes, and the CFPB notes that "this interim final rule does not impose any new substantive obligations on persons subject to existing Regulation C..."

To minimize any potential confusion, the CFPB is preserving the past numbering of the Fed's Regulation C, other than the new part number and the enumeration of the individual definitions in § 1003.2. While the interim final rule generally incorporates the Fed's existing regulatory text, appendices (including model forms and clauses), and supplements, the rule has been edited as necessary to reflect nomenclature and other technical amendments required by the Dodd-Frank Act. Importantly however, this interim final rule does not impose any new substantive obligations on regulated entities.

The Dodd-Frank Act amended HMDA to require covered financial institutions to report data with respect to, among other things, the following:

- Age of mortgagors and mortgage applicants;
- Points and fees payable at origination in connection with a mortgage;
- Difference between the APR associated with a loan and a benchmark rate or rates for all loans;
- Term (in months) of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payment;
- Value of the real property pledged or proposed to be pledged as collateral;

- Actual or proposed term in months of any introductory period after which the rates of interest may change for a loan;
- Presence of contractual terms or proposed contract terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term;
- Actual or proposed term (in months) of the mortgage;
- Channel through which the mortgage application was made; and
- Credit score of mortgage applicants and mortgagors.

However, according to the CFPB, “a change in the regulatory text to require collection of additional data pursuant to the Dodd-Frank Act is a substantive change that is beyond the scope of this interim final rule.” In future rulemakings, the CFPB expects to amend Regulation C to implement these certain changes to HMDA made by the Dodd-Frank Act.

According to the CFPB, guidance is to be issued, concurrent with this interim final rule regarding the appropriate federal agency to which each financial institution should report 2011 data pursuant to HMDA. As of the date of this Comment Call, this guidance has not yet been made available. However, CUNA will continue to monitor for this and advise accordingly in the near future.

CUNA is reviewing this interim final rule to determine if there are any regulatory changes that could be made without having to statutorily amend HMDA. To the extent that we have such recommendations which could reduce the regulatory burden on credit unions, we will include these in our comment letter. CUNA plans to circulate a comment letter draft well in advance of the comment deadline stated below.

The interim final rule is effective on December 30, 2011 and can be accessed [here](#). **Please submit comments to CUNA by January 14, 2012.** Comments are due to the CFPB by February 17, 2012 and can be filed using <http://www.regulations.gov>. If commenting directly to the CFPB, commenters should refer to Docket No. CFPB-2011-0020 or RIN 3170-AA06 on the comment letter.

For more information about CFPB rulemaking, contact CUNA Deputy General Counsel Mary Dunn at Mdunn@cuna.coop or Regulatory Counsel Jared Ihrig at jihrig@cuna.coop.