

Fair Lending Risks and HMDA

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Topics

- HMDA History
- Partial Exemptions
- Privacy of HMDA Data
- Fair Lending Concerns

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HMDA History

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HMDA History

HMDA enacted in 1975

SEC. 302. Purpose Statement in Statute

- (a) FINDINGS OF CONGRESS.--The Congress finds that some depository institutions have sometimes **contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.**
- (b) PURPOSE OF CHAPTER.--The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions **are filling their obligations to serve the housing needs** of the communities and neighborhoods in which they are located and to **assist public officials in their determination of the distribution of public sector investments** in a manner designed to improve the private investment environment.
- (c) CONSTRUCTION OF CHAPTER.--Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

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Regulation C Purpose Statement

(1) This part implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data that can be used:

(i) To help determine whether financial institutions are serving the housing needs of their communities;

(ii) To assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and

(iii) **To assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.**

(2) Neither the act nor this part is intended to encourage unsound lending practices or the allocation of credit.

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Partial Exemptions

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HMDA Partial Exemptions

- New 2018 partial exemptions affect the collection, recording and reporting of 2018 HMDA Data to approximately **3,300 institutions**.
- **5,852 institutions reported data under HMDA in 2018 (2017 data)**
- **56.4%** of the 2018 reporters are estimated to be eligible for the new partial exemption

Data is from BCFP interpretive rule issued 8/31/2018 and published in Federal Register 9/7/2018.

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Effective Date Partial Exemption

- Date law was signed by President – Bureau interpretation
- BUT...can use exemption back to 1/1/2018 if institution wishes
- OR...can use from 5/24/2018 forward
- OR...voluntarily report for all of 2018

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HMDA Partially Exempt Reporters

- Only affects HMDA reporters....does not create a new basic reporting threshold
- Mandatory HMDA reporters that are Partially Exempt:
 - Closed-end: Originated 25 or more loans but fewer than 500 loans 2 years in a row
 - Open-end 2018 and 2019: Partial open-end exemption is a moot point until 2020 due to temporary exclusion threshold of reporting if fewer than 500 open-end lines originated 2 years in a row – no need for partial exemption
 - Open-end 2020: Originated 100 or more but fewer than 500 lines 2 years in a row
 - Could have a new open-end threshold for 2020 if that is changed

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Counting for Thresholds-Reporting and Partial Exemption

- All references to loans and lines means HMDA reportable closed-end loans and open-end lines.
- Institution reporting made credit decision.
- HMDA reportable = not excluded at 1003.3(c) or by other exclusions such as primarily non-residential mixed use property.
- Must be secured by HMDA reportable dwelling.
- Open-end means borrower can borrow, pay down, and borrow again.
- Closed-end if not open-end – get into correct category!

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Voluntary Reporting if Partially Exempt

- Any institution can voluntarily report HMDA data in general and if partially exempt – exemption not mandatory
- Institutions eligible for one or both of the partial exemptions can voluntarily report full data for one or more fields
- Can pick and choose which data points to report voluntarily – perhaps use ULI if it is now automated, or continue to flag business and open-end transactions.
- Can gather data for exempt fields and not report but keep for analysis
 - Consider this

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What is the Partial Exemption

- Exempt from having to make more complicated decisions on certain fields
- Authorized to use a special code in certain fields to designate exemption from reporting
 - 1111 in numeric fields (those where all responses are numbers, never NA or a word)
 - Exempt in alphanumeric fields (those where NA is used or a word in a free form text field)
- Follow FIG for entering 1111 or Exempt and what is left blank (such as denial reasons 2-4)
- Refer to detailed charts – one for reporting and one on thresholds

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New Fields That Are Not Exempt

- LEI (legal entity identifier) is not excluded – LEI merely replaced RSSD identifier – if cancelled, get it back!
- Age – not included in sections covered by partial exception in law – **Fair Lending!**
- Disaggregated demographic data – not included in sections covered by partial exception and is an expansion of prior field – **Fair Lending!**
- State abbreviation in property address – state field is required for both property address and property location and therefore cannot be exempted
- Construction Method – partial replacement of prior property type field
- Number of Units – partial replacement of prior property type fields

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NULI vs ULI

- No special code (do not enter 1111 or Exempt)
- Institution eligible for partial exemption can report a Non-Universal Loan Identifier (or use ULI)
- Similar to old application number
 - No LEI, No check digits. Must be unique within institution
- Different from old application number
 - **Cannot ever be used again** on future HMDA LARs if a loan is refinanced or an application is reinstated in a subsequent year – one time number

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Voluntary Reporting of Multi-Field Data Points

- 7 data points are comprised of multiple fields on HMDA LAR
- Cannot split multi-field data points – if one field is reported voluntarily, all in data point must be reported
 - Property Address except state abbreviation, Credit Score and Model, Denial Reasons, Total Loan Costs/Total Points and Fees, Non-Amortizing Features, Application Channel/Initially Payable, AUS result and system

(Simplify: Avoid issue by not voluntarily reporting these fields)

State abbreviation is not exempt, must be completed if there is an address

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Fair Lending Risks of HMDA

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Fair Lending Risks of HMDA

- Risk has always been there but raised with new data fields
- Privacy of some fields helps but we don't have "final answer" on public files for 2018 data
- Regulatory fair lending risk exists whether fields are public or private – examiners have all data (or access to data for those partially exempt)

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Has Fair Lending Risk Increased?

- Increased data – much more to be analyzed
- Earlier disclosure date – about 6 months earlier – know what your data says before submission
- Accuracy is important – your institution is judged on the data, examiners make judgements based on the data, community groups and academics pour over the data and publish studies and make judgements
- The data tells your story – know what it says

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Has Fair Lending Risk Increased?

- Definitely higher from a community group/journalist/academic researcher perspective for larger reporters
- Fields under partial exemption are important for fair lending analysis...score, DTI, LTV are important to evaluate outcomes of applicants (similarly situated determination)
- Should be used for internal analysis even if partially exempt

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Smaller Reporters (Partial Exemptions)

- Not off the hook for fair lending
- Age is not exempt
- Expanded demographic data is not exempt – free form text field not public but other data will be public
- Examiners can always request data and will gain new analysis skills when looking at larger institutions – expanded knowledge re “best questions” and red flags (better at knowing implications)
 - The data that is exempt is still needed for fair lending depending upon processes and product risk

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Privacy of HMDA Data Fields

Excluded fields (from public LAR) – proposed

- ULI (and NULI)
- Application date & action date
- Address (not geocoding)
- Credit score/scores and models (covered by partial exemption)
- NMLSR ID (covered by partial exemption)
- AUS Result and system (covered by partial exemption)
- Demographic free-form text fields for race and ethnicity
- Denial reasons (covered by partial exemption)

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Range Reporting of Some Fields

- Amount
- Property Value
- DTI
- Age

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Amount & Property Value Ranges

- **Amount:** disclose the midpoint for the \$10,000 interval into which the reported value falls and
 - indicate whether the reported value exceeds Fannie/Freddie conventional mortgage limits 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2)
- **Property Value:** disclose the midpoint for the \$10,000 interval into which the reported value falls.
- **CLTV** not addressed – if not published could estimate a basic LTV

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DTI Ranges

Categorize reported values into the following ranges, as applicable:

- 20 percent to less than 30 percent;
- 30 percent to less than 40 percent;
- **Disclose actual DTI 40 percent to less than 50 percent;**
- 50 percent to less than 60 percent;
- bottom-code reported values under 20 percent; and
- top-code reported values of 60 percent or higher.

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Age Ranges – Add to your Analysis

Age – Important field...will get attention

Report in ranges:

- 25 to 34,
- 35 to 44,
- 45 to 54,
- 55 to 64, and
- 65 to 74;
- bottom-code reported values under 25;
- top-code reported values over 74; and
- indicate whether the reported value is 62 or higher.

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Ranges and Fair Lending

- Consider adding these “range” fields to your analysis...how does your data look when viewed in these public ranges?
- How does DTI look vs gender, race and ethnicity and outcomes?
 - This will attract attention of those who analyze HMDA data and make public comments

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Ranges and Fair Lending

- How do property values look vs outcomes? Are more lower value properties being declined? Understand why....simply lower value/smaller properties or poor condition? It makes a difference.
- This has always been a hot button for disparate impact

Property Value: disclose the midpoint for the \$10,000 interval into which the reported value falls.

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What Is Public and Fully Reported?

Some Higher Risk Public Fields – All Under Partial Exemption	
Total Loan Costs	Prepayment Penalty Term
Total Points and Fees	DTI
Origination Charges	CLTV & Property Value
Discount Points	Loan Term
Lender Credits	Intro Rate Period
Interest Rate	Non-Amortizing Features (balloon, interest only, non-amortizing, other non-amortizing feature)

Partially exempt institutions should consider risk and determine what fields to analyze – a LAR with 499 originations is a good sized LAR.

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Points for analysis

Considering underwriting process/discretion:

- Look at fees as well as the rate for originations
- Look at time to decision – it can indicate unequal assistance
 - (Bancorp South raised this to prominence)
- Look for any unusual trends in AUS recommendations vs gender, race and ethnicity (and break out AUS systems)
- Tailor depth of analysis to discretion allowed under policy
- Test to ensure policies are carried out...states no discretion, but is there? Is pricing policy adhered to?
- Exceptions allowed by policy can still lead to unequal outcomes based upon who receives exceptions – standards are needed

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Are Any Fields Not a Fair Lending Field?

- Perhaps LEI and ULI/NULI
- Provided two charts for consideration:
 - Private fields – lower risk from public view aspect
 - Public fields – the larger group
 - Just about every field could be analyzed for fair lending
 - Partially exempt institutions can be asked for any data in an examination, that was always possible

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Questions?

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