HMDA, Reg. C and Partial Exemptions

In September, 2018, the Bureau of Consumer Financial Protection (Bureau) issued an interpretive and procedural rule that implements and clarifies certain regulatory relief provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which amended the Home Mortgage Disclosure Act (HMDA). In 2019, the Bureau issued a new rule incorporating those interpretations and procedures into the regulation.

Updated Alert Date:	October 16, 2019
Status:	Initially Effective September 7, 2018, with the 2019 Rule Effective January 1, 2020
Links:	Interpretive and Procedural Rule - 09/07/18 Reg C Final Rule - 10/10/19

In 2015, the Bureau published a final rule that greatly expanded Regulation C requirements under HMDA. The new requirements, among other things, amended institutional and transactional coverage and required the collection and reporting of increased data points. In May 2018, the President signed the EGRRCPA, which among other things, amended HMDA by adding partial exemptions from certain regulatory provisions for certain institutions.

In September 2018, the Bureau issued an interpretive and procedural rule that implements those EGRRCPA provisions related to HMDA reporting partial exemptions and to provide clarification.

In October 2019, the Bureau issued a final rule that incorporates into Regulation C, among other things, the interpretations and procedures from the 2018 rule. In also further implements the EGRRCPA by addressing issues that the 2018 rule did not address, for example, how to determine whether a partial exemption applies after a merger.

What are the Partial Exemptions?

The partial exemptions refer to the provisions that insured institutions covered by the partial exemption have the **option** of reporting certain exempt data fields. The partial exemptions apply to:

- *Closed-end mortgage loans of an insured institution if the institution originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years; and*
- *Open-end lines of credit of an insured institution if the institution originated fewer than 500 open-end lines of credit in each of the two preceding calendar years.*

In making a determination if an institution is eligible for a partial exemption based on these thresholds, the Bureau clarified that the terms "closed-end mortgage loan" and "open-end line of credit" are best interpreted to include only those closed-end mortgage loans and open-end lines of credit that would otherwise be reportable under HMDA.

However, it's important to note that an insured institution cannot take advantage of the partial exemptions if they have negative **Community Reinvestment Act (CRA)** examination history, as follows:

- If the institution received a rating of "*needs to improve record of meeting community credit needs*" during each of its two most recent CRA exams, or
- A rating of "*substantial noncompliance in meeting community credit needs*" on its most recent CRA exam.

Also, the two partial exemptions mentioned above are **independent of one another**. As such, an institution could be eligible for one of the partial exemptions, but not the other. The Bureau provided an example of an institution that did not have negative CRA exam history that originated fewer than 500 closed-end mortgages in each of the two preceding calendar years but originated 500 or more open-end lines of credit in either of the two preceding calendar years, would be eligible for the partial exemption for closed-end loans but not eligible for the partial exemption for its open-end lines of credit. In this example, the institution is not required to collect and report exempt data for its closed-end loans. It would, however, report complete data for its open-end lines of credit unless it qualifies for a complete regulatory exclusion under Regulation C.

What Data Points are Covered by the Partial Exemptions?

As clarified by the rule, with respect to transactions covered by one of the Act's new partial exemptions, insured institutions would report 22 of the 48 data points currently set forth in Regulation C, as indicated in the following table:

Covered by the Act's Partial Exemptions	Unchanged by the Act
• Universal Loan Identifier (ULI) (1003.4(a)(1)(i))[46] • Property Address (1003.4(a)(9)(i)) • Rate Spread (1003.4(a)(12)) • Credit Score (1003.4(a)(15)) • Reasons for Denial (1003.4(a)(16)) • Total Loan Costs or Total Points and Fees (1003.4(a)(17)) • Origination Charges (1003.4(a)(18)) • Discount Points (1003.4(a)(19)) • Lender Credits (1003.4(a)(20)) • Interest Rate (1003.4(a)(21)) • Prepayment Penalty Term (1003.4(a)(22)) • Debt-to-Income Ratio (1003.4(a)(23)) • Combined Loan-to-Value Ratio (1003.4(a)(24)) • Loan Term (1003.4(a)(25)) • Introductory Rate Period (1003.4(a)(26)) • Non-Amortizing Features (1003.4(a)(27)) • Property Value (1003.4(a)(28)) • Manufactured Home Secured Property Type (1003.4(a)(29)) • Manufactured Home Land Property Interest (1003.4(a)(30)) • Multifamily Affordable Units (1003.4(a)(32)) • Application Channel (1003.4(a)(33)) • Mortgage Loan Originator Identifier (1003.4(a)(34)) • Automated Underwriting System (1003.4(a)(35)) • Reverse Mortgage Flag (1003.4(a)(36)) • Open-End Line of Credit Flag (1003.4(a)(37)) • Business or Commercial Purpose Flag (1003.4(a)(38))	• Application Date (1003.4(a)(1)(ii)) • Loan Type (1003.4(a)(2)) • Loan Purpose (1003.4(a)(3)) • Preapproval (1003.4(a)(4)) • Construction Method (1003.4(a)(5)) • Occupancy Type (1003.4(a)(6)) • Loan Amount (1003.4(a)(7)) • Action Taken (1003.4(a)(8)(i)) • Action Taken Date (1003.4(a)(8)(ii)) • State (1003.4(a)(9)(ii)(A)) • County (1003.4(a)(9)(ii)(B)) • Census Tract (1003.4(a)(9)(ii)(C)) • Ethnicity (1003.4(a)(10)(i)) • Race (1003.4(a)(10)(i)) • Sex (1003.4(a)(10)(i)) • Age (1003.4(a)(10)(ii)) • Income (1003.4(a)(10)(iii)) • Type of Purchaser (1003.4(a)(11)) • HOEPA Status (1003.4(a)(13)) • Lien Status (1003.4(a)(14)) • Number of Units (1003.4(a)(31)) • Legal Entity Identifier (1003.5(a)(3))

[46] See infra part VII (**Non-Universal Loan Identifier**)…*in linked rule*

Insured institutions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data.

What is a Non-Universal Loan Identifier?

In the 2015 rule, which included the expanded data fields, reporting provisions required a "universal loan identifier" (ULI). With this 2018 rule, institutions are **not** required to report a ULI for loans or applications that are **partially exempt** (see above table and footnote). However, an institution must provide information so that each reported loan and application is identifiable. To that end, the Bureau's rule requires an institution to provide a "non-universal loan identifier" (NULI) for any partially exempt loan or application for which a ULI is not reported. A NULI does not need to include a legal entity identifier (as the ULI does) and may be composed of up to 22 characters, which:

- May be letters, numerals, or a combination of letters and numerals;
- Must be unique within the insured depository institution or insured credit union; and
- Must not include any information that could be used to directly identify the applicant or borrower

Recommendations for Next Steps

<u>As the 2018 rule was effective upon publication, review the following as soon as practical:</u>

1. Review the final rule and determine whether your institution qualifies for either of the partial exemptions. If your institution qualifies, determine whether you will utilize the partial exemption(s) or whether you will voluntarily report the data that would otherwise be exempt. Review your institution's board approved HMDA policy and adjust as needed.

2. Review HMDA-related procedures and update to address the partial exemptions, as needed. This should include clear guidance on what transactions or applications are covered, a listing of data fields that are impacted, instructions that coincide with the Bureau's reporting provisions, and the implementation of appropriate identifiers (ULI or NULI).

3. Inform applicable staff of the adjustment to internal policies and procedures and consider implementing a second review to ensure appropriate recordation.

4. As needed, ensure any third party vendors that support your HMDA program are aware of your process.

5. Going forward as needed, ensure your qualification for the partial exemptions is checked on an annual basis.