



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

DIVISION OF CONSUMER AND
COMMUNITY AFFAIRS

CA 23-1

January 31, 2023

**TO THE OFFICERS AND MANAGERS IN CHARGE OF CONSUMER AFFAIRS
SECTIONS:**

Applicability: This letter is relevant to all institutions supervised by the Federal Reserve.

**SUBJECT: Changes to Home Mortgage Disclosure Act (HMDA) Loan Volume Reporting
Threshold for Closed-end Mortgage Loans**

This letter addresses the impact on financial institutions supervised by the Federal Reserve of recent changes as a result of litigation related to the HMDA reporting threshold for closed-end mortgage loans.

Background

In May 2020, the Consumer Financial Protection Bureau (CFPB) published a final rule amending Regulation C (Home Mortgage Disclosure) to, among other things, increase from 25 to 100 the threshold for reporting data about closed-end mortgage loans, so that institutions originating fewer than 100 closed-end mortgage loans in either of the two preceding calendar years would not have to report such data effective July 1, 2020.¹ In September 2022, the U.S. District Court for the District of Columbia vacated that portion of the rule.²

As a result of the court's order, the CFPB published a technical amendment in December 2022 updating the Code of Federal Regulations to reflect a reporting threshold of 25 closed-end mortgage loans in each of the two preceding calendar years.³ Separately, the CFPB stated:

¹ 85 Fed. Reg. 28364 (May 12, 2020); *see also* 12 CFR 1003.2(g)(1)(v)(A) and (g)(2)(ii)(A). Under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the CFPB is responsible for rulemaking under HMDA. *See* 12 U.S.C. §§ 5481(12)(K) and (14) and 5512.

² Memorandum Opinion, *National Community Reinvestment Coalition, et al. v. CFPB* (D.D.C. 2022), https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2020cv2074-26. The court upheld the CFPB's May 2020 changes to the threshold for reporting open-end lines of credit. *Id.*

³ *Judicial Vacatur of Coverage Threshold for Closed-End Mortgage Loans* (Dec. 9, 2022), available at: <https://www.consumerfinance.gov/rules-policy/final-rules/hmda-reg-c-judicial-vacatur-of-coverage-threshold-for-closed-end-mortgage-loans/>.

The CFPB recognizes that financial institutions affected by this change may need time to implement or adjust policies, procedures, systems, and operations to come into compliance with their reporting obligations. In these limited circumstances, in allocating the CFPB's enforcement and supervisory resources, the CFPB does not view action regarding these institutions' HMDA data as a priority. Thus, the CFPB does not intend to initiate enforcement actions or cite HMDA violations for failures to report closed-end mortgage loan data collected in 2022, 2021, or 2020 for institutions subject to the CFPB's enforcement or supervisory jurisdiction that meet Regulation C's other coverage requirements and originated at least 25 closed-end mortgage loans in each of the two preceding calendar years but fewer than 100 closed-end mortgage loans in either or both of the two preceding calendar years.⁴

Guidance for financial institutions supervised by the Federal Reserve

Like the CFPB, the Board of Governors of the Federal Reserve System (Board) recognizes that financial institutions affected by the change to the HMDA reporting threshold for closed-end mortgage loans may need time to implement or adjust policies and procedures, systems, and operations to come into compliance with their reporting obligations. This letter serves as notice that, consistent with the CFPB, the Board does not intend to cite HMDA violations or take enforcement action for not collecting or reporting closed-end mortgage loan data originated in 2022, 2021, or 2020 by Federal Reserve-supervised financial institutions that meet Regulation C's other coverage requirements and originated at least 25 closed-end mortgage loans in each of the two preceding calendar years but fewer than 100 closed-end mortgage loans in either or both of the two preceding calendar years.

Reserve Banks are asked to distribute this letter to the Federal Reserve-supervised institutions in their districts that may be impacted by the HMDA loan volume reporting threshold requirements for closed-end mortgage loans, as well as to their supervisory and examination staff. If supervised financial institutions have questions about the guidance set forth in this letter, they are encouraged to contact the responsible Federal Reserve Bank. In addition, questions may be sent via the Board's public website.⁵

Sincerely,

Eric S. Belsky
Director

⁴ *Changes to HMDA's closed-end reporting threshold* (Dec. 6, 2022), available at:

<https://www.consumerfinance.gov/about-us/blog/changes-to-hmda-closed-end-loan-reporting-threshold/>.

⁵ <https://www.federalreserve.gov/apps/contactus/feedback.aspx>