HMDA Webinar 3
Transcript

Slides and transcript to accompany the webinar video presentation
Disclaimer

The PowerPoint slides and corresponding transcript from the webinar are provided on the following pages. A recording of this webinar is located at https://www.consumerfinance.gov/policy-compliance/guidance/hmda-implementation/webinars/.

The Bureau releases webinars to help institutions comply with the Bureau’s rules. The webinar provides a summary of certain requirements in HMDA and Regulation C and practical examples of those requirements.

The examples provided in the webinar do not illustrate all possible situations that could trigger a particular obligation or satisfy a particular requirement. You can use an alternative approach if the approach satisfies the requirements of HMDA and Regulation C.

The webinar is not a legal substitute for HMDA or Regulation C and its official interpretations (commentary). The content of the webinar is current as of July 2019.

A person who has a specific regulatory question about the HMDA Rule after reviewing the webinar and these materials may submit the question on the Bureau’s website at https://reginquiries.consumerfinance.gov/.
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Hello and welcome to the Consumer Financial Protection Bureau’s webinar on Regulation C. This is the third in a series of HMDA-related webinars that the Bureau will present to help institutions understand and comply with the rule.
Consumer Financial Protection Bureau
HMDA Webinars

1. HMDA Webinar Part 1
2. HMDA Webinar Part 2

If you missed the first and/or second webinar where we provided an overview of the HMDA final rule and effective dates; and identifiers and data points that relate to applicants and borrowers, we’ve provided the links to the webinars below.
The Bureau releases webinars, like this one, to help institutions comply with the Bureau’s rules. This webinar provides a summary of certain requirements in HMDA and Regulation C and practical examples of those requirements. The examples provided in this webinar do not illustrate all possible situations that could trigger a particular obligation or satisfy a particular requirement. You can use an alternative approach if the approach satisfies the requirements of HMDA and Regulation C. This webinar is not a legal substitute for HMDA or Regulation C and its official interpretations (commentary). The content of this webinar is current as of August 2019.
As we mentioned in the first HMDA webinar, the Economic Growth, Regulatory Relief, and Consumer Protection Act amended HMDA by adding partial exemptions from HMDA’s requirements for institutions that meet certain requirements. To recap, an insured depository institution or insured credit union generally does not need to collect or report certain data points with respect to: Closed-end mortgage loans if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. Open-end lines of credit if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years.
More information about the amendments to HMDA made by the Economic Growth, Regulatory Relief, and Consumer Protection Act and the Bureau’s interpretive and procedural rule is provided in the first HMDA webinar.
In today's webinar we will discuss information about reporting certain application or covered loan features, pricing information, features of the property, and transaction indicators. Depending on the amount of closed-end mortgage loans and open-end lines of credit your financial institution originates and other factors, your financial institution may be able to take advantage of the partial exemption for some of the data points discussed in this webinar if it is an insured depository institution or insured credit union.
This chart lists the specific data points covered in this Webinar and specifies which of these data points are covered by the partial exemptions added to HMDA by the Economic Growth, Regulatory Relief, and Consumer Protection Act. Please use this slide to note which data points mentioned in this Webinar are covered by the partial exemptions. Insured depository institutions and insured credit unions may want to refer to the Bureau’s 2018 HMDA interpretive and procedural rule and the HMDA filing instructions guide for information about reporting data points if you believe a covered loan or application may be eligible for a partial exemption.
Now let’s begin with the Loan Purpose.
Section 1003.4(a)(3) requires that the financial institution report whether the covered loan is, or in the case of an application would have been, for (1) a “home purchase loan,” (2) a “home improvement loan,” (3) a “refinancing,” (4) a “cash-out refinancing,” (5) for an “other purpose,” or (6) Not Applicable. Determining the loan purpose requires familiarity with how Regulation C defines these terms. Let’s quickly go over the relevant definitions.
Section 1003.2(j) defines a home purchase loan as a closed-end mortgage loan or an open-end line of credit that is for the purpose, in whole or in part, of purchasing a dwelling.
Loan Purpose

Viewers who have watched our other two HMDA Webinars will remember that
we covered the definition of Dwelling in our first webinar. Please refer back to the first webinar for a discussion of the term Dwelling.
Section 1003.2(i) defines a home improvement loan as a closed-end mortgage loan or an open-end line of credit that is for the purpose, in whole or in part,
of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which the dwelling is located
Section 1003.2(p) defines refinancing as a closed-end mortgage loan or an open-end line of credit.
in which a new, dwelling-secured debt obligation satisfies and replaces an existing, dwelling-secured debt obligation by the same borrower.
Comment 4(a)(3)-2 explains that for the purposes of reporting the loan purpose, a cash-out refinancing should be reported when the loan or application is a refinancing, as defined by section 1003.2(p), and the financial institution considered the loan or application to be a cash-out refinancing in processing the application or setting the terms under its guidelines or an investor’s guidelines.
For example, assume a financial institution considers an application for a loan product to be a cash-out refinancing under an investor's guidelines because of the amount of cash received by the borrower at closing or account opening.
Assume also that under the investor’s guidelines, the applicant qualifies for the loan product and the financial institution approves the application, originates the covered loan, and sets the terms of the covered loan consistent with the loan product.
In this example, the financial institution would report the covered loan as a cash-out refinancing for purposes of reporting the loan purpose.
Comment 4(a)(3)-4 explains that, for the purposes of reporting the loan purpose, other purpose should be reported when the loan purpose must be reported, and the loan or application is not for (1) a “home purchase loan,” (2) a “home improvement loan,” (3) a “refinancing,” or (4) a “cash-out refinancing.”
A financial institution should also report “other” for a refinancing, if under the terms of the agreement the financial institution was unconditionally obligated to refinance the obligation subject to conditions within the borrower’s control.
If, however, the loan purpose does not need to be reported, Comment 4(a)(3)-6 explains that the institution would report the loan purpose as not applicable.
For example, an institution will report Not Applicable for a purchased covered loan if the origination took place prior to January 1, 2018.
How does a financial institution determine the loan purpose? Comment 4(a)(3)-1 explains that a financial institution may rely on the oral or written statement of an applicant regarding the proposed use of a covered loan’s proceeds.
For example, if a lender uses a check box on a loan application to determine whether the applicant intends to use the covered loan’s proceeds for home improvement, and the applicant checks that box, the institution may rely on the applicant’s assertion and report the loan purpose as home improvement.
If the applicant does not provide a statement as to the proposed use of the covered loan’s proceeds and the covered loan is not a home purchase loan, cash-out refinancing, or refinancing, Comment 4(a)(3)-1 explains that the financial institution reports the covered loan as “other purpose.”
What does a financial institution report for purpose if the covered loan is for multiple purposes? Comment 4(a)(3)-3 provides guidance when a transaction meets multiple definitions under loan purpose. A financial institution reports the purpose as a home purchase loan when the covered loan is a home purchase loan and either a home improvement loan, a refinancing, or a cash-out refinancing.
Loan Purpose

A financial institution reports the purpose as a refinancing when the covered loan is a home improvement loan and refinancing.
Loan Purpose

Comment 4(a)(3)-3
Transaction meets multiple definitions under loan purpose

Home improvement loan
Cash-out refinancing

Covered loan

Cash-out refinancing

A financial institution reports the purpose as a cash-out refinancing when the covered loan is a home improvement loan and cash-out refinancing.
A financial institution reports the purpose as a home improvement loan when the covered loan is a home improvement loan and other purpose loan,
meaning that the covered loan is also not a home purchase loan, a refinancing, or a cash-out refinancing.
Loan Term
Home Mortgage Disclosure Act (HMDA)

Now that we have discussed how to determine and report the loan purpose, let’s discuss some other loan features that need to be reported.
Section 1003.4(a)(25) requires a financial institution to report the scheduled number of months after which the legal obligation will mature or terminate or would have matured or terminated.
For a fully amortizing covered loan, the number of months after which the legal obligation matures is the number of months in the amortization schedule, ending with the final payment.
For example, a 30-year fully amortizing covered loan would be reported with a term of “360.”
For loans that do not fully amortize during the maturity term, comment 4(a)(25)-1 states that such loans should still be reported using the maturity term rather than the amortization term, even in the case of covered loans that mature before fully amortizing but have reset options.
If a covered loan or application includes a schedule with repayment periods measured in a unit of time other than months, comment 4(a)(25)-2 explains that a financial institution must report the loan or application using an equivalent number of whole months without regard for any remainder.
For purchased covered loans, comment 4(a)(25)-3 provides that a financial institution reports the number of months after which the legal obligation matures as measured from the covered loan’s origination.
If the transaction involves an open-end line of credit with a definite term, comment 4(a)(25)-4 provides that a financial institution report the number of months after account opening until the account termination date, including both the draw and repayment period.
If the transaction involves a covered loan or application without a definite term, for example a reverse mortgage, a financial institution reports not applicable for loan term.
Now we are moving on to Loan type
Section 1003.4(a)(2) and the official commentary requires that the financial institution report whether the covered loan is, or in the case of an application would have been, insured by the (1) Federal Housing Administration, (2) guaranteed by the Department of Veteran Affairs, (3) guaranteed by the Rural Housing Service or the Farm Service Agency, or (4) a conventional loan.
When determining the loan type, keep in mind that if a loan is neither insured by the (1) Federal Housing Administration, (2) guaranteed by the Department of Veteran Affairs, nor (3) guaranteed by the Rural Housing Service or the Farm Service Agency, the institution reports the loan as a “conventional loan.”
Purchaser Type
Home Mortgage Disclosure Act (HMDA)
Section 4(a)(11) requires a financial institution to report the type of entity purchasing a covered loan that the financial institution originates or purchases and then sells within the same calendar year.
When reporting the type of purchaser, a financial institution reports the type of entity that purchased the covered loan.
Purchaser Type

Section § 4(a)(11)

Type of purchaser

Reports the type of entity that purchased the covered loan

from the financial institution, using one of the following:
Purchaser Type

- Fannie Mae
- Ginnie Mae
- Freddie Mac
- Farmer Mac
- Private securitizer

Section § 4(a)(11) Reports the type of entity that purchased the covered loan

- Affiliate institution
- Life insurance company
- Other
- Not applicable

Fannie Mae, Ginnie Mae, Freddie Mac, Farmer Mac, Private securitizer, Affiliate institution, Commercial bank, savings bank, or savings association. Credit union, mortgage company, or finance company, Life insurance company, Other type of purchaser Or not applicable.
Let’s review some of these entity types. A financial institution will report the purchaser type as “private securitizer” when the institution knows or reasonably believes that the covered loan it is selling will be securitized by the entity purchasing the covered loan, unless that purchaser is one of the government-sponsored enterprises. An institution reports the purchasing entity type as a private securitizer regardless of the type or affiliation of the purchasing entity.
If, on the other hand, a financial institution does not know or reasonably believe that the purchaser will securitize the loan, and the seller knows that the purchaser frequently holds or disposes of loans by means other than securitization, then the financial institution should report the covered loan as purchased by, as appropriate, a commercial bank, savings bank, savings association, life insurance company, credit union, mortgage company, finance company, affiliate institution, or other type of purchaser.
A financial institution will report the purchaser type as “mortgage company” if the loan is purchased by an institution that meets the definition listed in Comment 4(a)(11)-5, which means a nondepository institution that purchases covered loans and typically originates such loans.
For example, a mortgage company may be an independent mortgage company. If a mortgage company, however, is an affiliate of the seller institution, the seller institution should report the loan as purchased by an affiliate institution. For purposes of reporting the purchaser type, the term “affiliate” means any company that controls, is controlled by, or is under common control with, another company, as set forth in the Bank Holding Company Act of 1956.
A financial institution will report the purchaser type as “Not Applicable” for applications that were denied, withdrawn, closed for incompleteness or approved but not accepted by the applicant; and for preapproval requests that were denied or approved but not accepted by the applicant.
A financial institution also reports that the requirement is not applicable if the institution originated or purchased a covered loan and did not sell it during that same calendar year.
A financial institution will report the purchaser type as “other type of purchaser” if the entity that purchases the covered loan does not fit into any of the categories listed above.
What happens if a financial institution sells the covered loans to more than one entity?
Comment 4(a)(11)-1 states that if a financial institution originates a covered loan and then sells it to more than one entity, the financial institution reports the type of purchaser based on the entity purchasing the greatest interest, if any. If, however, the financial institution retains a majority interest in that covered loan, then it would not report the sale.
Loan Amount
Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(7) requires that the financial institution report the amount of the covered loan or the amount applied for, as applicable. Depending on whether the covered loan or application was for either a closed-end mortgage, an open-end line of credit, or a reverse mortgage, the financial institution will report the loan amount as the following:
If the transaction is a closed-end mortgage loan, other than a purchased loan, assumption or reverse mortgage, the financial institution reports the amount to be repaid as indicated on the legal obligation.
For example, for a refinancing, the institution reports the amount of credit extended under the terms of the new debt obligation. In the case of a home improvement loan, the financial institution reports the entire loan amount even if only a part of the proceeds is intended for home improvement. For a purchased closed-end loan or assumption of a closed-end loan, the financial institution reports the unpaid principal balance at the time of purchase or assumption.
If the transaction is an open-end line of credit, other than a reverse mortgage open-end line of credit, the financial institution reports the amount of credit available to the borrower under the terms of the plan, including a purchased open-end line of credit.
If the transaction is a reverse mortgage, the financial institution reports the initial principal limit, as determined pursuant to section 255 of the National Housing Act and the implementing regulations and mortgagee letters issued by the US Department of Housing and Urban Development, known as HUD.
These HUD sources relate to the Home Equity Conversion Mortgage, or HECM, Insurance reverse mortgage program.
For a non-federally insured reverse mortgage, comment 4(a)(7)-9 states that a financial institution reports the initial principal limit as set forth in section 1003.4(a)(7)(iii) and therefore would apply the calculation methodology of the HECM program even though the reverse mortgage is not federally insured.
What loan amount does a financial institution report when the transaction involves a counteroffer? When an applicant accepts a counteroffer for an amount that is different from which the applicant applied for, Comment 4(a)(7)-1 explains that the financial institution reports the covered loan amount that was granted. In situations where the applicant does not accept a counteroffer or fails to respond, the institution reports the amount initially requested.
What about an application that was approved but not accepted or a preapproval request that was approved but not accepted? In this scenario, Comment 4(a)(7)-2 explains that for an application that was approved but not accepted or the transaction involved a preapproval request that was approved but not accepted, a financial institution reports the covered loan amount that was approved for the transaction.
What loan amount does a financial institution report when a preapproval request is denied, or application is denied, closed for incompleteness or withdrawn? For a preapproval request that was denied or an application that was denied, or for an application that was closed for incompleteness or withdrawn, comment 4(a)(7)-3 states that the financial institution reports the amount for which the applicant applied.
Property Value
Home Mortgage Disclosure Act (HMDA)

Now let’s discuss reporting Property Value.
Section 1003.4(a)(28) requires that the financial institution report the value relied on in making the credit decision. For example, if the institution relies on an appraisal or other valuation for the property in calculating the loan-to-value ratio, it reports that value.
If the institution relies on the purchase price of the property in calculating the loan-to-value ratio, it reports purchase price as the property value.
When a financial institution makes a credit decision without relying on property value, Comment 4(a)(28)-4 explains that the financial institution complies with Section 1003.4(a)(28) by reporting that the requirement is not applicable since no property value was relied on in making the credit decision.
For an application that did not result in a covered loan, a financial institution reports the value of the property proposed to secure the covered loan, unless the application was (1) withdrawn before a credit decision was made, or (2) closed for incompleteness.
In cases where the application was withdrawn before a credit decision was made or was closed for incompleteness, the financial institution reports that the data point is not applicable, even if the financial institution obtained a property value.
Prepayment Penalty
Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(22) requires that the financial institution report the term of any prepayment penalty for covered loans or applications subject to Regulation Z. The term prepayment penalty is defined in Regulation Z, 12 CFR 1026.32(b)(6)(i) and (ii). Regulation C allows a financial institution to rely on the definitions and commentary in Regulation Z to determine whether the terms of a transaction contains a prepayment penalty.
For reverse mortgages, purchased covered loans, covered loans or applications that have no prepayment penalty, and covered loans that are not subject to Regulation Z, such as loans or lines of credit made primarily for business or commercial purposes, the financial institution reports that this data point is not applicable.
Pricing Information

Home Mortgage Disclosure Act (HMDA)
Next we will discuss the pricing information that Regulation C requires a financial institution to report, which includes the (1) total loan costs, (2) total points and fees, (3) origination charges, (4) discount points, and (5) lender credits. After discussing these pricing information data points, we will discuss how to report (6) the interest rate and (7) rate spread. Finally, we will discuss what to report when there is a change in the pricing information previously disclosed.
Before getting into the pricing information, note that for a purchased covered loan, the commentary clarifies that a financial institution reports (1) the total loan costs (2) origination charges, (3) discount points, and (4) lender credits as not applicable for applications that were received by the selling entity prior to October 3, 2015.
However an institution would report the total points and fees for a covered loan for which an application was received prior to October 3, 2015.
In addition, if a loan is not subject to Regulation Z, 12 CFR 1026.19(f), an institution would report not applicable for (1) total loan costs, (2) origination charges, (3) discount points, and (4) lender credits.
Similarly, a financial institution would report not applicable for (1) total loan costs or (2) total points and fees when the covered loan was not subject to the ability-to-repay requirements of Regulation Z, 12 CFR 1026.43(c), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes.
Finally, a financial institution reports the following data points only for covered loans: (1) total loan costs, (2) total points and fees, (3) origination charges, (4) discount points, and (5) lender credits. For applications, a financial institution would report “not applicable, for these data points."
Total Loan Costs or Total Points and Fees
Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(17) requires that the financial institution report the following information for covered loans subject to the Ability-to-Repay provisions of Regulation Z, 12 CFR 1026.43(c): If a Closing Disclosure was provided, the amount of total loan costs as disclosed in section 1026.38(f)(4), on Line D of the Closing Cost Details page of the Closing Disclosure, or
If a Closing Disclosure was not provided and the loan is not a purchased covered loan, the total points and fees charged in connection with the Covered Loan, calculated in section 1026.32(b)(1).
Origination Charges
Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(18) requires that the financial institution report the total of all itemized origination charges on the Closing Disclosure that are designated borrower-paid at or before closing for covered loans subject to Regulation Z, 12 CFR 1026.19(f). Thus, financial institutions will report the total that is disclosed on Line A of the Closing Cost Details page of the Closing Disclosure.
Discount Points

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(19) requires that the financial institution report the points paid to the creditor to reduce the interest rate as listed on the Closing Disclosure for covered loans subject to Regulation Z, 12 CFR 1026.19(f). This amount is disclosed on Line A.01 of the closing cost details of the closing disclosure.
Lender Credits

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(20) requires that the financial institution report the amount of lender credits listed on the Closing Disclosure for covered loans subject to Regulation Z, 12 CFR 1026.19(f). This amount is disclosed in the second row under Line J on the Closing Cost Details page of the Closing Disclosure. Now that we have discussed what information is required to properly report the pricing information for a covered loan, let’s discuss what to report if there is a change in the pricing information from what was previously disclosed.
What is reported when the financial institution issues a corrected disclosure, pursuant to Regulation Z, 12 CFR 1026.19(f)(2)? In general, if a financial institution provides a corrected disclosure for the (1) total loan costs, (2) origination charges, (3) discount points, (4) lender credits, or (5) cures an overage of the total points and fees, it must report the corrected amount on its annual LAR,
provided that the corrected disclosure was provided to the borrower or cure was made before the end of the calendar year in which the closing occurred.
For purposes of determining the date the corrected disclosure was provided to the borrower, when reporting (1) the total loan costs (2) origination charges, (3) discount points, or (4) lender credits for a covered loan, the commentary clarifies that the date the corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.38(a)(3)(i).
This concludes our discussion on (1) total loan costs, (2) total points and fees, (3) origination charges, (4) discount points, and (5) lender credits.
-interest rate
Home Mortgage Disclosure Act (HMDA)

Now let's discuss other pricing information like the interest rate and rate spread.
Section 1003.4(a)(21) requires that the financial institution report the interest rate applicable to an application that is approved but not accepted, or to a covered loan at closing or account opening.
In cases where the application was denied, withdrawn, or closed for incompleteness, Comment 4(a)(21)-2 explains that the financial institution reports that the interest rate was not applicable.
Section 5.24 Small Entity Compliance Guide

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<td>Application approved but not accepted for fixed rate Covered Loan subject to Regulation Z’s Loan Estimate and Closing Disclosure requirements</td>
<td>Rate stated in Loan Estimate (if no Closing Disclosure provided) or in Closing Disclosure (if provided), assuming it accurately reflects the rate when Financial Institution approved the Application. If a revised Loan Estimate (but no Closing Disclosure) was provided to the applicant prior to the end of the reporting period in which final action was taken or if a corrected Closing Disclosure was provided to the applicant prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the revised or corrected disclosure, as applicable. Otherwise, rate at the time Financial Institution approved the Application. Comments 4(a)(21)-1 and -2.</td>
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Section 5.24 of the Small Entity Compliance Guide provides an excellent summary of the rate a financial institution will report for various types of lending scenarios. In the interest of time, we will not be discussing each scenario, but wanted to provide the Small Entity Compliance Guide summary in this webinar. Viewers may download a copy of the slides to this webinar in the link below.
## Section 5.24 Small Entity Compliance Guide

| Application approved but not accepted for a variable-rate Covered Loan subject to Regulation Z's Loan Estimate and Closing Disclosure requirements | Rate stated in Loan Estimate (if no Closing Disclosure provided) or in Closing Disclosure (if provided), assuming it accurately reflects the rate when Financial Institution approved the Application. If a revised Loan Estimate (but no Closing Disclosure) was provided to the applicant prior to the end of the reporting period in which final action was taken or if a corrected Closing Disclosure was provided to the applicant prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the revised or corrected disclosure, as applicable. Comments 4(a)(21)-1 and -2. Otherwise, if rate was known when Financial Institution approved the Application, the rate applicable when Financial Institution approved the Application. Comment 4(a)(21)-2. Otherwise, if rate was unknown when Financial Institution approved the Application, the fully-indexed rate based on the index applicable when the Financial Institution approved the Application. Comment 4(a)(21)-3. |
## Section 5.24 Small Entity Compliance Guide

| Application approved but not accepted for a variable-rate Covered Loan not subject to Regulation Z’s Loan Estimate and Closing Disclosure requirements | If rate was known when Financial Institution approved the Application, the rate applicable when Financial Institution approved the Application. Comment 4(a)(21)-2. If rate was unknown when Financial Institution approved the Application, the fully-indexed rate based on the index applicable when the Financial Institution approved the Application. Comment 4(a)(21)-3. |
| --- |
| Application denied, withdrawn, or closed for incompleteness | Not applicable. Comment 4(a)(21)-2. |
| Fixed-rate Covered Loan subject to Regulation Z’s Loan Estimate and Closing Disclosure requirements | Interest rate set forth in Closing Disclosure. If a corrected Closing Disclosure was provided to the borrower prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the corrected disclosure. Comment 4(a)(21)-1. |
| Fixed-rate Covered Loan not subject to Regulation Z’s Loan Estimate and Closing Disclosure requirements | Interest rate applicable at loan closing or account opening. Comment 4(a)(21)-1. |
| Variable-rate Covered Loan subject to Regulation Z’s Loan Estimate and Closing Disclosure requirements | Interest rate set forth in Closing Disclosure. If a corrected Closing Disclosure was provided to the borrower prior to the end of the reporting period in which final action was taken, the Financial Institution reports the rate stated in the corrected disclosure. Comment 4(a)(21)-1. |
## Section 5.24 Small Entity Compliance Guide

| Variable-rate Covered Loan not subject to Regulation Z’s Loan Estimate and Closing Disclosure requirements | If rate was known when Financial Institution closed loan or opened account, rate applicable at loan closing or account opening. Comment 4(a)(21)-1. If rate was unknown when Financial Institution closed loan or opened account, the fully-indexed rate based on the index applicable to the Covered Loan at loan closing or account opening. Comment 4(a)(21)-3. |

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*Consumer Financial Protection Bureau*
Rate Spread

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(12) requires that for covered loans and applications that are approved but not accepted, and that are subject to Regulation Z, 12 CFR part 1026, other than assumptions, purchased covered loans, and reverse mortgages, a financial institution reports the difference between the covered loans’ annual percentage rate and the average prime offer rate for a comparable transaction as of the date the interest rate is set.
Comment 4(a)(12)-4 explains that a comparable transaction is determined according to the covered loan’s amortization type and loan term. For open-end lines of credit, a financial institution identifies the most closely comparable closed-end transaction. For fixed rate covered loans, the term for identifying the comparable transaction is the transaction’s maturity. For variable rate covered loans, the term for identifying the comparable transaction is the initial, fixed-rate period.
If a covered loan’s term to maturity is not in whole years, the financial institution uses the number of whole years closest to the actual loan term. If the actual loan term is exactly halfway between the two whole years, then the financial institution uses the shorter loan term.
If the amortization period of a covered loan is longer than the term of the transaction to maturity, comment 4(a)(12)-4.iv states that a financial institution uses the loan term to determine the applicable average prime offer rate. For example, if a financial institution originates a closed-end, fixed-rate loan that has a term to maturity of five years and a thirty-year amortization period that results in a balloon payment, the financial institution would use the five-year loan term to determine the average prime offer rate.
To determine the rate-set date, comment 4(a)(12)-5 states that the relevant date to use to determine the average prime offer rate for a comparable transaction, use the date on which the interest rate was set by the financial institution for the final time before final action is taken--for example, when the application was approved but not accepted or when the covered loan was originated. Institutions will want to consult the commentary to section 4(a)(12) for more information on determining the rate-set date.
Comment 4(a)(12)-6 provides that a financial institution compares the covered loan’s annual percentage rate to the most recently available average prime offer rate that was in effect for the comparable transaction as of the rate-set date, but a financial institution is not permitted to use an average prime offer rate before its effective date.
Comment 4(a)(12)-7 states that a financial institution reports not applicable for the following transactions: If a covered loan is an assumption, reverse mortgage, a purchased covered loan, or is not subject to Regulation Z, 12 CFR part 1026. An application did not result in an origination for a reason other than the application was approved but not accepted.
If an application was approved but not accepted or a preapproval request was approved but not accepted, a financial institution is required to report the applicable rate spread, according to comment 4(a)(12)-8.
Finally, Comment 4(a)(12)-9 clarifies that, if the annual percentage rate changes because a financial institution provides a corrected version of the disclosures required under Regulation Z, a financial institution compares the corrected and disclosed annual percentage rate to the most recently available average prime offer rate that was in effect for a comparable transaction as of the rate-set date, provided that the corrected disclosure was provided to the borrower prior to the end of the reporting period in which final action is taken.
Let’s spend a little bit of time talking about how to report the introductory rate period.
Section 4(a)(26) requires a financial institution to report the number of months, or proposed number of months in the case of an application, until the first date the interest rate may change after closing or account opening. For example, if reporting an adjustable rate mortgage with an introductory period of 7 years, after which the interest rate may vary, the financial institution would report the introductory period as 84.
If the covered loan or application includes an introductory interest rate period measured in a unit of time other than months, Comment 4(a)(26)-5 explains that a financial institution reports the introductory interest rate period for the covered loan or application using an equivalent number of whole months without regard for any remainder. The financial institution must report one month for any introductory interest rate period that totals less than one whole month.
As explained in Comment 4(a)(26)-1, a financial institution is required to report the number of months based on when the first interest rate adjustment may occur, even if an interest rate adjustment is not required to occur at that time and even if the rates that will apply, or the periods for which they will apply, are not known at closing or account opening.
Comment 4(a)(26)-2 provides that a financial institution is not required to report the introductory rate period based on preferred rates unless the terms of the legal obligation provide that the preferred rate will expire at a certain defined date.
Preferred rates include the terms of the legal obligation that provide that the initial underlying rate is fixed but that it may increase or decrease upon the occurrence of some future event, such as the borrower revoking an election to make automated payments. In such a case, because it not known at the time of closing or account opening that the future event will take place and when, the reporting of the introductory rate period is not required.
A financial institution reports not applicable when the transaction involves a loan or application with a fixed rate or the covered loan is a purchased covered loan with a fixed rate.
Non-amortizing Features

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(27) requires a financial institution to report whether the contractual terms include or would have included: a balloon payment, defined in Regulation Z, 12 CFR 1026.18(s)(5)(i); an interest only payment, defined in Regulation Z, 12 CFR 1026.18(s)(7)(iv); a contractual term that would cause the covered loan to be a negative amortization loan, defined in Regulation Z, 12 CFR 1026.18(s)(7)(v).
or any other contractual term that would allow for payments other than fully amortizing payments defined in Regulation Z, 12 CFR 1026.43(b)(2), during the loan term.
Comment 4(a)(27)-1 states that section 1003.4(a)(27) defines the contractual features by reference to Regulation Z part 1026, but without regard to whether the covered loan is consumer credit, as defined in section 1026.2(a)(12); is extended by a creditor, as defined in section 1026.2(a)(17);
or is extended to a consumer, as defined in section 1026.2(a)(11); and without regard to whether the property is a dwelling as defined in section 1026.2(a)(19).
Comment 4(a)(27)-1 provides an example involving the purchase of a multifamily dwelling where the transaction includes a balloon payment at the end of the loan term. Although the multifamily dwelling would not be considered a dwelling under section 1026.2(a)(19) it would be considered a dwelling under section 1003.2(f). Thus, the financial institution would report the balloon payment.
HOEPA Status

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(13) requires a financial institution to report whether the covered loan is a high-cost mortgage under Regulation Z, 12 CFR 1026.32(a) for covered loans subject to the Home Ownership and Equity Protection Act of 1994, as implemented in Regulation Z, 12 CFR 1026.32.
Comment 4(a)(13)-1 provides that a financial institution reports “not applicable” for HOEPA status in the following scenarios: the covered loan is not subject to HOEPA or the application did not result in an origination.
Denial Reasons

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(16) requires the financial institution to report the principal reasons it denied an application. Comment 4(a)(16)-2 clarifies that this requirement extends to denied preapproval request under a Preapproval Program, as defined under 1003.2(b)(2).
The Filing Instructions Guide provides a list of codes for denial reasons, as well as a free-form text field if the code for other is selected for reporting.
The reasons reported must specifically and accurately describe the principal reason or reasons the financial institution denied the application.
For example, if the financial institution denies a loan because of the applicant’s credit history, it complies with Section 1003.4(a)(16) by reporting that it denied the loan based on the applicant’s credit history.
For an application that was denied, the financial institution should report only the principal reason or reasons it denied the application, even if there are fewer than four reasons. For example, if the financial institution denied the application...
Denial Reasons

- **Denied the application**
- **Applicants debt-to-income ratio**
  - Only report on LAR

only because of the applicant’s debt-to-income ratio, it will only report that reason on its LAR.
Denial Reasons

If a financial institution chooses to provide the applicant the reason or reasons it denied the application using “Form C–1, Sample Notice of Action Taken and Statement of Reasons,” which is found in Appendix C to Regulation B, 12 CFR part 1002, or a similar form, the financial institution must report the reason or reasons that were specified on the model form.
The Filing Instructions Guide provides instructions for reporting the reasons included on Form C-1 using the codes provided in the Filing Instructions Guide. The Filing Instructions Guide also notes that the same code should not be entered more than once.
Similarly, if a financial institution chooses to provide the applicant a disclosure of the applicant’s right to a statement of specific reasons using “Form C-5, Sample Disclosure of Right to Request Specific Reasons for Credit Denial” or a similar form, or provided the denial reasons orally under Regulation B, the financial institution reports the principal reasons it denied the application.
Transaction Indicators

Home Mortgage Disclosure Act (HMDA)

Let’s move on to transaction indicators.
Generally, Regulation C requires financial institutions to flag three types of transactions on their LAR: (1) reverse mortgage flag, (2) open-end line of credit flag, and (3) business or commercial purpose flag. When reporting transaction indicators, the HMDA Filing Instructions Guide requires the financial institution to either report that the flag applies or doesn’t apply. Let’s quickly look at the three flags.
Section 1003.4(a)(36) requires a financial institution to report whether the covered loan is, or the application is for, a reverse mortgage.
A reverse mortgage is defined under section 1003.2(q) as a closed-end mortgage loan or an open-end line of credit that is a reverse mortgage transaction as defined in Regulation Z, 12 CFR 1026.33(a), but without regard to whether the security interest is created in a principal dwelling.
Section 1003.4(a)(37) requires a financial institution to report whether the covered loan is, or the application is, for an open-end line of credit.
Section 1003.2(o) defines an open-end line of credit as an extension of credit that is secured by a lien on a dwelling and is an open-end credit plan as defined in Regulation Z, 12 CFR 1026.2(a)(20), but without regard to:
whether the credit is consumer credit, as defined in section 1026.2(a)(12), is extended by a creditor, as defined in section 1026.2(a)(17), or is extended to a consumer, as defined in section 1026.2(a)(11).
Section 1003.4(a)(38) requires a financial institution to report whether the covered loan is, or the application is, for a covered loan that will be made primarily for a business or commercial purpose.
A covered loan or application is considered to be for a business or commercial purpose if it is considered primarily for a business or commercial purpose under Regulation Z, 12 CFR 1026.3(a) and its official commentary. Let's move on to the data points related to the property itself.
Number of Units

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(31) requires that the financial institution report the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan.
For example, if there were five individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, the financial institution
the financial institution would report five individual dwelling.
For an application or covered loan secured by a (1) manufactured home community, or (2) condominium or cooperative property, the commentary provides additional guidance as to the number of individual dwelling units a financial institution will report.
With regard to a manufactured home community, Comment 4(a)(31)-2 explains that the financial institution must include in the number of individual dwelling units the total number of manufactured home sites that secure the loan and are available for occupancy, regardless of whether the sites are currently occupied or have manufactured homes currently attached.
Thus, for example, if a loan is secured by a manufactured home community consisting of ten manufactured home sites available for occupancy, the financial institution will report ten individual dwelling units, even if four of those sites are not currently occupied or do not have manufactured homes currently attached.
In contrast, for a loan secured by a single manufactured home that is or will be located in a manufactured home community, the financial institution should report one individual dwelling unit.
For an application or covered loan secured by a manufactured home community, a financial institution, at its option, may include in the number of individual dwelling units other units such as recreational vehicle pads, manager apartments, rental apartments, site-built homes or other rentable space that are ancillary.
to the operation of the secured property if it considers such units under its underwriting guidelines or the guidelines of an investor, or if it tracks the number of such units for its own internal purposes.
With regard to condominium or cooperative properties, a financial institution reports the total number of individual dwelling units securing the covered loan or in the case of an application, proposed to secure the covered loan. Comment 4(a)(31)-3 provides additional scenarios involving such properties. In determining the number of individual dwelling units to report, a financial institution may rely on the best information readily available to the financial institution at the time final action is taken, and on the financial institution's own procedures in reporting the information. As explained by Comment 4(a)(31)-4, information readily available could include, for example, information provided by an applicant that the financial institution reasonably believes, information contained in a property valuation or inspection, or information obtained from public records.
Multifamily Affordable Units

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(32) requires the financial institution to report the number of individual dwelling units related to the property that are income-restricted pursuant to Federal, State, or local affordable housing programs.
if the property securing the covered loan or, in the case of an application, proposed to secure the covered loan includes a multifamily dwelling. As explained earlier in this presentation, the term multifamily dwelling is defined in section 1003.2(n) as a dwelling that contains five or more individual dwelling units.
For purposes of reporting under Regulation C, affordable housing income-restricted units are individual Dwelling units that have restrictions based on the occupants’ income level pursuant to restrictive covenants encumbering the property. The restrictive covenants may be evidenced by a use agreement, regulatory agreement, land use restrictions, or a similar agreement.
Rent control or rent stabilization laws, the acceptance of Housing Choice Vouchers, and other similar forms of portable housing assistance that are tied to an occupant and not an individual dwelling unit are not affordable housing income-restricted dwelling units for purposes of reporting.
Comments 4(a)(32)-2 and 4(a)(32)-3 provide examples of Federal, state, and local affordable housing sources. In determining the number
of multifamily affordable units to report, the financial institution may rely on the best information readily available to the financial institution at the time final action is taken and on the financial institution’s own procedures in reporting the information. As explained by Comment 4(a)(32)-5, information readily available could include, for example, information provided by an applicant that the financial institution reasonably believes, information contained in a property valuation or inspection, or information obtained from public records.
If a property securing the covered loan or, in the case of an application, proposed to secure the covered loan does not include a multifamily dwelling, the financial institution will report that the requirement is not applicable.
Address of the Property

Home Mortgage Disclosure Act (HMDA)
Section 1003.4(a)(9) requires the financial institution to report the (1) property address, and (2) if the property is located in a MSA or MD in which the financial institution has a home branch or office census tract, the (a) state, (b) county, and (c) census tract if the property is located in a county with a population of more than 30,000 according to the most recent decennial census conducted by the U.S. Census Bureau.
In some circumstances, more than one property may secure the covered loan, or in the case of an application, would have secured the covered loan. For example, a covered loan is secured by Property A, B, and C, of which each contains a dwelling. In this circumstance, a financial institution would report the covered loan or application as a single entry on its LAR.
In doing so, a financial institution provides the property address and location for only one property. Thus, in looking back to our example, the institution would report the property address for either Property A, B, or C. In addition to reporting the property address and location for one property, the financial institution also reports the (1) construction method, (2) occupancy type, (3) lien status, (4) manufactured home secured property type, and (5) manufactured home land property interest, using the information about the property whose address is listed on the LAR.
For all other data points, the institution will report the information that relates to the covered loan or application. For example, when reporting the total units for a covered loan that is secured by multiple properties, each with a dwelling, the institution would report the number of individual dwelling units related to the properties securing the covered loan.
Now that we have identified the five data points that will be reported for the property listed when more than one property secures the covered loan, let’s discuss these five data points. Note that the following discussion also applies to a covered loan or application that is secured, or would have been secured, by only one property.
Section 1003.4(a)(5) requires that the financial institution report the construction method for a property is either (1) site-built or (2) a manufactured home. The term “manufactured home” is defined in Section 1003.2(l), and means any residential structure as defined under U.S. Department of Housing and Urban Development regulations establishing manufactured home construction and safety standards, which are found at 24 CFR 3280.2. Homes that do not meet the HUD code standards, for example modular homes, are not considered manufactured homes for the purposes of Regulation C. In addition, Comment 4(a)(5)-1 provides that (1) loans or applications related to modular homes should be reported with a construction method of site-built, regardless of whether they are on-frame or off-frame modular homes, and that (2) dwellings built using prefabricated components assembled at the dwelling’s permanent site should also be reported with a construction method of site-built. For purposes of Regulation C, the term “manufactured home” also includes a multifamily dwelling that is a manufactured home community.
Section 1003.4(a)(6) requires that the financial institution report whether a property is or will be used by the applicant or borrower (1) as a principal residence, (2) as a second residence, or (3) as an investment property. Let’s take a closer look at each of these three occupancy types. Under the first occupancy type, the financial institution must identify whether the property will be used as a residence that the applicant or borrower physically occupies and uses, or will occupy and use, as his or her principal residence.
For purposes of reporting occupancy type as principal residence, an applicant or borrower can have only one principal residence at a time. Therefore, vacation or other second homes would not be a principal residence, for purposes of occupancy type. However, Comment 4(a)(6)-2 explains that when an applicant or borrower buys or builds a new dwelling that will become their principal residence within a year or upon the completion of construction, the new dwelling is considered the applicant’s or borrower’s principal residence.
With regard to second residences, a property is a second residence of an applicant or borrower if the property (1) is or will be occupied by the applicant or borrower for a portion of the year and (2) is not the applicant’s or borrower’s principal residence. For example, Comment 4(a)(6)-3 explains that if a couple occupies a property near their place of employment on weekdays, but the couple returns to their principal residence on weekends, the property near the couple's place of employment is a second residence for purposes of occupancy type.
Last, a property is an investment property if the borrower does not, or the applicant will not, occupy the property. For example, Comment 4(a)(6)-4 explains that if a person purchases a property, does not occupy the property, and generates income by renting the property, the property is an investment property for purposes of occupancy type. A financial institution must identify a property as an investment property when the borrower does not, or the applicant will not, occupy a property, even if the borrower or applicant does not consider the property to be owned for investment purposes.
When determining the occupancy type for purchased covered loans, Comment 4(a)(6)-5 explains that a financial institution may report “principal residence” unless the loan documents or application indicate that the property will not be occupied as a principal residence.
Section 1003.4(a)(29) requires that the financial institution report whether the covered loan or application is, or would have been, secured (1) by a manufactured home and land, or (2) by a manufactured home and not land. Under certain state laws, a manufactured home by itself without any land may be considered real property in some circumstances. However, Comment 4(a)(29)-1 explains that for purposes of Regulation C, the financial institution should report a covered loan secured by a manufactured home and not land as secured by a manufactured home and not land, even if the manufactured home is considered real property under applicable State law. If a property loan does not include a manufactured home, the financial institution will report that the requirement is not applicable. If the property includes a multifamily dwelling, including a manufactured home community, the financial institution will report that the requirement is not applicable.

For example:

<table>
<thead>
<tr>
<th>Manufactured Home Data Point</th>
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<tbody>
<tr>
<td><strong>Section § 1003.4(a)(29)</strong></td>
</tr>
<tr>
<td><strong>Manufactured home secured</strong></td>
</tr>
<tr>
<td>1. Home and Land</td>
</tr>
<tr>
<td>2. Home and Not Land</td>
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The financial institution should report a covered loan secured by a manufactured home and not land as secured by a manufactured home and not land.

Even if the manufactured home is considered real property under applicable State law.

If a property loan does not include a manufactured home, the financial institution will report that the requirement is not applicable.

If the property includes a multifamily dwelling, including a manufactured home community, the financial institution will report that the requirement is not applicable.

The term multifamily dwelling is defined in section 1003.2(n) as a dwelling that contains five or more individual dwelling units.
Section 1003.4(a)(30) requires that the financial institution report the applicant’s or borrower’s land property interest in the land on which a manufactured home is, or will be, located as either (1) direct ownership, (2) indirect ownership, (3) paid leasehold, or (4) unpaid leasehold. Let’s discuss the four types of interests outlined in Regulation C.
For purposes of Regulation C, Comment 4(a)(30)-5 explains that an applicant or borrower has a direct ownership interest in the land on which the dwelling is or is to be located when it has a more than possessory real property ownership interest in the land. For example, fee simple ownership.
An indirect ownership can occur when the applicant or borrower is or will be a member of a resident-owned community structured as a housing cooperative in which the occupants own an entity that holds the underlying land of the manufactured home community. In such communities, the applicant or borrower may have a lease and pay rent for the lot where the manufactured home is or will be located, but the property interest type for such an arrangement should be reported as indirect ownership if the applicant is or will be a member of the cooperative that owns the underlying land of the manufactured home community. If, however, an applicant resides or will reside in such a community but is not a member, the property interest type should be reported as a paid leasehold.
Comment 4(a)(30) provides examples of paid leasehold and unpaid leasehold arrangements and how they would be reported under Regulation C. One example of a paid leasehold is where a borrower has a written lease for a lot, and the lease specifies rent payments.
In contrast, one example of an unpaid leasehold is where a borrower does not have a written lease and does not have an agreement as to rent payments.
If a property securing the covered loan or, in the case of an application, proposed to secure the covered loan does not include a manufactured home, the financial institution will report that the requirement is not applicable. Similarly, if the property includes a multifamily dwelling, including a manufactured home community, the financial institution will report that the requirement is not applicable.
Section 1003.4(a)(16) requires the financial institution to report the lien status of the property securing the covered loan, or in the case of an application, proposed to secure the covered loan, as either a first lien or a subordinate lien. Lien status is determined by reference to the best information readily available to the financial institution at the time final action is taken and to the financial institution’s own procedures. For example, a financial institution may rely on the title search it performs as part of their underwriting procedures. In addition, financial institutions may rely on other information that is readily available to them at the time final action is taken and that they reasonably believe is accurate, such as the applicant’s statement on the application or the applicant’s credit report. Furthermore, when determining the lien status for an application that did not result in an origination,
A financial institution may also consider their established procedures to determine the lien status. Comment 4(a)(14)-1.ii provides the following example: assume an applicant applies to a financial institution to refinance a 100,000 dollar first mortgage; the applicant also has an open-end line of credit for 20,000 dollars. If the financial institution's practice in such a case is to ensure that it will have first-lien position—through a subordination agreement with the holder of the lien securing the open-end line of credit—then the financial institution should report the application as an application for a first-lien covered loan.
When a financial institution purchases a covered loan, Comment 14(a)(14)-1.i clarifies that the lien status the financial institution reports is determined by reference to the best information readily available to the financial institution at the time of purchase.
We hope you found this webinar helpful. The Bureau has additional resources to help you understand and comply with the final rule. These are available on the Bureau’s website at
For more information

www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance

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