

# Home Mortgage Disclosure Act (HMDA)

## *New HMDA Rules with Lower Thresholds for Reporting on Multifamily Loans in Effect on 1/1/2018*

Last updated: August 7, 2018

### **Executive Summary**

- The Home Mortgage Disclosure Act (HMDA) has long been a reporting requirement for single-family mortgage lenders, but regulatory changes made by the Consumer Financial Protection Bureau (CFPB) clarified that the law also applies to multifamily (MF) lending.
- The CFPB changes also lowered the origination threshold that triggers reporting requirements for nonbanks. The closed-end threshold is now 25 loan originations in either of the previous two years.
- There are a few bipartisan HMDA reform bills making their way through Congress, though the focus generally is on reducing the number of reporting fields (which the CFPB also expanded) for smaller lenders. Under its new leadership, the CFPB has indicated it will reexamine the rule.
- An extremely limited provision was included in the Senate banking reform bill, S. 2155: Economic Growth, Regulatory Relief, and Consumer Protection Act, that provides for reduced reporting and disclosure requirements for insured depository institutions that originate fewer than 500 loans per annum. S. 2155 was signed into law on May 24, 2018.
- The CFPB has opened a request for information on inherited rules, including HMDA ([CREFC submitted comments](#) to the rule on June 19, 2018) and the CFPB placed a HMDA-specific proposal on its rulemaking agenda for January 2019. CREFC also submitted [comments via a coalition letter](#) with other real estate trade groups.

### HMDA QUICK FACTS

- The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975.
- Because the HMDA questionnaire was created for residential mortgages – designed to track and prevent discriminatory home lending practices – the questions are often nonsensical when applied to the MF sector who do not interact with the ultimate occupants of the structures.
- Dodd-Frank Act transferred the rule-writing authority for HMDA to the Consumer Financial Protection Bureau (CFPB).
- Nonbanks have criticized the low threshold for multifamily originations (below) as it will add a significant compliance burden to smaller lenders. The overarching concern is that the new rules will slow the liquidity provided by private financial institutions to the multifamily sector.
- **As of January 1, 2018, multifamily lenders making 25 or more loans must report under the new, more robust HMDA requirements.**

## CREFC Policy & Strategy

- **Recommendation/Strategy:** Exempt multifamily and single-family rental loans (i.e., business-to-business loans) from the scope of HMDA. Alternatively, raise the loan origination thresholds so that they are high enough to exclude smaller multifamily lenders. CREFC also would support an initiative to reduce the number of required reporting items to reduce overall HMDA burdens.
- **Congressional Action.** In response to the CFPB expansion of the rule, there have been a number of congressional reform efforts.
  - [H.R. 2954](#), “Home Mortgage Disclosure Adjustment Act”. H.R. 2954, which is co-sponsored by Tom Emmer (R-MN) and Blaine Luetkemeyer (R-MO), passed in committee on Oct. 12, 2017, and passed the House on Jan. 18, 2018. This bill would increase – from 25 to 500 – the number of loans a bank could extend before certain HMDA requirements applied.
  - [S. 2155](#), a bipartisan banking regulatory reform bill, included the above HMDA provision, though the scope of relief currently was limited to small depository institutions (smaller banks and credit unions only).
- **Administrative Action.** The CFPB has the authority to issue a new rule changing the prior version to extend the reporting thresholds above the current 25 loan limit. The agency’s new leadership has historically been supportive of CRE finance and could be an ally in any administrative fix.
  - CREFC filed [comments](#) on June 19 responding to a request for information published by the CFPB regarding all “inherited” rules, of which HMDA is considered one.
  - CREFC met with regulators on July 11 to discuss potential regulatory relief for the rule.

For further information, visit CREFC’s Resource Center at: <https://www.crefc.org/library>

## ***Additional Background & History***

- HMDA was enacted by Congress in 1975 to provide home mortgage data from financial institutions to the public. The data have been used to detect Fair Housing Act or ‘redlining’ violations. In 2015, the CFPB expanded the number of data fields collected, lowered reporting thresholds (to 25 closed-end mortgage loans or 100 open-ended loans in either of the two preceding years), which pulled in small- and medium-sized lenders that had never before been subject to the rule. The changes also clarified that multifamily properties were included. To be clear, the regulators maintain that the rule has applied to multifamily for decades, though the new instructions made this clear to a broad range of lenders (bank and non-bank) for the first time.
- The rule applies broadly to financial institutions – including depository and non-depository lenders – that make home loans (single and multifamily) above the volume thresholds. Previously, non-depository institutions had asset thresholds and a 100-loan threshold, which has been lowered to 25 loans.

- The new loan-volume thresholds for non-depository institutions are very low and require institutions new to this reporting regime to implement burdensome HMDA reporting systems and processes for even a small amount of loans. CREFC has been told by members that some will pull back from lending when approaching the 25 loan limit.

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