

Client Alert

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CFPB Publishes HMDA File Specifications for Data Collected in 2017 and 2018

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On February 18, the Consumer Financial Protection Bureau (CFPB) and the Federal Financial Institutions Examination Council (FFIEC) published new “File Specifications” for data to be collected pursuant to the Home Mortgage Disclosure Act (HMDA) and its implementing regulation, Regulation C, in 2017 and 2018. These File Specifications follow the CFPB’s October 15, 2015, final rule (the “Rule”) amending Regulation C, published in the Federal Register on November 10. As contemplated by the Rule, the new File Specifications make changes to the format and method in which HMDA data must be submitted. More importantly, the 2018 File Specifications show the number of individual data fields that will ultimately be necessary to implement the Rule’s new collection requirements—110. Yes, that is right, 110.

Because the new data collection requirements do not become effective until January 1, 2018, the File Specifications for data collected in 2017 reflect the same 39 data fields required under the current Regulation C. The instructions for formatting and submitting the data collected in 2017 have changed, however. The major changes are as follows:

- Data must be submitted directly to the CFPB, not to the federal banking agencies or the U.S. Department of Housing and Urban Development.
- Data must be submitted exclusively through an encrypted web-based platform (which remains in development). Filers may no longer submit data via encrypted email, CD-ROM, or diskette.
- Data must be submitted in a text file (*.txt), and fields must be delimited by the vertical bar (“|”) character, also called a “pipe.” The delimited format will replace the current fixed-field format, thereby removing the need for leading and trailing zeros in most fields.

Many filers have long since migrated to a form of electronic data submission, either by secure email or by direct submission through the FFIEC’s Data Entry Software. For these institutions, the move to the new web-based platform for submitting data may not, by itself, impose a significant burden on staff or systems. The transition to collecting and maintaining data in the new delimited format, however, is likely to impose notable costs on all filers. Costs may be particularly significant for filers with older back-office systems that cannot be easily retrofitted to aggregate and store the relevant data in the pipe-delimited format, as well as for filers who still submit data via CD-ROM or diskette.

The File Specifications for data collected in 2018 include the same new instructions for formatting and submitting data, and, as noted above, the 2018 specifications include field names and response codes for all 110 possible data fields. As we discussed in our alerts on October 20 and November 30, the Rule modified 11 existing data points required under current Regulation C, and added 33 entirely new data points. With the release of the 2018 File Specifications, we now know that in order to record these new and modified data points, filers will need to add 71 new fields to their HMDA databases.

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Many data points under the Rule are tied to multiple data fields in the File Specifications, and some data fields will likely be rarely used. For example, the data points relating to the race and ethnicity of the applicant/borrower and the co-applicant/co-borrower are *each* allotted five fields to accommodate individuals who may make as many as five selections on the applicable identification forms. In order to make five selections on the ethnicity identification required by the Rule, one would have to self-identify as Hispanic or Latino and as every available sub-option thereunder: Mexican, Puerto Rican, Cuban, and Other Hispanic or Latino. As such, it seems unlikely that many individuals will choose to complete all five fields.

The 2018 File Specifications do not include the 2018 “Data Specifications,” which the CFPB notes are forthcoming. Presumably, the Data Specifications will provide more detailed instructions regarding when to select certain response codes in a given data field, much like the instructions provided for the 39 current data fields in Appendix A to Regulation C. Examples of such instructions in Appendix A include which “Action Taken” response to choose when the applicant makes a counteroffer, and what date to record as the “Date of Action” when a preapproval leads to an origination. These specifications are critical to ensuring that institutions code loan-level information correctly and consistently.

The Rule states that Appendix A will be deleted in its entirety as of January 1, 2019, and replaced by CFPB guidance (i.e., the forthcoming Data Specifications). Appendix A, while procedural on its face, clearly touches the substance of the Rule and can directly affect compliance. Replacing Appendix A with a guidance document may make it possible for the CFPB to respond to industry issues and questions more quickly through the use of updates and revisions to the document. However, the CFPB has not yet indicated whether the initial Data Specifications document, or future iterations thereof, will be issued for public comment, as is the case currently for amendments to Appendix A.

If the CFPB decides not to issue at least the initial document for public comment, we should anticipate a flurry of updates and revisions leading up to 2018, as the CFPB sorts out operational problems and anomalies with respect to the new and modified data fields. A public comment period, of course, would enable the industry (and the public) to offer input on operational concerns, as well as for the CFPB to aggregate, consider, and respond in kind to such concerns. Either way, the race to readiness is on. Until we have the Data Specifications in hand, however, the exact course remains unknown.

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