



BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1003

Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Rescission of statement of policy.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is rescinding the Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act.

DATES: This rescission is applicable on April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Zixta Q. Martinez, Division of Supervision, Enforcement, and Fair Lending, at (202) 435-7204. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: On March 26, 2020, the Bureau issued a statement entitled, “Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act” (Statement), regarding the Bureau’s exercise of its supervisory and enforcement discretion in connection to the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 through 2810, and Regulation C, 12 CFR 1003.5(a)(1)(ii).¹ Specifically, the Statement provided that until further notice, the Bureau does not intend to cite in an examination or initiate an enforcement action against any institution for failure to report its HMDA data quarterly, as required under Regulation C. Under Regulation C, 12 CFR 1003.5(a)(1)(ii), financial institutions that report for the preceding calendar year at least 60,000 covered loans and applications (excluding purchased loans) must report their HMDA data quarterly (except for the fourth quarter) in addition to

¹ https://files.consumerfinance.gov/f/documents/cfpb_hmda-statement_covid-19_2020-03.pdf.

annually.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and provides guidance on how entities subject to Regulation C, 12 CFR 1003.5(a)(1)(ii) should now meet this obligation.

The Statement expressed the Bureau's recognition of the impact of the COVID-19 pandemic on consumers and the operations of many financial institutions, the vital role played by mortgage lenders in ensuring that consumers have access to credit, as well as the critical importance of this access in light of the dramatic effects of the pandemic on the finances of consumers. The Bureau therefore believed it was necessary to provide financial institutions with flexibility and reduce their administrative burden to allow them to focus their attention on making sure consumers have access to credit. The Bureau has concluded that this tradeoff is no longer necessary. With regard to the quarterly filing of HMDA data, the Bureau believes that companies have had sufficient time to adapt to the pandemic and should now be able to respond to the credit needs of consumers while still complying with the quarterly data submission requirement under Regulation C without the flexibility afforded under the Statement. The Statement noted that entities should continue collecting and recording HMDA data in anticipation of making annual data submissions and that entities could continue to make quarterly HMDA submissions notwithstanding the flexibility extended under the Statement. The Bureau notes that approximately half of the financial institutions subject to the requirement are now filing their data, choosing not to take advantage of the flexibility provided by the Statement. In addition, because the Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. The Bureau never intended the Statement to be permanent, and expressly noted that at a later date, the Bureau would provide information as to how and when it expects financial institutions subject to the requirement would resume quarterly HMDA data submissions. This Policy Statement provides that guidance.

The Bureau hereby rescinds, as of April 1, 2021, the Statement and instructs all financial

institutions required to file quarterly to do so beginning with their 2021 first quarter data, due on or before May 31, 2021, for all covered loans and applications with a final action taken date between January 1 and March 31, 2021. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity that did not make the quarterly filing for data collected in 2020.

The Bureau reminds HMDA reporters of the existing safe harbor in Regulation C, 12 CFR 1003.6(c)(2), that applies to any data financial institutions report on a quarterly basis. If a financial institution that is required to report data quarterly makes a good faith effort to report such data fully and accurately within 60 calendar days after the end of each calendar quarter, inaccuracies or omissions in quarterly data reported do not need to be corrected or completed until the financial institution submits its annual loan/application register by March 1 of the following calendar year.

Regulatory Requirements

The Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA). It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. This rescission likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. No notice of proposed rulemaking was originally required in issuing the Statement, and it is not required in issuing this rescission. The Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The

Bureau has also determined that the rescission of the Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Dated: March 29, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021-06965 Filed: 4/5/2021 8:45 am; Publication Date: 4/6/2021]