



COMPLIANCE UPDATE

Federal Financial Institutions Examination Council (FFIEC) Home Mortgage Disclosure Act (HMDA) Data Submission Changes for 2017

As financial institutions prepare to collect HMDA data in 2017 for submission beginning in 2018, we would like to highlight one of the changes to the submission process described in the [Filing Instructions Guide \(FIG\) for HMDA data collected in 2017](#):

Beginning with the HMDA data collected in 2017, filers will submit their HMDA data to the Consumer Financial Protection Bureau (CFPB) using a web interface referred to as the [HMDA Platform](#). HMDA filers will interact directly with the HMDA Platform to file their HMDA data. *The Data Entry Software (DES) currently provided by the FFIEC will no longer be available as a method of data entry or data submission.*

Some financial institutions, typically those with small volumes of reported loans, that currently manually enter each loan into the DES for submission will need a software solution to create an electronic file that can be submitted to the new HMDA Platform.

Many solutions, such as the following, exist for creating the electronic file:

- A financial institution's current Loan Origination Software (LOS) may meet this need.
- Software, such as Microsoft Access or Excel, commonly available on desktop computers may also be used for data entry and formatting.

- In addition, the CFPB published a Microsoft Excel HMDA Loan Application Register (LAR) data entry formatting tool. This tool will help filers enter and format their HMDA data into a pipe delimited text file needed to submit the data to the CFPB's HMDA Platform. The tool is available at <https://www.consumerfinance.gov/data-research/hmda/lar-formatting-tool>.

HMDA filers that use vendor software to prepare their HMDA data for submission are encouraged to contact their vendors to confirm that their software will format HMDA data collected in 2017 according to the requirements specified in *Section 3* of the FIG. These include the creation of a pipe delimited text file to be uploaded to the HMDA Platform.

HMDA filers should also refer to *Section 2* of the FIG for information on additional changes to the filing process.

Check the [Resources for Filers](#) page for future HMDA processing updates:
<https://www.consumerfinance.gov/data-research/hmda/for-filers>

We also encourage HMDA filers to visit the HMDA Regulatory Implementation page and sign up to receive email updates:
<https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/hmda-implementation/>

There is also a technology preview page to help you through some of the filing details:

<https://www.consumerfinance.gov/data-research/hmda/tech-preview>

FFIEC Compliance Rating System

On November 7, 2016, the FFIEC released a new uniform interagency consumer compliance rating system (the “CC rating system”) used in consumer compliance examinations by regulators. The FFIEC intends for this new CC rating system to align with the current FFIEC risk-based examination approach, with the focus on compliance management systems. Until now, consumer compliance examinations have been focused predominantly on transaction and other testing. Beginning on March 31, 2017, compliance examinations are intended to become more risk focused.

When proposing the changes to the CC rating system, the FFIEC made clear that the proposal was not developed to set a new or higher supervisory expectation for compliance examinations, nor was the adoption of the proposal intended to represent any additional regulatory burden.

The changes emphasize that the CC rating system is intended to be “risk-based” in order to encapsulate the need for the compliance management system (“CMS”) to *vary with the size, complexity, and risk profile of the financial institution*. Risk-based consumer compliance supervision evaluates whether a financial institution’s CMS effectively manages the compliance risk in products and services offered to consumers.

Notably, the FFIEC states that it is important that the new rating system provide incentives for financial institutions to promote consumer protection by *“preventing, self-identifying, and addressing compliance issues in a proactive manner.”* The proposed rating system is intended to be risk-based, transparent, and actionable and should incent compliance.

The proposed CC rating system includes the following three categories of assessment factors:

- Board and management oversight
- Compliance program
- Violation of law and consumer harm

Under each of these four assessment factors, there are a number of sub-factors. Under the “**board and management oversight**” assessment factor, examiners will consider the following:

- Oversight and commitment
- Change management
- Comprehension
- Identification and management of risk
- Corrective action and self-identification

The overriding goal is to determine whether the board and management are sufficiently engaged in overseeing consumer compliance.

The **compliance program** will be assessed based on the following:

- Policies and procedures
- Training
- Monitoring and/or audit
- Consumer complaint response

For “**violations of law and consumer harm,**” the assessment factors are as follows:

- Root cause or causes of any violations of law identified
- Severity of any consumer harm resulting from violations
- Duration of time over which the violations occurred
- Pervasiveness of the violations

Freeze on New Federal Regulations

A presidential memorandum was issued in January 2017 to executive department heads and agency leadership that froze regulations, subjecting them to further review. Specifically, the presidential memorandum dictated the following:

- Regulations should not be sent to the Office of the Federal Register (OFR) until a department or agency head appointed or designated by the President reviews and approves the regulation. Certain regulations concerning emergency situations—or other urgent circumstances relating to health, safety, financial or national security matters—are not subject to the regulatory freeze.
- Regulations that have been sent to the OFR, but are not yet published in the Federal Register, must be withdrawn for review and approval.
- Regulations that have been published in the OFR but have not yet taken effect, as permitted by applicable law, should have their effective date postponed to 60 days from January 20, 2017.

Proposal to Delay Labor Department Fiduciary Rule

The Department of Labor has extended the April 10, 2017, applicability date of the "Fiduciary Conflict of Interest" rule, which defines who is a "fiduciary" under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code of 1986 (Code), and the applicability date of related prohibited transaction exemptions, including the Best Interest Contract Exemption, and amended prohibited transaction exemptions to address questions of law and policy. The proposed delay would be to afford the Labor Department time to examine whether the fiduciary rule may adversely affect the ability of Americans to gain access to retirement information and financial advice and to prepare an updated economic and legal analysis concerning the likely impact of the final rule as part of

that examination, all as required by a Presidential Memorandum to the Secretary of Labor.

QUESTIONS?

If you wish to discuss these matters in detail, please contact Steve Zanardelli, Tim Schofer, or Frank Antiga at (724) 934-0344 or (800) 580-7738, or email szanardelli@srsnodgrass.com, tschofer@srsnodgrass.com, or fantiga@srsnodgrass.com.