
INFORMATIONAL MEMORANDUM



January 13, 2016

To: Chief Executive Officer
All Farm Credit System Institutions

From: Samuel R. Coleman, Director and Chief Examiner
Office of Examination

Subject: Amendments to Regulation C and Regulation Z and Annual Threshold Adjustments
under Regulation Z and Regulation M

This Informational Memorandum provides information on the following regulations and guidance issued by the Consumer Financial Protection Bureau (CFPB):

- Amendments to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA);
- Amendments and information relating to “small creditors,” “rural areas,” and “rural or underserved” areas under Regulation Z (Truth in Lending); and,
- Annual adjustments of dollar amount thresholds under Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing).

Regulation C Amendments

The CFPB’s rule amending Regulation C changed the requirements in four areas, as discussed below.

Institutional Coverage

The amended rule expands the scope of Farm Credit System (System) institutions that are covered by the requirements of Regulation C. In a change from the existing rule, the revised scope will be uniform for all financial institutions, both depository and non-depository. A System institution will be subject to Regulation C if:

- On the preceding December 31, it had a home or branch office in a Metropolitan Statistical Area; and,
- It originated at least 25 covered closed-end mortgage loans or at least 100 covered open-end lines of credit in each of the two preceding calendar years. (A “covered loan” is a closed-end mortgage loan or an open-end line of credit that is not excluded under any of twelve listed exclusions, including the agricultural purpose exclusion discussed below.)

Transactional Coverage

The amended rule modifies the types of transactions that are covered under Regulation C. In general, it adopts a dwelling-secured standard for all loans or lines of credit that are for personal, family, or household purposes instead of the current purpose-based standard. Although the rule makes a number of transactional coverage changes, the following are the most significant for System institutions:

- The amended rule excludes from coverage all closed-end mortgage loans and open-end lines of credit used primarily for agricultural purposes, whether the transaction is for a home purchase, home improvement, refinancing, or another purpose.¹ It explains that a loan or line of credit is used primarily for agricultural purposes if:
 - the loan funds will be used primarily for agricultural purposes, or
 - the loan or line of credit is secured by a dwelling that is located on real property that is used primarily for agricultural purposes (e.g., a farm).

System institutions should refer to Regulation Z for guidance on what is an agricultural purpose.² System institutions may use any reasonable standard to determine the primary use of the property and may select the standard to apply on a case-by-case basis.

- The amended rule changes the scope of covered preapproval requests. Currently, the collection, recording, and reporting of preapproval requests that are approved, but not accepted, is optional under Regulation C. The amended rule requires covered financial institutions to collect, record, and report information for approved, but not accepted, preapproval requests for home purchase loans. However, preapproval requests for open-end lines of credit, reverse mortgages, and home purchase loans to be secured by multifamily dwellings are not covered transactions under the amended rule.

Collection of Information

The amended rule requires the collection of more information about covered loans and loan applications, as well as about applicants and borrowers.

Disclosure Requirements

The amended rule changes how HMDA information is reported to the CFPB and public. The CFPB is developing a web-based reporting tool for HMDA data. A covered institution will be able to provide a notice to the public that its disclosure statements are available on this website.

The amended rule was published at [80 FR 66128](#), October 28, 2015. The effective date for most provisions related to financial institution and transaction coverage and data collection, recording, reporting and disclosure is January 1, 2018. The effective date for additional changes to the reporting provisions is January 1, 2019.

The CFPB recently released a [Home Mortgage Disclosure \(Regulation C\) Small Entity Compliance Guide](#), designed to help entities understand their obligations under the HMDA and Regulation C.

¹ This represents a change from the existing rule. As the FCA explained in an Informational Memorandum dated October 13, 2005, under the existing rule the refinancing of a farm loan is reportable as long as both the new loan and the replaced loan are secured by a dwelling, even though the farm loan was not reportable when originally made. Accordingly, once the new provision becomes effective, the October 13, 2005 Informational Memorandum will no longer be in force.

² Comment 3(a)-8 in the official interpretations of Regulation Z explains that an agricultural purpose transaction includes a transaction involving real property that includes a dwelling (e.g., the purchase of a farm with a homestead) if the transaction is primarily for agricultural purposes.

Regulation Z Amendments and Information Relating to “Small Creditors,” “Rural Areas,” and “Rural and Underserved” Areas

The CFPB published a final rule that revises the Regulation Z definitions of “small creditor” and “rural and underserved areas” and makes technical changes and clarifications to other sections of Regulation Z and the related commentary. The revised definitions will affect the availability of some special provisions and exemptions to Regulation Z’s ability-to-repay, high-cost mortgage, and higher-priced mortgage loan escrow requirements. Although the rule makes a number of changes, the following are the most significant for System institutions:

- It raises the loan origination limit for determining eligibility for small creditor status from 500 first-lien covered transactions to 2,000 first-lien covered transactions;
- It excludes loans that the creditor originates and keeps in its portfolio from the loan origination limit; and,
- It expands the definition of “rural area” used to determine if a creditor is operating predominantly in a rural area.

The rule was published at [80 FR 59944](#), October 2, 2015, and became effective on January 1, 2016.

In addition, the CFPB has posted [lists of counties](#) determined to be “rural” and “rural or underserved” for purposes of determining whether a creditor is exempt from certain requirements under Regulation Z. (Scroll down to the heading Compliance-Related Information for CFPB-Issued Rules to find links to the lists.) The CFPB has also launched an online [rural and underserved areas tool](#) that lenders can rely on to provide a safe harbor determination that a property is located in a rural or underserved area.

Annual Adjustments of Dollar Amount Thresholds in Regulation Z and Regulation M

The CFPB made annual adjustments of dollar amount thresholds in the following regulatory provisions in Regulation Z and Regulation M. All of these adjustments became effective on January 1, 2016 and will apply throughout 2016.

- The CFPB adjusted the dollar thresholds in Regulation Z provisions that implement the Home Ownership and Equity Protection Act of 1994 and that govern ability to repay and qualified mortgages during 2016. The rule was published at [80 FR 56895](#), September 21, 2015; it can be referenced for the new threshold amounts.
- The CFPB maintained the \$25,500 threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans under Regulation Z. This is the same threshold that applied in 2015. The final rule reflecting this threshold was published at [80 FR 73943](#), November 27, 2015.
- The CFPB maintained the \$54,600 thresholds in Regulation Z and Regulation M that apply for determining exempt consumer credit and lease transactions. These are the same thresholds that applied in 2015. (Private education loans and loans secured by real property – such as mortgages – are subject to the Truth in Lending Act regardless of the amount of the loan.) The final rules reflecting these thresholds were published at [80 FR 73947](#) (Regulation Z) and [80 FR 73945](#) (Regulation M), November 27, 2015.

- The CFPB **decreased** the asset-size threshold in Regulation Z for certain small creditors operating primarily in rural or underserved areas to qualify for an exemption to the requirement to establish an escrow account for higher-priced mortgage loans (HPML). Under the new threshold, loans made by creditors operating primarily in rural or underserved areas with assets of less than \$2.052 billion as of December 31, 2015 that meet other Regulation Z exemption requirements will be exempt in 2016 from the escrow requirements for HPMLs. The adjustment will also decrease the asset threshold for small creditor portfolio and balloon-payment qualified mortgage requirements and for balloon-payment high cost mortgage requirements under Regulation Z. These adjustments were published at [80 FR 79674](#), December 23, 2015.

CFPB Compliance-Related Information

The language of all of the CFPB's mortgage-related rules, together with information about implementation of and compliance with the rules, can be found on the [CFPB's website](#). The CFPB is constantly updating its website to provide information about these rules, and institutions should refer to it frequently to ensure they have the latest information. System institutions can sign up on the website to receive updates about these rules.

The Farm Credit Administration is providing this information as a courtesy to keep you informed of issues that may affect your institution. This information should not be seen as a replacement for reviewing the full regulation or for management's due diligence in monitoring issues that may affect your institution.

If you have any questions about this Informational Memorandum, please contact Jennifer A. Cohn, Senior Counsel, Office of General Counsel, at (703) 883-4028, or by email at cohnj@fca.gov; and/or Dan Fennewald, Director, Examination Policy Division, Office of Examination, at (952) 259-0432, or by email at fennewaldd@fca.gov.