Action Taken Reporting Based Upon Conditional Approvals

Creditworthiness or Underwriting Conditions Unmet – Credit Decision Not Final Until All Are Met

- Never "approved not accepted" for HMDA if creditworthiness or underwriting condition unmet
- Customer states verbally or in writing does not wish to proceed: report as withdrawn.
- Conditions not met satisfactorily and applicant has not withdrawn pre-decision – deny
- Conditions unmet or not satisfactorily met and application denied due to customary commitment or closing condition – deny and report as denial for HMDA

Creditworthiness and Underwriting Conditions Met Satisfactorily

- Denial due to customary commitment or closing condition – report as approved not accepted for HMDA even if denial notice issued
- Never reported as denied for HMDA unless there is a material adverse change to applicant's creditworthiness (credit conditions essentially reopen)

All Conditions Satisfied – Loan/Line Not Originated – Approved Not Accepted

A creditworthiness or underwriting condition requires a decision as to acceptability – can deal go forward with appraised value, income, etc. Approvals are not final until all conditions met.

Problem with customary commitment or closing condition puts decision in hands of applicant or applicant and seller. They could fix cloud on title, could remove bug infestation, could obtain permits.

Written NOIA issued for information applicant can provide needed for credit decision but information not provided: Report as closed for incompleteness

- If denial issued despite written NOIA, can choose to report as denied (but foolish to issue denial or report as denial).
- Verbal NOIA – must either issue a written NOIA by day 30 after initial incomplete application or deny for incompleteness

Underwriting/Creditworthiness Condition Examples: conditions that constitute a counter-offer, such as a demand for a higher down-payment; satisfactory debt-to-income or loan-to-value ratios; a determination of need for private mortgage insurance; a satisfactory appraisal requirement; or conditions re verification or confirmation, in whatever form the institution requires, that the applicant meets underwriting conditions concerning applicant creditworthiness, including documentation or verification of income or assets.

Customary commitment or closing conditions examples: a clear-title requirement; an acceptable property survey; acceptable title insurance binder; clear termite inspection; a subordination agreement from another lienholder; a settlement statement showing adequate proceeds from the sale when the applicant plans to use the proceeds from the sale of one home to purchase another.

Conditional Approval Reporting for HMDA – Action Taken

Conditional Approvals - 2018 Scenarios	Types of Conditions
Conditions are solely customary commitment or closing conditions **and** the conditions are not met - **ANA** Conditions (any type) satisfied **and** the institution agrees to extend credit **but** the covered loan is not originated - **ANA** **REPORT AS APPROVED NOT ACCEPTED EVEN IF A DENIAL NOTICE WAS ISSUED UNDER REGULATION B - CONFIRMED WITH THE BUREAU (CFPB)**	**Customary commitment or closing conditions examples:** • a clear-title requirement, • an acceptable property survey, • acceptable title insurance binder, • clear termite inspection, • a subordination agreement from another lienholder – new in 2018, and, • a settlement statement showing adequate proceeds from the sale when the applicant plans to use the proceeds from the sale of one home to purchase another.
Approval conditioned on satisfying underwriting or creditworthiness conditions and conditions are not met - **Denial** Conditions (any type) satisfied **and** the institution agrees to extend credit **but** the covered loan is not originated – **ANA** Applicant notifies FI of wish to withdraw application **before** satisfying all underwriting or creditworthiness conditions **and before** the institution denies the application **or** closes the file for incompleteness - **Withdrawn** Approval conditioned on submitting additional information about underwriting or creditworthiness that the FI needs to make the credit decision, **and** the institution has sent a written notice of incompleteness under Regulation B, 12 CFR 1002.9(c)(2), **and** the applicant did not respond within the period of time specified in the notice – **Closed for Incompleteness or denied if adverse action issued after NOIA-optional)** Adverse action option added 8/2017.** All underwriting and creditworthiness conditions have been met, **and** the outstanding conditions are solely customary commitment or closing conditions **and** the applicant notifies FI of wish to withdraw before the covered loan is originated. – **ANA**	**Underwriting or creditworthiness conditions examples:** • conditions that constitute a counter- offer, such as a demand for a higher down-payment, • satisfactory debt-to-income or loan- to-value ratios, • a determination of need for private mortgage insurance NEW, or • a satisfactory appraisal requirement • conditions re verification or confirmation, in whatever form the institution requires, that the applicant meets underwriting conditions concerning applicant creditworthiness, including documentation or verification of income or assets. **Issuing an adverse action notice AFTER using a compliant written NOIA needlessly inflates denials, which is not beneficial to the financial institution.**

*Withdrawn – "Old" HMDA did not draw this bright line with conditional approvals, it simply said an application could not be reported as withdrawn once a credit decision was made; The revised rule introduced the idea that an approval conditioned on credit or underwriting conditions is not a final credit decision (which is correct); a financial institution will not go to closing unless these conditions are met or waived.

**Regulation B Incomplete Applications
Oral notice of incomplete application: An oral notice does not "stop" the Reg B 30 day incomplete application clock; requires adverse action notice within initial 30 days of incomplete application the requested information in oral notice is not provided. Must report as denied for incompleteness; closed for incompleteness cannot be used.

Written notice of incomplete application: Use Regulation B sample form containing adverse action language. If unmet, no further action is required & no additional adverse action notice required; close file for incompleteness.

HMDA & Multiple Institutions – Who Made the Credit Decision

(Investor Loans)

HMDA reporting of applications and originations when multiple institutions are involved in a loan transaction depends upon which institution made the credit decision. When a loan is originated, the institution that made the credit decision reports the origination. For non-originated applications in process with an investor are reported on the investors LAR if that investor makes the decisions.

For an originated loan, it does not matter which institution's name is on the documents or which institution provided the funds at closing.

What is the agreement between the institutions?

The capacity in which the institutions will be working together must be established up front.

- If your institution processes applications for a secondary market investor and has delegated lending authority to make the credit decision, report any loans originated under that delegated authority as an origination.

- If certain loans are more complex and your institution decides that those loans must be referred to the investor for the credit decision rather than using your institution's delegated lending authority, the investor will report those loans as an origination.

- If your institution does not have delegated authority for a particular investor, that means the investor will make all decisions and report those on their LAR.

- If your institution is a HMDA reporter and denies an application prior to referring to an investor, your institution will report that denial – your institution made the credit decision.

Commentary 1003.4(a)-2

Originations and applications involving more than one institution. Section 1003.4(a) requires a financial institution to collect certain information regarding applications for covered loans that it receives and regarding covered loans that it originates. The following provides guidance on how to report originations and applications involving more than one institution. The discussion below assumes that all of the

parties are financial institutions as defined by § 1003.2(g). The same principles apply if any of the parties is not a financial institution. Comment 4(a)-3 provides examples of transactions involving more than one institution, and comment 4(a)-4 discusses how to report actions taken by agents.

It is not relevant whether the loan closed or, in the case of an application, would have closed in the institution's name.

Only one financial institution reports each originated covered loan as an origination. If more than one institution was involved in the origination of a covered loan, the financial institution that made the credit decision approving the application before closing or account opening reports the loan as an origination. **It is not relevant whether the loan closed or, in the case of an application, would have closed in the institution's name.**

Multiple Approvals, One Purchased – Purchaser Reports

One application can be on multiple LARs but only one institution reports an origination

If more than one institution approved an application prior to closing or account opening and one of those institutions purchased the loan after closing, the institution that purchased the loan after closing reports the loan as an origination. If a financial institution reports a transaction as an origination, it reports all of the information required for originations, even if the covered loan was not initially payable to the financial institution that is reporting the covered loan as an origination.

Multiple Decisions, No Origination

One application can be on multiple LARs

In the case of an application for a covered loan that did not result in an origination, a financial institution reports the action it took on that application if it made a credit decision on the application or was reviewing the application when the application was withdrawn or closed for incompleteness. It is not relevant whether the financial institution received the application from the applicant or from another institution, such as a broker, or whether another financial institution also reviewed and reported an action taken on the same application.

Examples

Originations and applications involving more than one institution. The following scenarios illustrate how an institution reports a particular application or covered loan. The illustrations assume that all of the parties are financial institutions as defined by § 1003.2(g). However, the same principles apply if any of the parties is not a financial institution.

i. Financial Institution A received an application for a covered loan from an applicant and forwarded that application to Financial Institution B. Financial Institution B reviewed the application and approved the loan prior to closing. The loan closed in Financial Institution A's name. Financial Institution B purchased the loan from

Financial Institution A after closing. Financial Institution B was not acting as Financial Institution A's agent. Since Financial Institution B made the credit decision prior to closing, Financial Institution B reports the transaction as an origination, not as a purchase. Financial Institution A does not report the transaction.

ii. Financial Institution A received an application for a covered loan from an applicant and forwarded that application to Financial Institution B. Financial Institution B reviewed the application before the loan would have closed, but the application did not result in an origination because Financial Institution B denied the application. Financial Institution B was not acting as Financial Institution A's agent. Since Financial Institution B made the credit decision, Financial Institution B reports the application as a denial. Financial Institution A does not report the application. If, under the same facts, the application was withdrawn before Financial Institution B made a credit decision, Financial Institution B would report the application as withdrawn and Financial Institution A would not report the application.

iii. Financial Institution A received an application for a covered loan from an applicant and approved the application before closing the loan in its name. Financial Institution A was not acting as Financial Institution B's agent. Financial Institution B purchased the covered loan from Financial Institution A. Financial Institution B did not review the application before closing. Financial Institution A reports the loan as an origination. Financial Institution B reports the loan as a purchase.

iv. Financial Institution A received an application for a covered loan from an applicant. If approved, the loan would have closed in Financial Institution B's name. Financial Institution A denied the application without sending it to Financial Institution B for approval. Financial Institution A was not acting as Financial Institution B's agent. Since Financial Institution A made the credit decision before the loan would have closed, Financial Institution A reports the application. Financial Institution B does not report the application.

v. Financial Institution A reviewed an application and made the credit decision to approve a covered loan using the underwriting criteria provided by a third party (e.g., another financial institution, Fannie Mae, or Freddie Mac). The third party did not review the application and did not make a credit decision prior to closing. Financial Institution A was not acting as the third party's agent. Financial Institution A reports the application or origination. If the third party

purchased the loan and is subject to Regulation C, the third party reports the loan as a purchase whether or not the third party reviewed the loan after closing. Assume the same facts, except that Financial Institution A approved the application, and the applicant chose not to accept the loan from Financial Institution A. Financial Institution A reports the application as approved but not accepted and the third party, assuming the third party is subject to Regulation C, does not report the application.

vi. Financial Institution A reviewed and made the credit decision on an application based on the criteria of a third-party insurer or guarantor (for example, a government or private insurer or guarantor). Financial Institution A reports the action taken on the application.

vii. Financial Institution A received an application for a covered loan and forwarded it to Financial Institutions B and C. Financial Institution A made a credit decision, acting as Financial Institution D's agent, and approved the application. The applicant did not accept the loan from Financial Institution D. Financial Institution D reports the application as approved but not accepted. Financial Institution A does not report the application. Financial Institution B made a credit decision, approving the application, the applicant accepted the offer of credit from Financial Institution B, and credit was extended. Financial Institution B reports the origination. Financial Institution C made a credit decision and denied the application. Financial Institution C reports the application as denied.

Reporting Specific Data Fields as an Investor Making the Credit Decision

A few fields contain instructions that relate to investor loans.

Application Date: Comment 1003.4(a)(1)(ii)-2 - Application date - indirect application. For an application that was not submitted directly to the financial institution, the institution may report the date the application was received by the party that initially received the application, the date the application was received by the institution, or the date shown on the application form. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans).

Loan Amount – (7) The amount of the covered loan or the amount applied for, as applicable.

1003.4(a)(7)(i) For a closed-end mortgage loan, other than a purchased loan, an assumption, or a reverse mortgage, the amount to be repaid as disclosed on the legal obligation. For a purchased closed-end mortgage loan or an assumption of a closed-end mortgage loan, the unpaid principal balance at the time of purchase or assumption.

REMEMBER: An investor reporting an origination because they made the credit decision in a loan from a correspondent is reporting as an originator, not a purchaser. Report the amount on the note. For a true purchase, report as stated "the unpaid principal balance at the time of purchase or assumption". Do not treat investor loans reported as originations because your institution made the credit decision and then purchased the loan that same as loans purchased when your financial institution did not make the credit decision.

Agents

If a financial institution made the credit decision on a covered loan or application through the actions of an agent, the institution reports the application or origination. State law determines whether one party is the agent of another. For example, acting as Financial Institution A's agent, Financial Institution B approved an application prior to closing and a covered loan was originated. Financial Institution A reports the loan as an origination.

Discussion of Agents

If a financial institution is processing applications (including making credit decisions) as an agent for another financial institution, the agent will never report those transactions on its LAR. Acting as an agent is similar to being hired as a contract underwriter. A contract underwriter would never have its own LAR.

An agent relationship is a legal relationship and depends upon contract law, it is not a HMDA or other regulatory decision. If questioned about whether the relationship is truly that of an agent, legal counsel should be consulted. Such a relationship should be spelled out in a written contract.

Re-Purchased Loans

A financial institution is required to collect data regarding covered loans it purchases. For purposes of § 1003.4(a), a purchase includes a repurchase of a covered loan, regardless of whether the institution chose to repurchase the covered loan or was required to repurchase the covered loan because of a contractual obligation and regardless of whether the repurchase occurs within the same calendar year that the covered loan was originated or in a different calendar year. For example, assume that Financial Institution A originates or purchases a covered loan and then sells it to Financial Institution B, who later requires Financial Institution A to repurchase the covered loan pursuant to the relevant contractual obligations. Financial Institution B reports the purchase from Financial Institution A, assuming it is a financial institution as defined under § 1003.2(g). Financial Institution A reports the repurchase from Financial Institution B as a purchase.

Discussion

Repurchases are not duplicate transactions

If a financial institution originates a loan, sells it in the same calendar year, and subsequently must repurchase it in that same calendar year, the loan will be on the HMDA LAR twice. No adjustments are made to the loan reported as an origination, including the purchaser field. The loan was purchased, do not change the purchaser field. The second transaction will report the repurchase as a purchase with action code 6 and follow purchased loan reporting rules. Because the action code differs, the loan amount will likely differ, etc., the transactions are not considered duplicates for HMDA purposes.

If a financial institution originates a loan, sells it in the same or a later year, and subsequently must repurchase it, the repurchase is reported in the year of purchase following all rules for reporting purchased loans.

PREAPPROVAL STATUS REPORTING - HMDA Effective 1/1/2018 Home Purchase Closed End 1-4 Family Only (No multifamily, open end or reverse mortgage even if for a purchase)			
Action Taken	**Preapproval Requested Under a Program**	**Preapproval Not Requested Under a Program**	**Comment**
1 Origination-1-4 family closed end home purchase only	1	2	An origination can be 1 or 2; use Code 1 if application began as a preapproval request.
2 Approved Not Accepted	1	2	ANA can be 1 or 2; Report Code 1 if application began as a preapproval request, property was chosen and was approved but not accepted.
3 Denial (after property chosen)	Never Code 1	2	Report Code 2 when a preapproval request was not made or if application began as preapproval but after property was chosen the application was ultimately denied.
4 Withdrawn (after property chosen)	Never Code 1	2	Report Code 2 when a preapproval request was not made or if application began as preapproval but is later withdrawn after property is chosen and meets criteria for withdrawn.
5 Closed for Incompleteness (after property chosen)	Never Code 1	2	Report Code 2 when a preapproval request was not made or if application began as preapproval but is later closed for incompleteness after property is chosen.
6 Purchased	Never Code 1	2	Report Code 2 for all purchased loans.
7 Preapproval Denied	1	Never Code 2	Denied at preapproval request stage; Always report Preapproval Code 1
8 Preapproval Approved Not Accepted	1	Never Code 2	Approved but not accepted at preapproval request stage (approved but never returned with a property chosen to continue the application); Always report Preapproval Code 1
Preapproval Request Withdrawn or Closed for Incompleteness	Not HMDA Reportable		Preapprovals that do not result in an origination or an origination approved but not accepted are only reported if denied or approved not accepted at the preapproval stage (Action Codes 7 and 8) These will not be on the HMDA LAR.
Preapproval for home improvement, refinance, cash out refinance or other	Never Code 1	2	Not a preapproval for HMDA; Preapprovals for HMDA purposes apply only to property purchases.
Ad hoc requests	Not mandatory reporting; consistency in handling encouraged; consider fair lending		

- **Any use of Preapproval Code 1 other than as stated here will trigger a validity error at submission (2018 HMDA Edits, CFPB FIG) Action Codes 3, 4, 5 and 6 cannot use Preapproval Code 1**

- **1003.4(a) (4)** A financial institution shall collect data regarding requests under a preapproval program, as defined in § 1003.2(b)(2), only if the preapproval request is denied, is approved by the financial institution but not accepted by the applicant, or results in the origination of a home purchase loan.

- **1003.4 (a)(4) Commentary:** A financial institution reports that the application or covered loan did not involve a preapproval request for a purchased covered loan; an application or covered loan for any purpose other than a home purchase loan; an application for a home purchase loan or a covered loan that is a home purchase loan secured by a multifamily dwelling; an application or covered loan that is an open-end line of credit or a reverse mortgage; or an application that is denied, withdrawn by the applicant, or closed for incompleteness.

- **Preapproval Definition 1003.2(b)(2 & Commentary**: Request reviewed under a program that includes a comprehensive analysis of the creditworthiness of the applicant & a **written commitment** valid for a designated period of time to extend a home purchase loan up to a specified amount is issued. No conditions other than: (1) identification of a suitable property; (2) no material change in applicant's financial condition or creditworthiness prior to closing; and (3) limited conditions not related to applicant's financial condition or creditworthiness of the applicant that are ordinarily attached to a traditional home mortgage application (e.g., acceptable title insurance binder, clear termite inspection, . settlement statement showing adequate proceeds from sale of present home if needed for purchase). Anything that does not meet this definition is a prequalification and not a preapproval for HMDA purposes.

HMDA and Regulation Z Related Fields

No negative numbers can be reported for these fields

Field and Citation	Coverage	What to Report	If No Data to Report	Not Applicable Report NA
Loan Costs 1003.4(a)(17)(i) **Borrower Paid**	Applies to loans subject to HMDA, TRID and Ability to Repay* Applies to purchased loans originated under TRID rules	Total loan costs from TRID Closing Disclosure Line D	Report 0 if no loan costs charged on the closing disclosure	Not TRID (see points and fees), not subject to ATR, applications not originated, open end lines, business purpose, reverse mortgages, pre-TRID purchased loans or Must be NA if Total Points and Fees are not NA
Points and Fees 1003.4(a)(17)(ii) (Applies to consumer non-TRID 1-4 family)) **Borrower and/or Seller Paid**	Applies to loan subject to HMDA and Ability to Repay* not reported under Loan Costs (non-TRID) - Consumer purpose, closed end 1-4 family with no land (e.g., manufactured homes without land – Co-ops are now subject to TRID)	Total points and fees charged, calculated per 1026.32(b)(1) even if not high cost mortgage per 1026.32-HMDA borrowed calculation	Report 0 if no points and fees charged	TRID (see loan costs),not subject to ATR, applications not originated, open end lines, business purpose, reverse mortgages, all purchased loans Must be NA if Total Loan Costs are not NA
Origination Charges – 1003.4(a)(18) **Borrower Paid**	Applies to loans subject to HMDA & TRID (consumer purpose closed end) Applies to purchased loans originated under TRID rules	Charges from Line A Closing Cost Details page of Closing Disclosure	Report 0 if no borrower paid origination charges	Not TRID, applications not originated, open end lines, business purpose, reverse mortgages, pre-TRID purchased loans
Discount Points Paid to Reduce Rate 1003.4(a)(19) **All discount points, not limited to borrower paid**	Applies to loans subject to HMDA & TRID (consumer purpose closed end) Applies to purchased loans originated under TRID rules	Points paid to the creditor to reduce the interest rate disclosed on Line A.01 Closing Costs Details of Closing Disclosure	If no discount points, leave blank (do not enter 0 or NA)	Not TRID, applications not originated, open end lines, business purpose, reverse mortgages, pre-TRID purchased loans
Lender Credit 1003.4(a)(20)	Applies to loans subject to HMDA & TRID (consumer purpose closed end)	Lender credits disclosed on the From Second row under Line J of Closing Cost Details page of Closing Disclosure	If no Lender Credits, leave blank (do not enter 0 or NA)	Not TRID, applications not originated, open end lines, business purpose, reverse mortgages, pre-TRID purchased loans

*Ability to Repay requirements are from Regulation Z, 1026.43.

HOW TO PREPARE & SUBMIT YOUR HMDA DATA

PRESENTED BY KATHLEEN O. BLANCHARD, CRCM

KEY COMPLIANCE SERVICES, LLC/THE HMDA ACADEMY

JANUARY 27, 2022

Who Reports? Which Institution Made the Credit Decision?

Frequent major question! Handout provided on this topic!

The institution that made the credit decision or that was processing the application toward a credit decision when withdrawn or closed for incompleteness reports the transaction for HMDA.

Do not put transactions on your LAR that belong on someone else's LAR!

This assumes the institution making the decision is not acting as your agent or you are not acting as their agent.

Agent relationship is a state law and contract issue, not a regulatory issue. If an examiner or auditor questions this, get legal counsel involved to review your contract with the third party, or provide a legal opinion already obtained. Some contracts spell the relationship out very clearly.

Refer to 1003.4(a)(2)

Who Reports? Which Institution Made the Credit Decision?

1003.4(a)(2)(i.) Only one financial institution reports each originated covered loan as an origination.

If more than one institution was involved in the origination of a covered loan, the financial institution that made the credit decision approving the application before closing or account opening reports the loan as an origination.

It is not relevant whether the loan closed or, in the case of an application, would have closed in the institution's name.

If more than one institution approved an application prior to closing or account opening and one of those institutions purchased the loan after closing, the institution that purchased the loan after closing reports the loan as an origination.

If a financial institution reports a transaction as an origination, it reports all of the information required for originations, even if the covered loan was not initially payable to the financial institution that is reporting the covered loan as an origination.

Who Reports? Which Institution Made the Credit Decision?

1003.4(a)(2)(ii.) In the case of an application for a covered loan that **did not result in an origination**, a financial institution reports the action it took on that application if it made a credit decision on the application or was reviewing the application when the application was withdrawn or closed for incompleteness.

It is not relevant whether the financial institution received the application from the applicant or from another institution, such as a broker, or whether another financial institution also reviewed and reported an action taken on the same application.

Who Reports? Which Institution Made the Credit Decision?

Example:

Non-Delegated loans that are purchased

- ◦ The institution that made the credit decision reports the final action – if the loan is originated, it is report on the LAR of the institution that made the credit decision **as an origination** even if it was closed by the other institution in their name (and perhaps even funded by them) and purchased after closing.
- ◦ A non-delegated correspondent that denies an application PRIOR to referring to the investor reports that denial – they made the credit decision in that case.
- ◦ Always go by the credit decision.

- ◦ The same loan underwritten by correspondent with delegated authority is reported by the correspondent making the credit decision.

Who Reports? Which Institution Made the Credit Decision?

Example:

Bond loans that are a second lien – how to report

- Not underwritten by your underwriters – not reported by your financial institution; the institution that made the credit decision reports if they are a HMDA reporter
- Underwritten by your underwriters – reported by your financial institution, just like the prior example.

Purchased Loans

A full HMDA reporter purchasing from a non-reporter or a partially exempt reporter must submit a complete HMDA LAR – no exemptions.

Full data needed for HMDA should be a condition of the purchase.

Repurchased loans:
- Repurchased same year as origination, report the repurchase as a separate transaction with action code 6 (purchase) following purchased loan rules – leave origination reporting as is, including purchaser code!
  - A repurchase in same year as origination is not a duplicate transaction – action code and other fields differ.
- Repurchased in a year later than year of origination – report as a purchased loan.

Conditional Approvals – Creditworthiness/Underwriting Conditions

Another problem area – 2 handouts were provided on this topic

The CFPB drew a bright line here that we did not have prior to 1/1/2018.

A conditionally approved loan with creditworthiness or underwriting conditions still not satisfactorily met is NOT an approved application.

This includes any pre-closing conditions such as final income, employment and asset verifications.

An appraisal or other property valuation is a creditworthiness/underwriting condition.

A withdrawn application with open creditworthiness or underwriting conditions is reported as withdrawn because there is not a final credit decision.

Ask yourself: would the financial institution go to closing if all customary commitment and closing conditions were met – if not, because of the appraisal or final verifications, the loan does not have a final credit approval.

Conditional Approvals – Customary Commitment/Closing Conditions

If all creditworthiness/underwriting conditions have been met, including the final verifications, and loan does not close:

Customary Commitment/Closing Conditions satisfactorily met– report as approved not accepted.

Customary Commitment/Closing Conditions NOT satisfactorily met – report as approved not accepted, even if the failure to close is due to a cloud on the title or failure to obtain a required permit. **Report as ANA even if a denial notice was issued.**

◦ Reason: the applicant had the opportunity to address the issue and chose not to – the financial institution is not being penalized by having to report denials for a customer's decision when it was ready and willing to make the loan. (Per discussion with CFPB attorney.)

◦ Take the breaks we are given – they don't come often.

Notice of Incomplete Application

Frequent question!

Best process – use a compliant written notice – if the customer does not meet the requirements by the deadline, the file can be closed for incompleteness (action code 5) – no need to deny for incompleteness (action code 3)

If you use a compliant written NOIA and issue a denial anyway (denying for incompleteness), you can report as closed for incompleteness or denied for incompleteness (but why inflate your denials?) Added because of many inquiries to the CFPB on how to handle. ☹

Take the breaks we are given! Streamline your process!

HMDA is a reporting regulation ⭐

Data being reported should not be calculated or decided upon "just for HMDA".

I am often asked "how do I calculate this for HMDA?" Youdon't. What was calculated in underwriting? Report that!

CLTV, DTI, scores, income, etc.– report what was used for underwriting, for the credit decision. People creating the HMDA LAR should simply be pulling data used in underwriting. There should be no need to make calculations for HMDA.

Find an error? You still must report the data used for the credit decision. Dealing with errors made in underwriting is a separate issue – report the transaction as it was processed. (Think of a fair lending analysis using the HMDA LAR!)

 If no DTI used in underwriting (perhaps global cash flow was used)…report NA. Do not try to calculate a DTI. It will have no connection to what was done in underwriting.

Denials: Report the reasons that were given to the applicants, selecting the best choice from the HMDA list.

HMDA is a reporting regulation ⭐

If no DTI used in underwriting (perhaps global cash flow was used)…report NA. Do not try to calculate a DTI. It will have no connection to what was done in underwriting.

DSCR (debt service coverage ratio) is NOT DTI.

Denials: Report the reasons that were given to the applicants, selecting the best choice from the HMDA list.

Approaching the Task of Data Validation

Goal: submit as accurate a file as possible – be familiar with tolerances but not an excuse for sloppiness! (Quick look at tolerances on next slide.)

Run edits and correct validity and macro edits – those flag errors that can be identified by software and prevent submission.

Review Quality Edits – both HMDA Platform Quality Edits and QuestSoft edits (QuestSoft provides both) – they can seem annoying but do flag issues that can be potential errors that cannot be caught be software.

◦ Include quality edit topics as a basis for testing for file preparation and throughout the year.

Run edits as often as you like! I even use the Beta platform to testtheories on proper coding. You can do the same in QuestSoft.

HMDA Exam/Audit* Tolerances

Tolerances for initial sample or resubmission threshold: examiners should not count the following differences between data in the HMDA LAR and in the loan files as errors:

• Three calendar days or less in the date the application was received or the date shown on the application form reported pursuant to 12 CFR 1003.4(a)(1)(ii);

• One thousand dollars or less in the amount of the covered loan or the amount applied for, as applicable, reported pursuant to 12 CFR 1003.4(a)(7);

• Three calendar days or less in the date of the action taken by the financial institution reported pursuant to 12 CFR 1003.4(a)(8)(ii), provided that such differences do not result in reporting data for the wrong calendar year; and

• Rounding errors in reporting the dollar amount, rounded to the nearest thousand, of the gross annual income relied on in making the credit decision or, if a credit decision was not made, the gross annual income relied on in processing the application.

To illustrate, if a loan file indicates June 4th as the application date, a LAR application date of June 1st or June 7th would not be counted as an error because it is within three calendar days of June 4th, but a LAR application date of May 31st or June 8th would be counted as an error because it is more than three calendar days from June 4th.

*Auditors tend to use the examination procedures as a baseline for audit programs.

Validating the HMDA LAR

Utilize available software.

Validity edits will capture errors that can be logically identified, with the caveat "is the underlying data provided to the software correct"? Software cannot read minds.

Validating the HMDA LAR

Spend time on those items that cannot be identified by software – Quality Edits are part of this – they are open-ended questions because they are pointing out areas with potential for mistakes. Check – don't just clear them unless you have thoroughly reviewed the data.

Is the collateral actually a dwelling? (Older mobile homes, transitory housing, floating homes, mixed commercial/residential use that is primarily residential, etc. ARE NOT DWELLINGS NO MATTER PURPOSE OF THE LOAN)

Is the loan purpose correct?
◦ A purchase does not have to be secured by the dwelling being purchased – it must be secured by "a" dwelling
◦ Understand cash-out refinances – unless pricing or other terms or product code, processing are different due to the cash-out or the amount of the cash-out, it is a plain refinance
  ◦ A cash-out with no prior loan being satisfied and replaced is "Other" for consumer purpose and not reported for business purpose
  ◦ A refinance with cash-out for home improvements is either a plain refi or a cash-out refi, not a home improvement loan

Using the FIG (Filing Instruction Guide)

Be familiar with the file specifications section of the FIG; that too provides valuable information.

Example:

"Page 73 of FIG (2-59) Paragraph 4(a)(12)—Rate Spread.

Enter, as a percentage, to at least three (3) decimal places, the difference between the covered loan's annual percentage rate (APR) and the average prime offer rate (APOR) for a comparable transaction as of the date the interest rate is set.

Numbers calculated to beyond three (3) decimal places may either be reported beyond three (3) decimal places, up to 15 decimal places, or rounded or truncated to three (3) decimal places.

Decimal place trailing zeros may either be included or omitted.

The HMDA Platform can accept negative numbers for Rate Spread. "

The CFPB overview chart also tells us negative numbers can be reported.   CHART

Importance of the FIG (Filing Instruction Guide)

The FIG tells you how the HMDA platform is programmed. There are little nuggets of information in there, such as loan amount can be 0!

Validity edit 617

1) Loan Amount must be a number greater than or equal to 0, and cannot be left blank.

Why does it say this when we have an instruction not to report any amount below $500? There is a reason.

Reading and Understanding Edits

Reading and understanding edits can be challenging. Train staff toward the goal of following what must be reported.

It is an exercise in logic.

Using Edits to Help with Data Validation

Validity Edit Example:

V612 Preapproval

1) *Loan Purpose* must equal 1, 2, 31, 32, 4, or 5, and cannot be left blank.

2) If *Preapproval* equals 1, then *Loan Purpose* must equal 1.

This tells us that preapproval code 1 (preapproval requested) can only be used for home purchase transactions!

You cannot report that a preapproval was requested for any other loan purpose (such as refinance or home improvement or "other") even if that was the case.

Why? Because that is how the CFPB wants the data reported.

The Staff Interpretation (Commentary) does say this, but you must parse it out.

A preapproval reporting handout was provided.

Using Edits to Help with Data Validation

Validity Edit Example:

V613 Preapproval

If *Preapproval* equals 1, then *Action Taken* must equal 1, 2, 7, or 8.

This tells us that you can only use Preapproval code 1 (preapproval request made) for actions codes 1 (origination), 2 (approved not accepted), 7 (preapproval request denied at the preapproval stage), or 8 (preapproval approved not accepted at the preapproval stage).

Therefore, if a transaction that began with a preapproval request moved on to include a property with appraisal or other valuation and other final assessments to reach closing but was ultimately reported as denied (action code 3), or withdrawn (action code 4) – anything other than code 1 or 2, it is NOT reported as having included a preapproval request.

Why? Because that is how the CFPB wants the data reported.

Quality Edits

Q630 HOEPA Status

Total Units; HOEPA Status

Please review the information below and update your file, if needed.

1) If *Total Units* is greater than or equal to 5, then *HOEPA Status* generally should equal 3.

This edit is suggesting that you check to ensure you do not have a multifamily property as collateral, which would mean HOEPA normally would not apply to that loan. It is unusual for a multifamily property to be a consumer's principal dwelling (not entirely impossible, but unusual). The total units could be 5 or more single family homes, multiple duplexes, etc. Make sure you are correct.

Why those pesky income edits?

Validity edit 655 appears when demographics report an entity and income is not NA! There are also income quality edits.

NA is reported in the following situations – otherwise, you need to report income used in underwriting. It might not be all of the income - report what was used in the underwriting decision (or what was in file if action occurred prior to underwriting).

- credit decision not requiring consideration of income - (streamlined refinance, or perhaps relied on cash flow or collateral or assets rather than income);

- non-natural person (an entity) – even if an individual is a co-borrower and individual's income was considered

- multifamily properties taken as collateral – one multifamily property makes income NA

- purchased loans – income is optional

Otherwise, report income!
- Income is 0 – report 0
- Income is negative amount – report negative amount
- **And report wonky DTI if one was calculated for either of these situations. The HMDA platform takes long and negative DTI**

QuestSoft Quality Edits

Begin with QS.

Example:

QS655 - Total Units >=5 and Multifamily Affordable Units should generally be 0 or an integer

This is saying to check if you are reporting units correctly. Do you actually have 5 or more residential units in the collateral and none of them are in a multifamily building?

The HMDA LAR cannot assume that 5 or more units indicate multifamily collateral.

Affordable Units reported as 0 or greater means that at least one of the collateral properties is a multifamily building or community.

Affordable Units reported as NA means no collateral is a multifamily property or community.

The affordable units field, which is a flag for multifamily, is not used by partially exempt financial institutions – so the multifamily flag was lost for those financial institutions.

Best Case

Make sure all areas with HMDA reportable loans have submitted data to the central reporting area! No last minute surprises (like a forgotten purchase of a portfolio).

Hopefully data has been reviewed throughout the year and files notated with explanations and this is an exercise in running edits with no surprises.

Be familiar with the CFPB HMDA FAQs– extremely important. Link to FAQs

Do NOT use the old FFIEC HMDA FAQs– out of date – they pre-date current HMDA by many years!

Any situations not covered in the regulation, Commentary (Staff Interpretations), the "big chart" or the FAQs, rely on the financial institution's policies. Review the available guidance and make the best, most logical decision possible.

???

Don't forget to submit your questions!

Thank you!

Kathleen O. Blanchard, CRCM

Key Compliance Services, LLC

The HMDA Academy