Take HMDA Reporting Seriously; CFPB Is.

As of January 2018 the CFPB, under its power and guidance provided by the Dodd-Frank Act, will require just about all banks and mortgage lenders to collect approximately 50 data elements identifying specific information about their applications for mortgage loans and preapprovals. These data elements include, but are not limited to, specific information about the applicant’s race and ethnicity, along with information about the terms and conditions under which the loan is made. This requirement will no doubt increase costs for lenders, which in turn will be passed on to consumers. Just another tax on homeownership, all in the interest of protecting the consumer.

According to HMDA a lender must compile and report data regarding applications for, and originations and purchases of, home purchase loans, home improvement loans and refinancings for each calendar year. An institution is also required to collect data regarding requests under a preapproval program, as defined in the rule when the preapproval request is denied or results in the origination of a home purchase loan. A preapproval is different than a pre-qualification, where a specific property and/or loan program is not defined.

A preapproval, requiring reporting, is defined under the law as being when a request is reviewed under a program in which the financial institution, after a comprehensive analysis of the creditworthiness of the applicant, issues a written commitment to the applicant, valid for a designated period of time, to extend a home purchase loan up to a specified amount.

When all is said and done, the collection of the additional information is to help the CFPB, and other regulators, identify the bad apples. Specifically, those lenders who are not fairly offering and providing mortgage loans to all consumers, regardless of race, color, ethnicity or creed. Not a bad intention, but you know what they say about good intentions.

In March the CFPB levied the single largest fine, $1.75 million, against Nationstar for HMDA reporting violations. Although CFPB admitted that no consumers were harmed, in doing so, Richard Cordray, CFPB’s director, made it clear they were sending a message to all lenders that they must be very careful in their HMDA reporting. He said the information reported serves important purposes for many stakeholders in the mortgage markets. One purpose is to closely monitor lending activity.

Seems CFPB is taking these HMDA reporting requirements, and a lender’s compliance with them, very seriously. Are you?

Will the reporting of this additional information accurately reflect the actual lending being done by all lenders? Not so say the lenders. Presently many lenders struggle with the collection of the 24 data elements required. Not so much with the loan data, since they provide the loan, but
with the collection of the consumer information. Under the new rules they will be required to capture even more information. More time and costs to the lenders.

It’s the collection of the information about the applicant’s race and ethnicity that creates the biggest challenges. Under the new rules the applicant may have up to 20 different combinations for reporting this information.

It’s not because the lenders don’t want to collect this information, but in many instances an applicant may refuse to provide it. When an applicant chooses not to report this information, the lender must make such determinations based on a visual observation or the applicant’s surname. This could result in incorrect information being reported in the HMDA data.

As a result, it may appear, based on this new extended information that will be reported in 2018, that a lender is not properly serving minorities, when in fact it may be that many applicants just plain refuse to provide the requested data. They have that right. In a world of uncertainty, many consumers do not trust lenders or the government for that matter. They believe the information being collected is used to identify borrowers to whom a lender doesn’t want to lend.

So when they choose not to provide the complete race and ethnicity information, the lender may be penalized. Proponents say the lender must do a better job of explaining to the consumer the reasons for the collection of this information and the intended purposes. Easier said than done. More responsibility, more time and cost for the lender. All to gather information that may be used against them in the end.

Now is the time to be preparing for the capture and reporting of the new required data. You should also carefully review your LOS and origination processes to ensure that you can capture the required data, review it and report it, how and when required. I suggest your system should necessitate the input of any required HMDA data into the loan master file at each stage when it should become available.

Don’t forget to also train your originators and support staff on what is required for HMDA reporting, and why, so they are aware of what needs to be collected and reported.

Lenders need to take a close look at their lending areas, practices and pricing to protect against any potential or perceived improprieties. Be careful of pricing adjustments to certain borrowers that may create disparate impact, or appear to be discriminatory. All applicants must be treated equally and fairly, and all price adjustments must be justified and documented as to the specific reason.

Don’t leave anything to chance. You need the process and programming to capture and report the required data now. Run reports to begin analyzing and testing your HMDA data collection processes and reporting. Review loans that you are now originating to determine how such originations may be reported in the future. Don’t wait until the last minute to pull together
reporting on loans originated that haven’t been completely reviewed and vetted. Know what will be reported to CFPB. You can’t be too careful.

HMDA is going to put much more detailed loan and consumer information in the hands of the CFPB. This is not fear it’s fact. If you’re doing everything according to the rules you have nothing to fear. If you’re trying to skirt the HMDA issues, watch out. That’s a fact.

To subscribe to LoanLogics newsletters, click here.

About the Author — Michael L. Vitali - SVP/Chief Compliance Officer

Mike Vitali presently serves as the Senior Vice President and Chief Compliance Officer of LoanLogics, monitoring regulatory developments and their practical implications for the mortgage lending industry. His duties include the research, interpretation and analyzing of existing and proposed legislation related to the industry to recommend policy and/or procedure changes to maintain continued quality and compliance with all applicable laws, rules and regulations, investor requirements, and standard mortgage practices. In his more than 40 years in the mortgage industry, in senior level management, he has gained experience in all areas of mortgage lending, risk management and compliance.

Mike is a past President of the MBA of Greater Philadelphia, is a charter member and was the second Chairman of the MBA of Pennsylvania, and a past board member and Legislative Chair of both associations. He is a recipient of the 1998 Mortgage Banker of the Year Award from the MBA of Greater Philadelphia, and the 2003 Chairman’s Award from the MBA of PA, and currently serves on several compliance related task forces for MBA.