Consumer Financial Protection Bureau

1700 G Street NW, Washington, DC 20552

April 16, 2020

Unofficial Redline of the 2020 HMDA Final Rule's Amendments to Regulation C

On April 16, 2020, the Consumer Financial Protection Bureau (Bureau) issued a final rule to adjust Regulation C's institutional and transactional coverage thresholds for closed-end mortgage loans and open-end lines of credit. The Bureau is releasing this unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that the 2020 HMDA Final Rule makes to Regulation C.

The 2020 HMDA Final Rule includes changes with two different effective dates: July 1, 2020 and January 1, 2022. The unofficial redline highlights the changes to regulation text and commentary that take effect on both dates. The changes that the 2020 HMDA Final Rule makes are marked in red. For the July 1, 2020 effective date, the underlying (unmarked) text reflects the relevant provisions in Regulation C as they would have been in effect on July 1, 2020, if the Bureau had not adopted the 2020 HMDA Final Rule, and the redline highlights text that will take effect on July 1, 2020 as adopted by the 2020 HMDA Final Rule. For the January 1, 2022 effective date, the underlying (unmarked) text reflects the relevant provisions in Regulation C as they would be in effect on January 1, 2022 absent this final rule, and the redline highlights text that will take effect on January 1, 2022.

This redline is not a substitute for reviewing Regulation C or the 2020 HMDA Final Rule. If any conflicts exist between this redline and the text of Regulation C or the 2020 HMDA Final Rule, the documents published in the *Federal Register* are the controlling documents. The redline includes asterisks to indicate where it omits text from current Regulation C that the 2020 HMDA Final Rule would not change.

PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)

Authority: 12 U.S.C. 2803, 2804, 2805, 5512, 5581.

Text effective July 1, 2020:

§ 1003.2 Definitions.

* * * * *

(g) *Financial institution* means a depository financial institution or a nondepository financial institution, where:

(1) *Depository financial institution* means a bank, savings association, or credit union that:

(i) On the preceding December 31 had assets in excess of the asset threshold established and published annually by the Bureau for coverage by the Act, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve month period ending in November, with rounding to the nearest million;

(ii) On the preceding December 31, had a home or branch office in an MSA;

(iii) In the preceding calendar year, originated at least one home purchase loan or refinancing of a home purchase loan, secured by a first lien on a one- to four-unit dwelling;

(iv) Meets one or more of the following two criteria:

(A) The institution is federally insured or regulated; or

(B) Any loan referred to in paragraph (g)(1)(iii) of this section was insured, guaranteed, or supplemented by a Federal agency, or was intended by the institution for sale to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(v) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least 100~~25~~ closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10); and

(2) *Nondepository financial institution* means a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that:

(i) On the preceding December 31, had a home or branch office in an MSA; and

(ii) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least 100~~25~~ closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10).

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§ 1003.3 Exempt institutions and excluded and partially exempt transactions.

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(c) *Excluded transactions*. The requirements of this part do not apply to:

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(11) A closed-end mortgage loan, if the financial institution originated fewer than 100~~25~~ closed-end mortgage loans in either of the two preceding calendar years; a financial institution (including, for purposes of information collected in 2020, an institution that was a financial institution as of January 1, 2020) may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded closed-end mortgage loan as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan;

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Supplement I to Part 1003—Official Interpretations

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Section 1003.2—Definitions

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2(g) Financial Institution

1. *Preceding calendar year and preceding December 31*. The definition of financial institution refers both to the preceding calendar year and the preceding December 31. These terms refer to the calendar year and the December 31 preceding the current calendar year. For example, in 2021~~19~~, the preceding calendar year is 2020~~918~~, and the preceding December 31 is December 31, 2020~~18~~. Accordingly, in 2021~~19~~, Financial Institution A satisfies the asset-size threshold described in § 1003.2(g)(1)(i) if its assets exceeded the threshold specified in comment 2(g)-2 on December 31, 2020~~18~~. Likewise, in 2021~~0~~, Financial Institution A does not meet the loan-volume test described in § 1003.2(g)(1)(v)(A) if it originated fewer than 100~~25~~ closed-end mortgage loans during either 201~~8~~9 or ~~2019~~2020.

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5. *Originations*. Whether an institution is a financial institution depends in part on whether the institution originated at least 100~~25~~ closed-end mortgage loans in each of the two preceding calendar years or at least 500 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)-2 through -4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

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Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions

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3(c) Excluded Transactions

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Paragraph 3(c)(11)

1. *General*. Section 1003.3(c)(11) provides that a closed-end mortgage loan is an excluded transaction if a financial institution originated fewer than 100~~25~~ closed-end mortgage loans in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 2021~~18~~ under § 1003.2(g) because it originated 600 open-end lines of credit in 2019~~6~~, 650 open-end lines of credit in 2020~~17~~, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 75~~10~~ and 90~~20~~ closed-end mortgage loans in 201~~6~~9 and 2020~~17~~, respectively. The open-end lines of credit that the bank originated or purchased, or for which it received applications, during 2021~~18~~ are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 2021~~18~~ are excluded transactions under § 1003.3(c)(11) and need not be reported. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

2. *Optional reporting*. A financial institution may report applications for, originations of, or purchases of closed-end mortgage loans that are excluded transactions because the financial institution originated fewer than 100~~25~~ closed-end mortgage loans in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of closed-end mortgage loans must report all such applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)-14. An institution that was a financial institution as of January 1, 2020 but is not a financial institution on July 1, 2020 because it originated fewer than 100 closed-end mortgage loans in 2018 or 2019 is not required in 2021 to report, but may report, applications for, originations of, or purchases of closed-end mortgage loans for calendar year 2020 that are excluded transactions because the institution originated fewer than 100 closed-end mortgage loans in 2018 or 2019. However, an institution that was a financial institution as of January 1, 2020 and chooses to report such excluded applications for, originations of, or purchases of closed-end mortgage loans in 2021 must report all such applications for closed-end mortgage loans that it receives, closed-end mortgage loans

<u>that it originates, and closed-end mortgage loans that it purchases that otherwise would be covered loans for all of calendar year 2020.</u>

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<u>Text effective January 1, 2022:</u>

§ 1003.2 Definitions.

* * * * *

(g) *Financial institution* means a depository financial institution or a nondepository financial institution, where:

(1) *Depository financial institution* means a bank, savings association, or credit union that:

(i) On the preceding December 31 had assets in excess of the asset threshold established and published annually by the Bureau for coverage by the Act, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve month period ending in November, with rounding to the nearest million;

(ii) On the preceding December 31, had a home or branch office in an MSA;

(iii) In the preceding calendar year, originated at least one home purchase loan or refinancing of a home purchase loan, secured by a first lien on a one- to four-unit dwelling;

(iv) Meets one or more of the following two criteria:

(A) The institution is federally insured or regulated; or

(B) Any loan referred to in paragraph (g)(1)(iii) of this section was insured, guaranteed, or supplemented by a Federal agency, or was intended by the institution for sale to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(v) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least 100 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least <u>2</u>~~5~~00 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10); and

(2) *Nondepository financial institution* means a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that:

(i) On the preceding December 31, had a home or branch office in an MSA; and

(ii) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least 100 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least 2~~5~~00 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10).

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§ 1003.3 Exempt institutions and excluded and partially exempt transactions.

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(c) *Excluded transactions.* The requirements of this part do not apply to:

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(11) A closed-end mortgage loan, if the financial institution originated fewer than 100 closed-end mortgage loans in either of the two preceding calendar years; a financial institution ~~(including, for purposes of information collected in 2020, an institution that was a financial institution as of January 1, 2020)~~ may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded closed-end mortgage loan as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan;

(12) An open-end line of credit, if the financial institution originated fewer than 2~~5~~00 open-end lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit; or

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Supplement I to Part 1003—Official Interpretations

Section 1003.2—Definitions

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2(g) Financial Institution

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3. *Merger or acquisition—coverage of surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution is a financial institution under § 1003.2(g) if it, considering the combined assets, location, and lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, satisfies the criteria included in § 1003.2(g). For example, A and B merge. The surviving or newly formed institution meets the loan threshold described in § 1003.2(g)(1)(v)(B) if the surviving or newly formed institution, A, and B originated a combined total of at least 2~~5~~00 open-end lines of credit in each of the two preceding calendar years. Likewise, the surviving or newly formed institution meets the asset-size threshold in § 1003.2(g)(1)(i) if its assets and the combined assets of A and B on December 31 of the preceding calendar year exceeded the threshold described in § 1003.2(g)(1)(i). Comment 2(g)-4 discusses a financial institution's responsibilities during the calendar year of a merger.

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5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least 100 closed-end mortgage loans in each of the two preceding calendar years or at least 2~~5~~00 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)-2 through -4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

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Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions

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3(c) Excluded Transactions

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Paragraph 3(c)(11)

1. *General.* Section 1003.3(c)(11) provides that a closed-end mortgage loan is an excluded transaction if a financial institution originated fewer than 100 closed-end mortgage loans in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 202~~1~~2 under § 1003.2(g) because it originated 3~~6~~00 open-end lines of credit in ~~2019~~2020, ~~6~~350 open-end lines of credit in 202~~0~~1, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 75 and 90 closed-end mortgage loans in ~~2019~~ 2020 and 2021~~0~~, respectively. The open-end lines of credit that the bank originated or purchased, or for which it received applications, during 202~~1~~2 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 202~~1~~2 are excluded transactions under § 1003.3(c)(11) and need not be reported. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

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Paragraph 3(c)(12)

1. *General*. Section 1003.3(c)(12) provides that an open-end line of credit is an excluded transaction if a financial institution originated fewer than 2~~5~~00 open-end lines of credit in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 202~~0~~2 under § 1003.2(g) because it originated 100 closed-end mortgage loans in 20~~18~~20, 175 closed-end mortgage loans in 20~~19~~21, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 175 and 185 open-end lines of credit in 20~~18~~20 and 20~~19~~21, respectively. The closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 202~~0~~2 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the open-end lines of credit that the bank originated or purchased, or for which it received applications, during 202~~0~~2 are excluded transactions under § 1003.3(c)(12) and need not be reported. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

2. *Optional reporting*. A financial institution may report applications for, originations of, or purchases of open-end lines of credit that are excluded transactions because the financial institution originated fewer than 2~~5~~00 open-end lines of credit in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of open-end lines of credit must report all such applications for open-end lines of credit which it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)-14. ~~An institution that was a financial institution as of January 1, 2020 but is not a financial institution on July 1, 2020 because it originated fewer than 100 closed-end mortgage loans in 2018 or 2019 is not required in 2021 to report, but may report, applications for, originations of, or purchases of closed-end mortgage loans for calendar year 2020 that are excluded transactions because the institution originated fewer than 100 closed-end mortgage loans in 2018 or 2019. However, an institution that was a financial institution as of January 1, 2020 and chooses to report such excluded applications for, originations of, or purchases of closed-end mortgage loans in 2021 must report all such applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would be covered loans for all of calendar year 2020.~~

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