

consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule will not have a substantial direct effect on the states, on the connection between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined this rule does not constitute a policy that has federalism implications for purposes of the executive order.

*D. Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.<sup>57</sup>

*E. Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) generally provides for congressional review of agency rules.<sup>58</sup> A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a “major rule.” The NCUA does not believe this rule is a “major rule” within the meaning of the relevant sections of SBREFA. As required by SBREFA, the NCUA will submit this final rule to OMB for it to determine if the final rule is a “major rule” for purposes of SBREFA. The NCUA also will file appropriate reports with Congress and the Government Accountability Office so this rule may be reviewed.

**List of Subjects**

12 CFR Part 703

Credit unions, investments.

12 CFR Part 721

Credit unions, functions, implied powers.

By the National Credit Union Administration Board on December 16, 2021.  
**Melane Conyers-Ausbrooks,**  
*Secretary of the Board.*

For the reasons discussed above, the NCUA Board amends 12 CFR parts 703 and 721 as follows:

**PART 703—INVESTMENT AND DEPOSIT ACTIVITIES**

■ 1. The authority citation for part 703 is revised to read as follows:

**Authority:** 12 U.S.C. 1757(7), 1757(8), 1757(14) and 1757(15).

■ 2. Amend § 703.2 by removing the definition of “Mortgage servicing rights” and adding in its place a definition for “Mortgage servicing assets” to read as follows:

**§ 703.2 Definitions.**

\* \* \* \* \*

*Mortgage servicing assets* mean those assets, maintained in accordance with GAAP, resulting from contracts to service loans secured by real estate (that have been securitized or owned by others) for which the benefits of servicing are expected to more than adequately compensate the servicer for performing the servicing.

\* \* \* \* \*

■ 3. Amend § 703.14 by adding paragraph (m) to read as follows:

**§ 703.14 Permissible investments.**

\* \* \* \* \*

(m) *Mortgage servicing assets.* A Federal credit union may purchase mortgage servicing assets from other federally insured credit unions if all of the following conditions are met:

(1) The Federal credit union received a composite CAMELS rating of “1” or “2,” with a Management component rating of a “1” or “2,” for the last full examination;

(2) The underlying mortgage loans of the mortgage servicing assets are loans the Federal credit union is empowered to grant;

(3) The Federal credit union purchases the mortgage servicing assets within the limitations of its board of directors’ written purchase policies; and

(4) The Board of Directors or Investment Committee approves the purchase.

**§ 703.16 [AMENDED]**

■ 4. Amend § 703.16 by removing and reserving paragraph (a).

**PART 721—INCIDENTAL POWERS**

■ 5. The authority citation for part 721 continues to read as follows:

**Authority:** 12 U.S.C. 1757(17), 1766 and 1789.

■ 6. Amend § 721.3 in paragraph (h) by revising the last sentence to read as follows:

**§ 721.3 What categories of activities are preapproved as incidental powers necessary or requisite to carry on a credit union’s business?**

\* \* \* \* \*

(h) \* \* \* These products or activities may include debt cancellation agreements, debt suspension agreements, letters of credit, leases, and mortgage loan servicing functions for a member as long as the loan is owned by a member.

\* \* \* \* \*

[FR Doc. 2021–27641 Filed 12–22–21; 8:45 am]

**BILLING CODE 7535–01–P**

**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**12 CFR Part 1003**

**Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule; official interpretation.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is amending the official commentary that interprets the requirements of the Bureau’s Regulation C (Home Mortgage Disclosure) to reflect the asset-size exemption threshold for banks, savings associations, and credit unions based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Based on the 4.7 percent increase in the average of the CPI–W for the 12-month period ending in November 2021, the exemption threshold is adjusted to \$50 million from \$48 million. Therefore, banks, savings associations, and credit unions with assets of \$50 million or less as of December 31, 2021, are exempt from collecting data in 2022.

**DATES:** This rule is effective on January 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** Willie Williams, Paralegal Specialist; Lanique Eubanks, Senior Counsel; Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:** The Bureau is amending Regulation C,

<sup>57</sup> Public Law 105–277, 112 Stat. 2681 (1998).

<sup>58</sup> 5 U.S.C. 551.

which implements the HMDA asset thresholds, to establish the asset-sized exemption threshold for depository financial institution for 2022. The asset threshold will be \$50 million for 2022.

**I. Background**

The Home Mortgage Disclosure Act of 1975 (HMDA) <sup>1</sup> requires most mortgage lenders located in metropolitan areas to collect data about their housing related lending activity. Annually, lenders must report their data to the appropriate Federal agencies and make the data available to the public. The Bureau’s Regulation C <sup>2</sup> implements HMDA.

Prior to 1997, HMDA exempted certain depository institutions as defined in HMDA (*i.e.*, banks, savings associations, and credit unions) with assets totaling \$10 million or less as of the preceding year-end. In 1996, HMDA was amended to expand the asset-size exemption for these depository institutions.<sup>3</sup> The amendment increased the dollar amount of the asset-size exemption threshold by requiring a one-time adjustment of the \$10 million figure based on the percentage by which the CPI-W for 1996 exceeded the CPI-W for 1975, and it provided for annual adjustments thereafter based on the annual percentage increase in the CPI-W, rounded to the nearest multiple of \$1 million.

The definition of “financial institution” in § 1003.2(g) provides that the Bureau will adjust the asset threshold based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each 12-month period ending in November, rounded to the nearest \$1 million. For 2021, the threshold was \$48 million. During the 12-month period ending in November 2021, the average of the CPI-W increased by 4.7 percent. As a result, the exemption threshold is increased to \$50 million for 2022. Thus, banks, savings associations, and credit unions with assets of \$50 million or less as of December 31, 2021, are exempt from collecting data in 2022. An institution’s exemption from collecting data in 2022 does not affect its responsibility to report data it was required to collect in 2021.

**II. Procedural Requirements**

*A. Administrative Procedure Act*

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable,

unnecessary, or contrary to the public interest.<sup>4</sup> Pursuant to this final rule, comment 2(g)–2 in Regulation C, supplement I, is amended to update the exemption threshold. The amendment in this final rule is technical and non-discretionary, and it merely applies the formula established by Regulation C for determining any adjustments to the exemption threshold. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendment is adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.<sup>5</sup> At a minimum, the Bureau believes the amendments fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 1, 2022. The amendment in this final rule is technical and non-discretionary, and it applies the method previously established in the agency’s regulations for determining adjustments to the threshold.

*B. Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.<sup>6</sup>

*C. Paperwork Reduction Act*

The Bureau has determined that this final rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.<sup>7</sup>

*D. Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The

Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

**III. Signing Authority**

The Associate Director of Research, Markets, and Regulations, Janis K. Pappalardo, having reviewed and approved this document, is delegating the authority to electronically sign this document to Laura Galban, a Bureau Federal Register Liaison, for purposes of publication in the **Federal Register**.

**List of Subjects in 12 CFR Part 1003**

Banks, Banking, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations.

**Authority and Issuance**

For the reasons set forth above, the Bureau amends Regulation C, 12 CFR part 1003, as set forth below:

**PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)**

■ 1. The authority citation for part 1003 continues to read as follows:

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

■ 2. Amend supplement I to part 1003 by revising 2(g) *Financial Institution* under the heading *Section 1003.2—Definitions* to read as follows:

**Supplement I to Part 1003—Official Interpretations**

\* \* \* \* \*

*Section 1003.2—Definitions*

\* \* \* \* \*

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, the preceding calendar year is 2020, and the preceding December 31 is December 31, 2020. Accordingly, in 2021, 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. Likewise, in 2021, Financial Institution A does not meet the loan-volume test described in § 1003.2(g)(1)(v)(A) if it originated fewer than 100 closed-end mortgage loans during either 2019 or 2020.

2. *Adjustment of exemption threshold for banks, savings associations, and credit unions.* For data collection in 2022, the asset-size exemption threshold is \$50 million. Banks, savings associations, and credit unions with assets at or below \$50 million as of December 31, 2021, are exempt from collecting data for 2022.

<sup>1</sup> 12 U.S.C. 2801–2810.

<sup>2</sup> 12 CFR part 1003.

<sup>3</sup> 12 U.S.C. 2808(b).

<sup>4</sup> 5 U.S.C. 553(b)(B).

<sup>5</sup> 5 U.S.C. 553(d).

<sup>6</sup> 5 U.S.C. 603(a), 604(a).

<sup>7</sup> 44 U.S.C. 3501–3521.

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 200 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.

4. *Merger or acquisition—coverage for calendar year of merger or acquisition.* The scenarios described below illustrate a financial institution’s responsibilities for the calendar year of a merger or acquisition. For purposes of these illustrations, a “covered institution” means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a), and “an institution that is not covered” means either an institution that is not a financial institution, as defined in § 1003.2(g), or an institution that is exempt from reporting under § 1003.3(a).

i. Two institutions that are not covered merge. The surviving or newly formed institution meets all of the requirements necessary to be a covered institution. No data collection is required for the calendar year of the merger (even though the merger creates an institution that meets all of the requirements necessary to be a covered institution). When a branch office of an institution that is not covered is acquired by another institution that is not covered, and the acquisition results in a covered institution, no data collection is required for the calendar year of the acquisition.

ii. A covered institution and an institution that is not covered merge. The covered institution is the surviving institution, or a new covered institution is formed. For the calendar year of the merger, data collection is required for covered loans and applications handled in the offices of the merged institution that was previously covered and is optional for covered loans and applications handled in offices of the merged institution that was previously not covered. When a covered institution acquires a branch office of an institution that is not covered, data collection is optional for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iii. A covered institution and an institution that is not covered merge. The institution that is not covered is the surviving institution, or a new institution that is not covered is formed. For the calendar year of the merger, data collection is required for

covered loans and applications handled in offices of the previously covered institution that took place prior to the merger. After the merger date, data collection is optional for covered loans and applications handled in the offices of the institution that was previously covered. When an institution remains not covered after acquiring a branch office of a covered institution, data collection is required for transactions of the acquired branch office that take place prior to the acquisition. Data collection by the acquired branch office is optional for transactions taking place in the remainder of the calendar year after the acquisition.

iv. Two covered institutions merge. The surviving or newly formed institution is a covered institution. Data collection is required for the entire calendar year of the merger. The surviving or newly formed institution files either a consolidated submission or separate submissions for that calendar year. When a covered institution acquires a branch office of a covered institution, data collection is required for the entire calendar year of the merger. Data for the acquired branch office may be submitted by either institution.

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 200 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).

6. *Branches of foreign banks—treated as banks.* A Federal branch or a State-licensed or insured branch of a foreign bank that meets the definition of a “bank” under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is a bank for the purposes of § 1003.2(g).

7. *Branches and offices of foreign banks and other entities—treated as nondepository financial institutions.* A Federal agency, State-licensed agency, State-licensed uninsured branch of a foreign bank, commercial lending company owned or controlled by a foreign bank, or entity operating under section 25 or 25A of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and agreement corporations) may not meet the definition of “bank” under the Federal Deposit Insurance Act and may thereby fail to satisfy the definition of a depository financial institution under § 1003.2(g)(1). An entity is nonetheless a financial institution if it meets the definition of nondepository financial institution under § 1003.2(g)(2).

\* \* \* \* \*

**Laura Galban,**

*Federal Register Liaison, Bureau of Consumer Financial Protection.*

[FR Doc. 2021–27899 Filed 12–22–21; 8:45 am]

**BILLING CODE 4810-AM-P**

## **BUREAU OF CONSUMER FINANCIAL PROTECTION**

### **12 CFR Part 1026**

#### **Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Final rule; official interpretation.

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is amending the official commentary that interprets the requirements of the Bureau’s Regulation Z (Truth in Lending) to reflect changes in the asset-size thresholds for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan. These changes reflect updates to the exemption from TILA’s escrow requirement of creditors that, together with affiliates that regularly extended covered transactions secured by first liens, had total assets of less than \$2 billion (adjusted annually for inflation) and the exemption the Bureau added, by implementing section 108 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), for certain insured depository institutions and insured credit unions with assets of \$10 billion or less (adjusted annually for inflation). These amendments are based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Based on the 4.7 percent increase in the average of the CPI-W for the 12-month period ending in November 2021, the exemption threshold for creditors and their affiliates that regularly extended covered transactions secured by first liens is adjusted to \$2.336 billion from \$2.230 billion. The exemption threshold for certain insured depository institutions and insured credit unions with assets of \$10 billion or less (adjusted annually for inflation) is adjusted to \$10.473 billion from \$10 billion.

**DATES:** This rule is effective on January 1, 2022.

**FOR FURTHER INFORMATION CONTACT:** Willie Williams, Paralegal Specialist; Lanique Eubanks, Thomas Dowell, Senior Counsels, Office of Regulations, at (202) 435–7700. If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

**SUPPLEMENTARY INFORMATION:**