United States Government Accountability Office

Report to Congressional Committees

May 2021

HOME MORTGAGE DISCLOSURE ACT

Reporting Exemptions Had a Minimal Impact on Data Availability, but Additional Information Would Enhance Oversight

A Century of Non-Partisan Fact-Based Work

GAO-21-350

GAO@100 Highlights

Highlights of GAO-21-350, a report to congressional committees

May 2021

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Why GAO Did This Study

HMDA generally requires mortgage lenders to collect and report certain information from loan applications and originations. Congress amended HMDA to require the reporting of additional data, but later provided regulatory relief to some smaller-volume banks and credit unions by exempting them from having to report almost all of the additional data.

The Economic Growth, Regulatory Relief, and Consumer Protection Act includes a provision for GAO to review how partial exemptions affect HMDA data availability at the national and local levels. This report (1) identifies the uses and benefits of the new HMDA data; (2) assesses how partial exemptions have changed the extent of HMDA data availability; and (3) examines federal regulators' oversight activities related to partial exemptions from HMDA reporting. GAO analyzed 2016–2019 HMDA data (the most recent years available) and reviewed federal interagency agreements and examination procedures. GAO interviewed federal officials and a variety of stakeholders, including academics, research and advocacy organizations, and industry groups.

What GAO Recommends

Congress should consider requiring all HMDA reporters—including those with partial exemptions—to report whether loans are open-end lines of credit. In addition, GAO recommends that CFPB include additional information in the analysis it provides to the other regulators related to lender eligibility for partial exemptions. CFPB neither agreed nor disagreed with the recommendation, but noted the importance of sharing information.

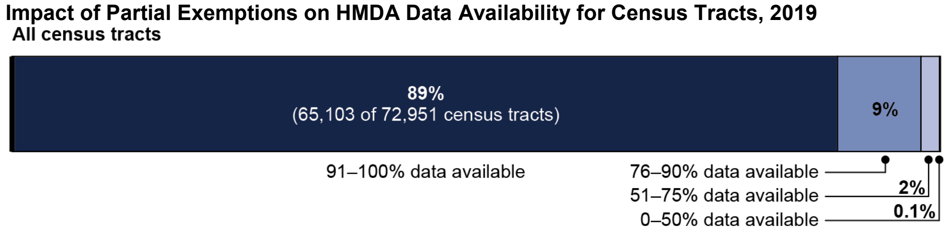
View GAO-21-350. For more information, contact Alicia Puente Cackley at (202) 512-8678 or cackleya@gao.gov.

What GAO Found

According to federal financial regulators, the additional Home Mortgage Disclosure Act (HMDA) data that some lenders have been required to report since 2018—such as debt-to-income ratio and credit score—help the regulators oversee and enforce fair lending laws. For example, the new HMDA data can help them identify discriminatory lending practices and prioritize fair lending examinations and investigations. These new data also help facilitate research about lending patterns, community credit needs, and financial market stability, according to researchers and advocacy organizations.

Lenders that meet specific statutory criteria are required to report certain data under HMDA, but are exempt from reporting almost all of the new additional HMDA data—referred to as partial exemption from HMDA reporting. GAO analysis found that these partial exemptions have had a limited impact on the overall availability of HMDA data. Nationwide, GAO found that 3 percent of the new HMDA data were not reported as a result of partial exemptions, for the 2018 and 2019 HMDA data GAO reviewed. At the local level, in the vast majority of census tracts, at least 91 percent of data GAO reviewed were available in 2019 (see figure). Partial exemptions did not disproportionately affect the availability of HMDA data GAO reviewed for borrowers of any race, ethnicity, or income level.

Impact of Partial Exemptions on HMDA Data Availability for Census Tracts, 2019



Source: GAO analysis of the Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

Note: All census tracts refers to those that reported home mortgage loan activity in 2019. The percentages of census tracts do not sum to 100 percent due to rounding.

With regard to oversight, regulators were unable to readily verify some lenders' eligibility for partial exemptions because not all HMDA reporting included data on whether each loan is an open-end line of credit. This data point is one of the new data points required since 2018, and lenders with exemptions are not required to provide it. Without it, however, it is difficult for regulators to determine if the lender is below the loan volume level required for partial exemption eligibility. The HMDA data that lenders with partial exemptions need not report are set in statute. If Congress were to make reporting of open-end lines of credit mandatory for all HMDA reporters, including those with partial exemption, regulators could more readily confirm lenders' eligibility for partial exemption. In addition, the Consumer Financial Protection Bureau (CFPB) has other data that are useful in determining lenders' eligibility, such as type of lender. CFPB does not plan to analyze these data for the other regulators, stating that they have access to the data through other sources. However, it would be more efficient—and reduce duplication of effort among regulators—for CFPB to synthesize and share data with regulators to assist them in assessing lenders' partial exemption compliance.

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Abbreviations

CFPB	Consumer Financial Protection Bureau
CRA	Community Reinvestment Act
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
EGRRCPA	Economic Growth, Regulatory Relief, and Consumer Protection Act
FDIC	Federal Deposit Insurance Corporation
Federal Reserve	Board of Governors of the Federal Reserve System
FFIEC	Federal Financial Institutions Examination Council
HMDA	Home Mortgage Disclosure Act
HOEPA	Home Ownership and Equity Protection Act
HUD	Department of Housing and Urban Development
MSA	metropolitan statistical area
NCUA	National Credit Union Administration
NMLSR	Nationwide Mortgage Licensing System and Registry
OCC	Office of the Comptroller of the Currency

441 G St. N.W.
Washington, DC 20548

May 17, 2021

The Honorable Sherrod Brown
Chairman
The Honorable Patrick Toomey
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

The Home Mortgage Disclosure Act (HMDA) was designed to provide the government and the public with information on mortgage lending in local communities by requiring certain lenders to report information on mortgage applications and originations—in part to provide sufficient information to determine whether depository institutions are filling their obligations to serve the housing needs of their communities.[1] Congress amended HMDA in 1989 to require lenders to report loan-level data on race, gender, and income.[2] In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) further expanded the data points that mortgage lenders must report annually as part of HMDA.[3] The Consumer Financial Protection Bureau (CFPB), which is responsible for implementing the Dodd-Frank Act data requirements, required mortgage lenders to collect the new data points starting in 2018.[4]

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[1]Pub. L. No. 94-200, tit. III, § 302 (1975) (codified at 12 U.S.C. § 2801). As implemented, HMDA's purposes are to help (1) determine whether financial institutions are serving the housing needs of their communities; (2) public officials in distributing public-sector investment to attract private investment to areas where it is needed; and (3) identify possible discriminatory lending patterns and enforce antidiscrimination laws. 12 C.F.R. § 1003.1(b).

[2]Pub. L. No. 101-73, § 1211(a) (1989) (codified as amended at 12 U.S.C. § 2803).

[3]Pub. L. No. 111-203, § 1094, 124 Stat. 1376, 2097-98 (2010) (codified at 12 U.S.C. § 2803(b)).

[4]80 Fed. Reg. 66,128 (Oct. 28, 2015).

Examples of the new data points include borrower's age, borrower's credit score, combined loan-to-value ratio, and whether the loan is an open-end line of credit.

In 2018, Congress also passed the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which exempts certain smaller-volume insured banks and credit unions from reporting almost all of the new HMDA data points (commonly referred to as partial exemptions).[5] EGRRCPA includes a provision that we review the impact of partial exemptions on the amount of HMDA data available at the national and local levels.[6] This report (1) identifies the uses and benefits of the new HMDA data for federal regulators and other users; (2) assesses how partial exemptions have changed the extent of HMDA data availability at the national and local levels; and (3) examines federal regulators' oversight activities with respect to partial exemptions from HMDA reporting.

To identify the uses and benefits of the new HMDA data points, we reviewed recent reports on HMDA from federal agencies and HMDA data users. We also analyzed public comments on recent HMDA rulemakings and obtained views from a variety of stakeholders, including federal financial regulators, academics, research and advocacy organizations, and industry groups. Additionally, we interviewed officials from two state banking regulators and two state attorney general offices, and we received responses to brief questionnaires from 26 of the state banking regulators and five of the state attorney general offices.[7]

To assess how partial exemptions have changed the extent of HMDA data availability at the national and local levels, we analyzed the 4 most

[5]We refer to banks and savings associations collectively as banks throughout this report. We also sometimes refer to banks, savings associations, and credit unions collectively as depository institutions throughout this report. EGRRCPA exempted certain banks and credit unions from the requirement to collect and report data on 26 of the 27 new data points for certain transactions (the new age data point must still be reported even if a lender is exempted from the other data points). Pub. L. No. 115-174, § 104, 132 Stat. 1296, 1300 (2018). In 2018, CFPB issued an interpretive and procedural rule to implement and clarify the EGRRCPA amendments. 83 Fed. Reg. 45,325 (Sept. 7, 2018).

[6]Pub. L. No. 115-174, § 104(b), 132 Stat. 1296, 1300-1301 (2018).

[7]We asked national associations to send our questionnaires to their memberships, which included 56 state banking supervisors and 56 offices of attorneys general. There are more than 50 state banking supervisors, for example, because U.S. territories also have banking supervisors.

recent years of HMDA data (2016–2019) to identify which lenders and loan/application records were subject to partial exemption at the national and census-tract levels. For 2018 and 2019 HMDA data, we analyzed a subset of data from 10 of the 26 new data points for which lenders may report partial exemption codes. We determined this subset was the most reliable for assessing partial exemptions. To inform our analytical approach and understanding of HMDA data limitations, we reviewed similar analyses from CFPB and research organizations and interviewed the authors.[8] To assess the reliability of HMDA data, we reviewed CFPB documentation, performed electronic testing on the data to check for missing values and obvious errors, corroborated the results of our data analysis with other available sources such as similar analyses from CFPB or academics, and interviewed agency officials and academic researchers about interpreting data fields. We determined the data were sufficiently reliable for characterizing the availability of the new HMDA data at the national and local levels.

To examine federal financial regulators' oversight activities with respect to partial exemptions from HMDA reporting, we reviewed the HMDA statute, its implementing regulation (Regulation C), and related agency agreements. We identified five agencies with primary responsibilities: CFPB, the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA).[9] For each agency, we reviewed guidance, examination procedures, and other relevant documents, and we interviewed officials responsible for HMDA analysis, policy, supervision, and enforcement. Further, we compared CFPB's actions and plans with respect to partial exemptions from HMDA reporting against certain federal internal control standards.[10] We also reviewed interagency agreements related to CFPB's responsibilities regarding HMDA data. Appendix I provides more detail on our scope and methodology.

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[8]*See* 85 Fed. Reg. 28,364 (May 12, 2020) and L. Goodman, E. Seidman, and B. Ganesh, *The Impact of Proposed Changes to HMDA*, Urban Institute (Washington, D.C.: April 2018).

[9]Throughout this report we use the phrase "federal financial regulators" to refer to these agencies. While the Department of Housing and Urban Development (HUD) has authorities under HMDA statute and regulation, CFPB exercises those authorities per an interagency memorandum of understanding, as discussed later.

[10]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

We conducted this performance audit from April 2020 to May 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

HMDA Regulation and Federal Oversight

Congress enacted the Home Mortgage Disclosure Act in 1975 as a way to provide the government and the public with information on mortgage lending in local communities across the United States. HMDA generally requires lenders to collect, maintain, report, and publicly disclose loan-level information on mortgage applications and originations.[11] HMDA and its implementing regulation (Regulation C) have been updated periodically in response to financial crises, changes in mortgage lending, and discriminatory practices.[12]

The Dodd-Frank Act vested regulatory authority for HMDA in CFPB.[13] CFPB shares supervision and enforcement of HMDA reporting with OCC, the Federal Reserve, FDIC, and NCUA.[14] In general, CFPB oversees nondepository lenders and the largest depository lenders (those with assets over $10 billion and any affiliate thereof); OCC, the Federal Reserve, and FDIC oversee certain banks under their jurisdiction; and

[11]Lenders report HMDA data for individual loan applications and originations. Each application that does not result in an origination is a record in the HMDA loan/application register. HMDA requirements also extend to some purchased loans, according to CFPB.

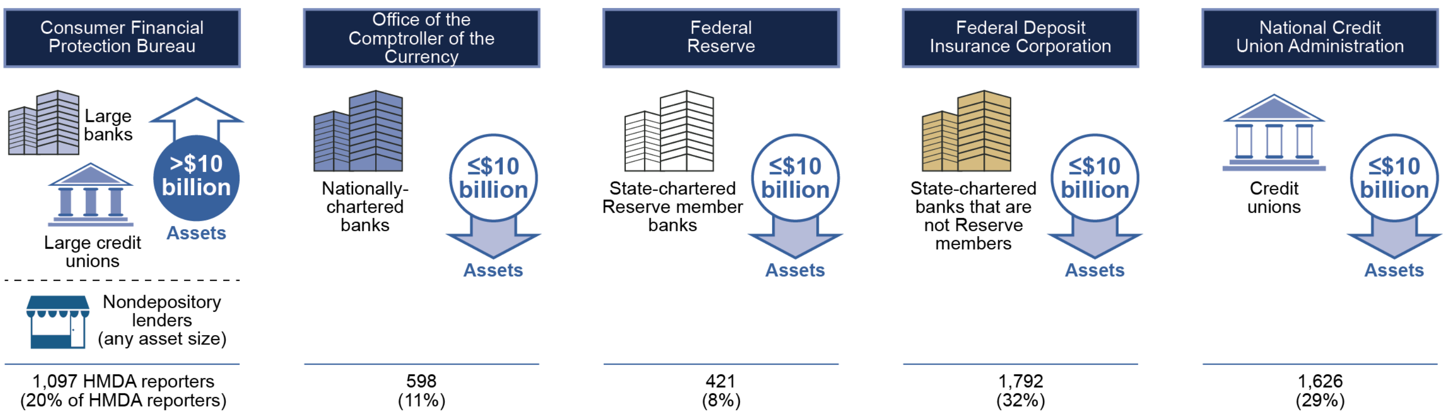
[12]*See* 12 U.S.C. §§ 2801-2810; 12 C.F.R. pt. 1003. For example, after the savings and loan crisis of the late 1980s, Congress amended HMDA to require loan-level data on race, gender, and income, which could identify potential discriminatory lending. More recently, the Dodd-Frank Act amended HMDA to require lenders to report additional data on lending patterns and practices that contributed to the 2007–2009 financial crisis, as well as other data that could better identify underwriting and pricing discrimination.

[13]Pub. L. No. 111-203, § 1094 (2010) (codified at 12 U.S.C. § 2804(a)).

[14]While HMDA and Regulation C assign HUD authority to receive data and enforce HMDA for certain nondepository lenders, the Dodd-Frank Act provided CFPB with supervisory and enforcement authority over nondepository mortgage lenders. In 2016, CFPB and HUD signed a memorandum of understanding acknowledging CFPB's role in receiving, processing, and resolving any quality problems for HMDA data for the nondepository lenders that are regulated by HUD for the purposes of HMDA.

NCUA oversees certain credit unions. Figure 1 details which lenders are overseen by each regulator.

Figure 1: Federal Oversight of Selected Lenders That Report HMDA Data, 2019



Source: GAO analysis of the Home Mortgage Disclosure Act (HMDA) and HMDA data. | GAO-21-350

Note: HMDA divides enforcement authority between the financial regulators but preserves overall enforcement authority for the Consumer Financial Protection Bureau. 12 U.S.C. § 2804.

The Federal Financial Institutions Examination Council (FFIEC) is a formal interagency body that prescribes uniform principles, standards, and report forms for the federal examination of financial institutions and makes recommendations to promote uniformity in the supervision of financial institutions.[15] With respect to HMDA, FFIEC issues guidance and interagency examination procedures.[16] FFIEC, the five federal financial regulators, and the Department of Housing and Urban Development (HUD) have entered into memorandums of understanding regarding HMDA data collection, processing, and maintenance, as well as for HMDA data products.

[15]FFIEC has six voting members: a governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board; the Chairman of the board of directors for FDIC; the Chairman of the NCUA board; the Comptroller of the Currency; the Director of CFPB; and the Chairman of the FFIEC State Liaison Committee.

[16]See Federal Financial Institutions Examination Council, *Filing Instructions Guide for HMDA Data Collected in 2019*, OMB Control #3170-0008 (Washington, D.C.: July 2019); *A Guide to HMDA Reporting: Getting It Right!* (Washington, D.C.: Mar. 7, 2019); *HMDA Examiner Transaction Testing Guidelines* (Washington, D.C.: Aug. 22, 2017); and *Interagency Fair Lending Examination Procedures* (Washington, D.C.: August 2009).

HMDA Coverage of the Mortgage Market

HMDA data are the only publicly available source of nationwide loan-level data on the supply and demand for mortgage credit.[17] HMDA data are also the most comprehensive public source of information on the U.S. mortgage market—capturing 90 percent of lending activity (measured by loan volume). However, HMDA data do not cover the entire mortgage market because many mortgage lenders are exempt from HMDA reporting. Any lender that meets one of the following conditions is fully exempt from HMDA reporting requirements:[18]

- low loan-volume lenders (as of 2019, those that issued fewer than 25 qualified closed-end mortgages in either of the past 2 years and fewer than 500 qualified open-end lines of credit in either of the past 2 years);[19]
- small asset-size depository lenders;[20]
- nonmetropolitan lenders that operate without a home or branch office located in a metropolitan statistical area (MSA);[21]
- nonprofit nondepository lenders; or
- depository lenders that are not federally insured or regulated or have no federally related mortgage activity (no activity originating home

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[17]HMDA includes data for originations and applications for mortgages that do not result in a loan.

[18]*See* 12 C.F.R. §§ 1003.3, 1003.2(g).

[19]In October 2015, CFPB established institutional and transactional coverage thresholds in Regulation C that determine whether financial institutions are required to collect, record, and report HMDA data. 80 Fed. Reg. 66,128 (Oct. 28, 2015). Effective July 1, 2020, the origination threshold for qualified closed-end mortgage loans increased from 25 to 100 closed-end mortgage loans in each of the preceding 2 calendar years. In addition, effective January 1, 2022, the origination threshold for qualified open-end lines of credit will decrease from 500 to 200 in each of the preceding 2 calendar years. 85 Fed. Reg. 28,364 (May 12, 2020). Closed-end mortgages include fixed-rate 30-year mortgages used to purchase a dwelling. Open-end lines of credit include home equity lines of credit (commonly referred to as HELOCs).

[20]In recent years, this asset-size threshold has been adjusted annually. For example, depository lenders with $45 million in assets or less in 2017 were not required to collect HMDA data in 2018, and those with $46 million in assets or less in 2018 were not required to collect HMDA data in 2019. For more information, see CFPB's website https://www.consumerfinance.gov/rules-policy/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/.

[21]The Office of Management and Budget defines a metropolitan statistical area as having at least one urbanized area of 50,000 or more inhabitants—conversely, nonmetropolitan areas do not have at least one urbanized area of 50,000 or more inhabitants.

loans backed by federal insurance, guarantees, or supplements or intended for sale to Fannie Mae or Freddie Mac).

According to CFPB, 58 percent of closed-end mortgage lenders were fully exempt from HMDA reporting requirements in 2018. However, 88 percent of closed-end mortgage originations were still reported in HMDA data. Market coverage is high despite HMDA exemptions because the lenders that do not report HMDA data—such as low loan-volume and small asset-size lenders—originate a relatively small number of mortgages in the United States.

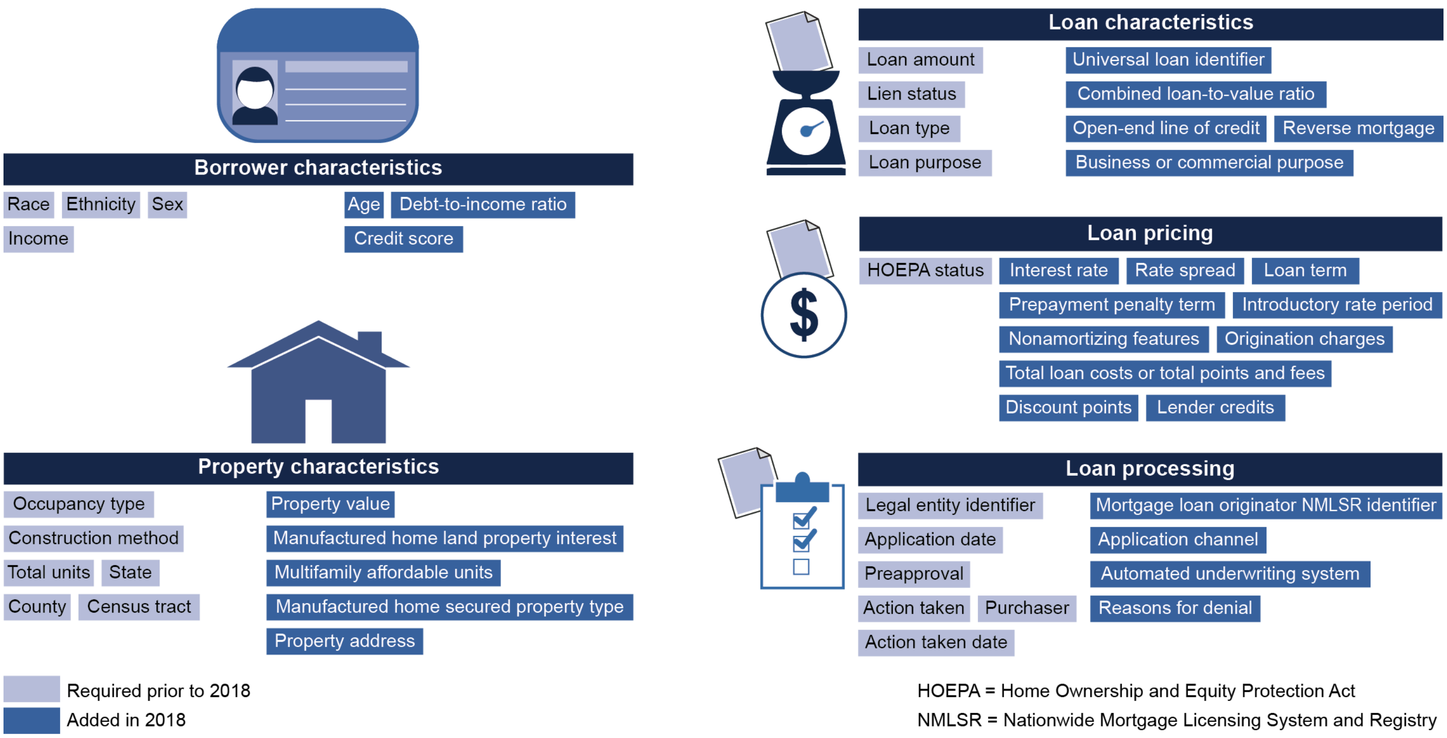
New HMDA Data Points and Partial Exemptions

CFPB implemented the Dodd-Frank Act's new data point amendments to HMDA in a 2015 rule, with the new data required effective January 1, 2018.[22] The rule more than doubled the number of HMDA data points lenders are required to report (from 21 to 48).[23] Figure 2 shows the HMDA data points lenders have been required to report since 2018 (see app. II for descriptions of each data point).

[22]80 Fed. Reg. 66,128 (Oct. 28, 2015).

[23]The rule included several data points required by the Dodd-Frank Act and a number of additional data points added pursuant to CFPB's discretionary authority. The rule also made revisions to several preexisting data points.

Figure 2: Data Points Lenders Are Required to Report under HMDA, as of 2018



Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data and Regulation C. | GAO-21-350

As mentioned previously, in 2018 Congress passed EGRRCPA, which provided regulatory relief to some smaller-volume insured banks and credit unions by reducing their HMDA reporting requirements.[24] Specifically, EGRRCPA amended HMDA to exempt certain banks and credit unions that originated fewer than 500 closed-end mortgage loans or fewer than 500 open-end lines of credit in each of the 2 previous years from reporting most new data points introduced in 2018 (see fig. 3). Depending on whether a lender's annual loan originations fall below these thresholds, the lender can be exempt from reporting most of the new HMDA data points for its closed-end mortgage loans, open-end lines of credit, or both. Because EGRRCPA created these reduced reporting requirements, and not full exemptions from HMDA reporting altogether, they are commonly referred to as partial exemptions. Banks must also have positive Community Reinvestment Act (CRA) ratings from their previous examinations to be eligible for a partial exemption, as discussed

[24]Pub. L. No. 115-174, § 104 (2018) (codified at 12 U.S.C. § 2803(i)).

in more detail later in this report. Under EGRRCPA, nondepository institutions, such as nonbank lenders, cannot qualify for partial exemptions.

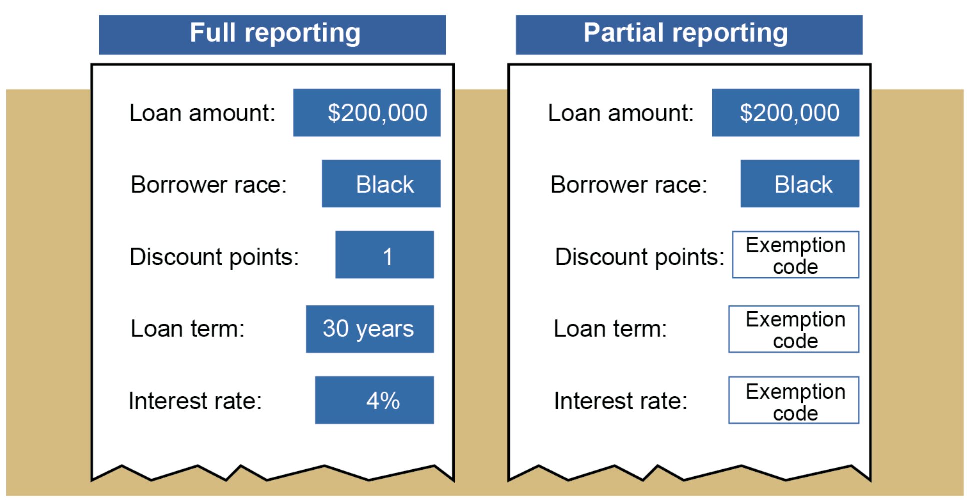
Figure 3: Eligibility Criteria for a Lender to Be Partially Exempt from HMDA Reporting Requirements

Source: GAO analysis of the Home Mortgage Disclosure Act (HMDA). | GAO-21-350

Note: Community Reinvestment Act (CRA) ratings indicate how well a bank is meeting the credit needs of the communities it serves. Depending on a lender's annual loan originations, the lender can be exempt from reporting most of the new HMDA data points for its closed-end mortgage loans, open-end lines of credit, or both.

Lenders that qualify for partial exemptions may report an exemption code in place of any or all of 26 new HMDA data points (see fig. 4). Lenders that qualify for a partial exemption but choose to report some or all of the new HMDA data points instead of using exemption codes are known as voluntary reporters.

Figure 4: Illustrative Examples of Loans with Full and Partial HMDA Data Reporting



Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) filing instruction guidance. | GAO-21-350

The Role of HMDA Data in Fair Lending Oversight

The appropriate federal financial regulators have various supervisory or enforcement responsibilities with respect to the Fair Housing Act, the Equal Credit Opportunity Act, and the CRA.[25] Regulators rely on HMDA data, in part, for their supervision and enforcement activities with respect to these three fair lending laws. CFPB defines fair lending as the "fair, equitable, and nondiscriminatory access to credit for both individuals and communities."

The primary purpose of the CRA is to require the federal banking regulators to encourage banks to help meet the credit needs of their communities.[26] Regulators' periodic examinations of banks' CRA performance may include an evaluation of lending, investments, or services, as needed.[27] After an examination, a bank is assigned one of four CRA ratings: outstanding, satisfactory, needs to improve, and substantial noncompliance. FDIC and the Federal Reserve conduct yearly examinations of banks that receive a CRA rating of "substantial noncompliance" until they improve their rating. Additionally, a bank that receives "needs to improve" on its previous two ratings or "substantial noncompliance" on its most recent rating is required to report all HMDA data even if it would otherwise qualify for a partial exemption.

[25]Along with HMDA, the four statutes are collectively and commonly referred to as the fair lending laws by federal regulators. HUD has regulatory and primary enforcement authority under the Fair Housing Act. The Department of Justice also shares enforcement authority and may file a lawsuit under the Fair Housing Act where there is a pattern or practice of discrimination or in individual cases upon referral from HUD.

[26]12 U.S.C. § 2901. Credit unions and nondepository lenders are not subject to the CRA.

[27]During the period of our review (2016–2019), the Federal Reserve, FDIC, and OCC applied different component tests to banks, depending on the bank's asset size and business strategy. Large banks were subject to a lending test, investment test, and service test. Intermediate small banks were subject to a lending test and a community development test. Small banks were subject to a lending test, and they may opt to have their qualified investments and services reviewed to enhance a "satisfactory" rating. Criteria under the CRA regulation's lending tests generally evaluated the number, amount, and distribution of loans across income and geographic classifications. 12 C.F.R. pt. 228 (2019) (Federal Reserve); 12 C.F.R. pt. 25 (2019) (OCC); 12 C.F.R. pt. 345 (2019) (FDIC). Effective October 1, 2020, OCC adopted new CRA regulations. *See* 85 Fed. Reg. 34,734 (June 5, 2020).

New HMDA Data Can Assist in the Oversight of and Research on the Mortgage Market

New Data Provide Additional Means for Fair Lending Oversight

According to federal financial regulators, the new HMDA data can help assist in their oversight of mortgage lenders in the following ways:

Help identify and prioritize lenders for examinations and investigations. Financial regulators can use new HMDA data points to better identify institutions with lending patterns that indicate heightened fair lending risk.[28] This can help regulators prioritize their investigations and examinations accordingly. Examples of such patterns include unexplained disparities in denials, pricing, or level of service, or indicators of redlining or steering.[29] The new data also reduce "false positives"—a phrase regulators use to refer to lenders wrongly identified as a high fair lending risk.[30] According to CFPB, FDIC, and NCUA, the HMDA data available prior to 2018 sometimes led to false positives because they lacked specific data points—such as credit score and combined loan-to-value ratio—that can help regulators better understand lending disparities.

In addition, the new data points better identify loan products, which can help explain differences in pricing. These data points, such as loan term or open-end line of credit, can assist regulators in determining if lenders

[28]These new data points include credit score, combined loan-to-value ratio, debt-to-income ratio, reasons for denial, and rate spread. For descriptions of the new HMDA data points, see app. II.

[29]Redlining is a form of illegal disparate treatment in which a lender provides unequal access to credit, or unequal terms of credit, because of the race, color, national origin, or other prohibited characteristic(s) of the residents of the area in which the credit seeker resides or will reside or in which the residential property to be mortgaged is located. Steering is when a lender offers certain lending products based on prohibited characteristics. See Federal Financial Institutions Examination Council, *Interagency Fair Lending Examination Procedures* (2009).

[30]Federal Reserve officials did not comment on how these data points will change the Federal Reserve's preexamination process for evaluating institutions for fair lending risk.

offer each product type fairly across demographic groups and can further explain disparities in the outcome of loan applications and pricing policies. According to CFPB, FDIC, and NCUA, they prioritize lenders with unexplained disparities for examination to determine if their lending practices violate fair lending laws.

Improve examination efficiency. The new data points also help increase the efficiency of regulators' examinations, according to some regulators. For instance, some federal financial regulators told us that before the new data points were available, they requested that lenders provide similar information during examinations.[31] NCUA officials stated that these new data points provide regulators with a standard dataset to more efficiently conduct examinations without having to ask for data piecemeal from lenders.[32] Similarly, two federal financial regulators told us the new data also create efficiencies for mortgage lenders, which now need to provide fewer documents to examiners.[33] In addition, CFPB officials noted that the underwriting and pricing data previously requested during examinations have likely improved because reporting is now required.

Assist in factual support for fair lending lawsuits. The Department of Justice, CFPB, HUD, the Federal Trade Commission, some state attorney general offices, and community advocacy organizations use HMDA data to identify fair lending risks and for factual support in fair lending lawsuits.

- Officials from the Department of Justice stated that while they are using the new HMDA data for research purposes, it will likely take a few years of comparative data to be useful for fair lending enforcement. However, they noted that prior to the addition of these data into HMDA, the agency typically requested similar information from lenders in the course of a fair lending investigation.
- Three of the seven state attorney general officials noted they requested information similar to the new data points before their inclusion in HMDA reporting. Two of these officials noted that without

[31]Additionally, three of the 26 state banking regulators that provided us information noted they also requested similar information before the new data points were available.

[32]Also, officials from two state banking regulators told us the new data points allow them to more efficiently conduct examinations.

[33]Officials from two state banking regulators made similar remarks about how the new HMDA data created efficiencies for mortgage lenders.

HMDA data, there are few ways to obtain insight into lending practices, which is necessary for lending discrimination cases (such as disparate treatment or disparate impact).[34]

- Advocacy organizations also use HMDA data to support fair lending advocacy. For example, in a complaint challenging a recent HMDA rulemaking, a number of advocacy organizations claimed that they rely on HMDA data to assess, investigate, or pursue claims of discriminatory lending practices.[35]

New Data Facilitate Research on Lending Patterns, Community Credit Needs, and Financial Market Stability

According to financial regulators, government and academic researchers, and advocacy organizations we spoke with, the new HMDA data help facilitate research in the following areas:

Lending patterns. New HMDA data, such as rate spread and borrower age, enhance understanding of lending disparities among demographic groups across the mortgage market. CFPB publishes a yearly analysis of mortgage market activity and trends that compares each year's respective HMDA data to historical HMDA trends across the U.S. mortgage market.[36] This analysis includes percentage of loans, denial rates, and the interest rate spread by demographic groups.[37] In addition, NCUA recently published a study comparing 30-year fixed-rate mortgages originated by credit unions and banks. This study cited debt-to-income and combined loan-to-value ratios as important for understanding credit risk.[38] Finally, a researcher recently published a

[34]Disparate impact is when a lender applies a racially or otherwise neutral policy or practice equally to all credit applicants, but the policy or practice disproportionately excludes or burdens certain persons on a prohibited basis. The fact that a policy or practice creates a disparity on a prohibited basis is not alone proof of a violation. See Federal Financial Institutions Examination Council, *Interagency Fair Lending Examination Procedures* (2009).

[35]Complaint, *Nat'l Comm. Reinvestment Coalition et al v. CFPB*, No. 20-2074 (D.D.C. 2020).

[36]Consumer Financial Protection Bureau, *Data Point: 2019 Mortgage Market Activity and Trends* (Washington, D.C.: June 2020) and *An Updated Review of the New and Revised Data Points in HMDA* (Washington, D.C.: August 2020).

[37]Rate spread is the difference between a loan's annual percentage rate and the average annual rate of comparable loans given to low-risk consumers.

[38]National Credit Union Administration, Office of the Chief Economist, *Interest Rates for 30-Year Fixed-Rate Mortgages Originated in 2018: Relative Findings for Credit Union Mortgages* (Alexandria, VA.: Feb. 20, 2020).

study of differences between observed and predicted denial rates for Black and White borrowers using some of the new HMDA data.[39]

Research and advocacy organizations have also used HMDA data to conduct similar analyses. For example, the Woodstock Institute used HMDA data to document alleged discriminatory lending practices and mortgage lending patterns in Chicago area communities.[40] Further, the National Community Reinvestment Coalition used HMDA data to analyze and facilitate conversations about improving fair lending or credit availability with financial institutions in their members' communities. In addition, representatives from the National Community Reinvestment Coalition stated that data on loan pricing, such as closing fees and interest rates, and the newly expanded data on race and ethnicity are valuable for understanding mortgage pricing outcomes in demographic groups.[41]

Community credit needs. Researchers, advocacy organizations, and regulators noted that the new HMDA data on manufactured housing, multifamily housing, and reasons for denial can help identify credit gaps in communities—where people are applying for but are being denied credit.

For example, researchers noted the benefits of the new manufactured housing data and the ability to identify manufactured homes financed with loans secured only by personal property, which tend to be more

[39]Park, Kevin A., "Measuring Risk and Access to Mortgage Credit with New Disclosure Data," *The Journal of Structured Finance*, vol. 26, no.4 (2021): pp. 53-72. HUD notes that this publication references a rule entitled HUD's Implementation of the Disparate Impact Standard at 85 Fed. Reg. 60,288 (Sept. 24, 2020), however, this rule was stayed pursuant to an injunction issued on October 25, 2020. *See* Mem. and Order at 13-14, Mass. Fair Hous. Ctr. v. HUD, No. 3:20-cv-11765 (D. Mass. Oct. 25, 2020).

[40]See Woodstock Institute, "Docket No. CFPB-2019-0021-0001, RIN 3170-AA76," June 10, 2019, and Woodstock Institute, *2018 Chicago Area Community Lending Fact Book* (Chicago, Ill.: 2018).

[41]Lenders are now required to report more specific race and ethnicity categories. For example, instead of one category of "Asian" borrowers, lenders now report race categories such as Filipino, Japanese, and Korean.

expensive loans.[42] In addition, these new data points allow researchers to determine the demographic makeup of manufactured-home buyers, the loans they receive, and their ability to build equity while owning a manufactured home. These analyses conducted by researchers and community advocates can help facilitate conversations with lenders and government agencies to help improve lending patterns to meet community needs. In addition, in 2019 the State of New York Attorney General submitted a comment letter to CFPB, along with 12 other state attorneys general, regarding a 2019 HMDA rulemaking.[43] The comment letter contained an analysis from New York on the difference in interest rate, credit score, combined loan-to-value ratio, and debt-to-income ratio for manufactured home loans given to White homeowners versus Black homeowners.

Further, the addition of data on multifamily housing units allows researchers to analyze the presence and availability of affordable multifamily housing and condominiums for lower-income families. If these housing units are unavailable, lower-income families may be unable to become homeowners. The same comment letter stated that HMDA data allowed New York to analyze lending patterns in multifamily homes and assisted lawmakers in identifying trends in affordable housing development—particularly in New York City, where 62 percent of all housing is in multifamily buildings.

Finally, another organization used the data on the reasons loans were denied to identify community credit needs. It stated that HMDA data help tailor community development programs to improve the ability of borrowers to obtain loans.[44]

[42]An Urban Institute study of manufactured homes in 2018 found that loans secured only by personal property—known as chattel loans—were 4.4 percentage points more expensive than the average manufactured home mortgage. The study estimated that, nationwide, 53 percent of owners of manufactured homes who also owned the land obtained a chattel loan in 2017. See Laurie Goodman and Bhargavi Ganesh, *Challenges to Obtaining Manufactured Home Financing* (Washington, D.C.: Urban Institute, June 2018).

[43]State of New York, Office of the Attorney General, “NYAG’s Opposition to Reducing HMDA Reporting Requirements Docket No. CFPB-2019-0020/RIN 3170-AA97,” (Oct. 15, 2019).

[44]NeighborWorks America, “Proposed Rule—Home Mortgage Disclosure (Regulation C) [84 FR 20972, Docket No. CFPB-2019-0021],” (June 12, 2019): p. 1.

Financial market stability. New data on interest rate, debt-to-income ratio, credit score, and other data points enhance the understanding of mortgage market risk and pricing trends for various types of loans. According to the Federal Reserve, CFPB, and academic and research organizations, analyses using these data points can help determine the overall conditions of the mortgage market and identify early warning signs of a financial or housing crisis. CFPB stated that the introduction of data on open-end lines of credit would be beneficial for identifying indicators of a potential financial crisis.[45] Further, one academic researcher told us that the new HMDA data points can assist in determining the risk of borrowers defaulting across various loan types, known as risk spread. Also, analysis of these new HMDA data points can help identify loan-pricing trends to determine if lenders and the secondary market are inaccurately pricing loans based on their default risk. The researcher noted that before HMDA data included rate spreads and interest rates, they were unable to identify true pricing disparities.

In addition to improving research in these areas, government and academic researchers noted that HMDA data are unparalleled in their geographic granularity because they allow researchers to identify types of lending institutions, loan products, borrower characteristics, and distribution of lending at the census-tract level. According to government and academic researchers, they previously had to match HMDA data with costly private datasets to get many of the new data points now included in HMDA.

New Data Help Lenders Assess Compliance and Business Strategies

According to CFPB, the Mortgage Bankers Association, American Bankers Association, and the Credit Union National Association, the new HMDA data can help mortgage lenders in the following ways:

- **Assess compliance with federal and state banking laws.** Lenders can use HMDA data to help ensure compliance with federal and state banking laws by evaluating their own lending patterns for any indication of discriminatory lending. CFPB officials stated that responsible lenders use HMDA data to identify potential fair lending issues and address them before they come to a regulator’s attention.

[45]*See* 80 Fed. Reg. 66,128, 66,160-61 (Oct. 28, 2015). CFPB stated that research indicated some real estate investors used open-end, home-secured lines of credit to purchase non-owner-occupied properties, which correlated with higher first-mortgage defaults and home-price depreciation during the financial crisis. In the years leading up to the crisis, such home equity lines of credit often were made and fully drawn more or less simultaneously with first-lien home purchase loans, essentially creating high loan-to-value home purchase transactions that were not visible in the HMDA dataset.

Additionally, representatives from the Mortgage Bankers Association said they use CFPB and Federal Reserve analyses of HMDA data to help track and manage fair lending risks with their members.

- **Identify business strategies for growth.** Lenders can also use HMDA data to analyze their own market share and pricing strategies, or those of their competitors, to identify areas for growth or changes in lending patterns. The Mortgage Bankers Association also conducts HMDA analysis to estimate the size of the mortgage market and recruit new members by identifying lenders. Representatives from the Mortgage Bankers Association said the new data points on loan type are helpful in determining the loan volume and composition of the mortgage market. Representatives from the Credit Union National Association said the borrower characteristic data—such as the newly expanded race and ethnicity data—are helpful in understanding credit unions' customers.

Based on our review of comments on the 2019 HMDA rulemaking, many small banks and credit union associations noted that the new HMDA data points were burdensome for their members to report.[46] However, as discussed later in this report, EGRRCPA exempted many smaller-volume banks and credit unions from reporting the new HMDA data.

Partial Exemptions Have Had a Limited Impact on HMDA Data Availability

New HMDA Data Are Widely Available Nationally and for Most Communities

Nationwide, partial exemptions had a limited impact on HMDA data availability in 2018 and 2019. Specifically, we found that 97 percent of

[46]See eg. Credit Union National Association, "Home Mortgage Disclosure (Regulation C); Docket No. CFPB-2019-0021; RIN 3170-AA76." June 11, 2019; Independent Community Bankers of America, "Comments on Proposed Rulemaking on Home Mortgage Disclosure; RIN 3170-AA76." June 12, 2019; and National Association of Federally-Insured Credit Unions, "Home Mortgage Disclosure (Regulation C) RIN: 3170-AA76," June 12, 2019.

new HMDA data we reviewed were available in both years—meaning that 3 percent of data were not reported as a result of partial exemptions.[47]

While over 2,000 lenders reported exemption codes instead of reporting new HMDA data in 2018 and 2019, the impact on data availability was minimal because these lenders represented a small fraction of national lending activity. Specifically, we found that in 2018 and 2019, the numbers of lenders claiming at least one exemption were 2,263 and 2,494, respectively. These lenders represented 40 percent of all HMDA reporters in 2018 and 45 percent in 2019, but their lending activity accounted for 5 percent of loans in HMDA in these years. By definition, lenders that qualify for partial exemption have low lending activity—generally fewer than 500 loans per year—and thus represent a small portion of the lending market.[48]

In general, lenders that claimed partial exemptions tended to be small banks. For example, we found that in 2019, most lenders that claimed partial exemption were either

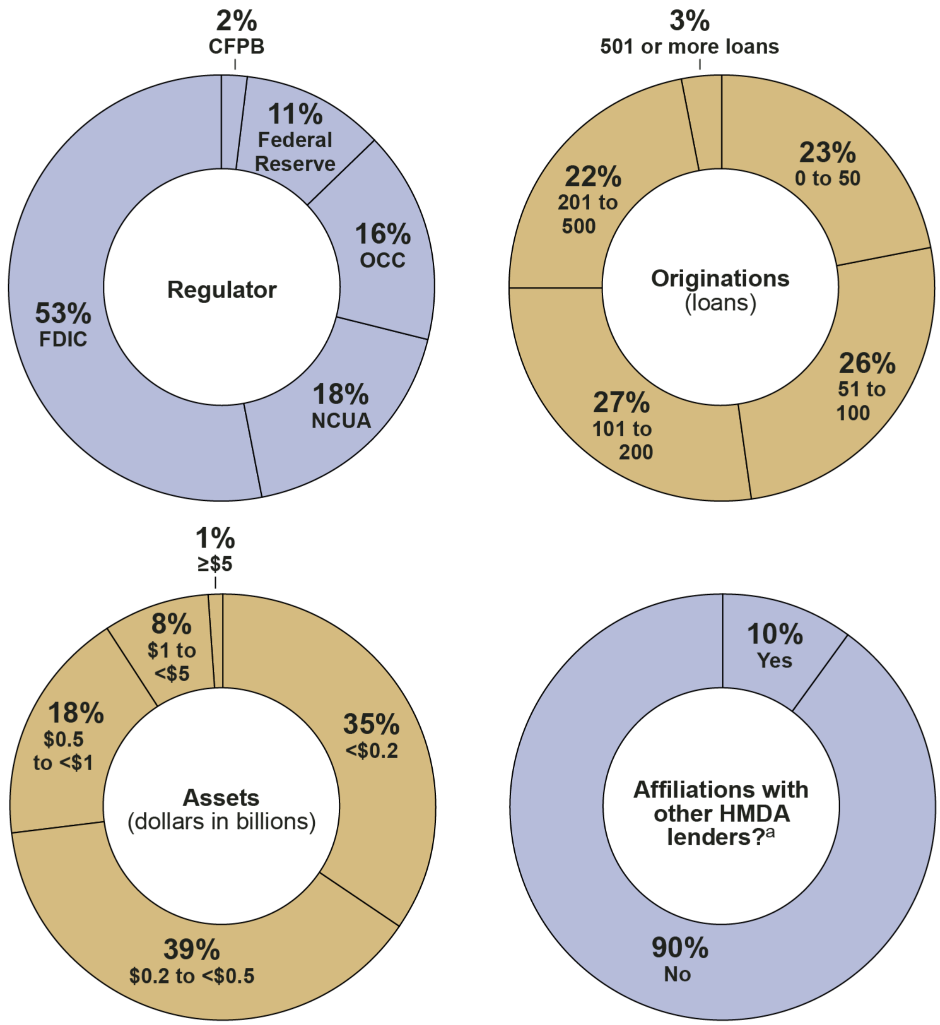
- banks regulated by FDIC,
- lenders that originated fewer than 200 mortgages,
- lenders with less than $500 million in assets, or
- lenders unaffiliated with other HMDA reporters (see fig. 5).[49]

[47]We analyzed data from 10 of the 26 new HMDA data points for which lenders may report exemption codes. In HMDA, data points are represented through one or more data fields. More specifically, we analyzed 15 data fields that we determined were the most reliable for assessing partial exemptions. Unless otherwise indicated, all summary statistics are exact and not estimates, as they were calculated from a universe and not a sample. For additional details on our analysis, see app. I.

[48]For comparison, the 25 largest lenders by loan volume originated 34 percent and 36 percent of all loans in HMDA in 2018 and 2019, respectively. As stated previously, to qualify for a partial exemption, lenders must have originated fewer than 500 closed-end mortgage loans or fewer than 500 open-end lines of credit in each of the 2 previous years, among other criteria.

[49]We define HMDA reporters as affiliated when one HMDA reporter is a shareholder of another HMDA reporter or when multiple HMDA reporters are controlled by a separate third party.

Figure 5: Characteristics of Lenders That Claimed Partial Exemption from HMDA Reporting, 2019



CFPB = Consumer Financial Protection Bureau
FDIC = Federal Deposit Insurance Corporation
NCUA = National Credit Union Administration
OCC = Office of the Comptroller of the Currency

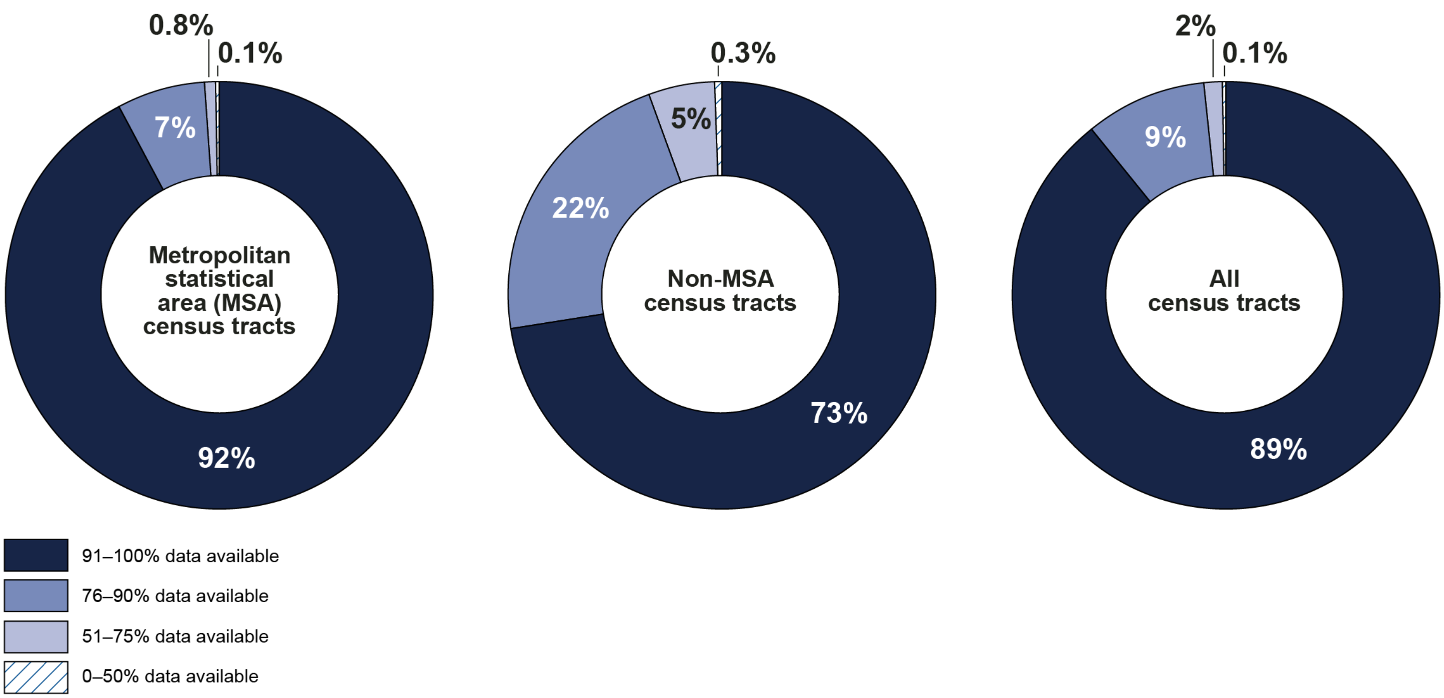
Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data and S&P Global Market Intelligence data. | GAO-21-350

Note: The percentages for assets and originations do not sum to 100 percent due to rounding.

[a]We define lenders that report HMDA data as affiliated with each other when one is a shareholder of another or when multiple such lenders are controlled by a separate third party.

Partial exemptions had a limited impact on the availability of HMDA data not only at the national level, but at the local level as well.[50] Specifically, we found that in the vast majority of census tracts (65,103 of 72,951), at least 91 percent of data we reviewed were available in 2019 (see fig. 6).[51] In other words, exemption codes were used in not more than 9 percent of data in these census tracts. In addition, very few census tracts had less than 51 percent of data available (97 census tracts in 2019).

Figure 6: Effect of Partial Exemptions on HMDA Data Availability, by Type of Census Tract, 2019



Source: GAO analysis of the Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

Note: Census tract refers to the location of the property on the borrower's loan or application, not the location of the lender. In 2019, 84 percent of census tracts with HMDA-reported loans or applications were in metropolitan statistical areas (MSA), whereas 16 percent were non-MSA. We analyzed a subset of data from 10 of the 26 new HMDA data points for which lenders may report partial exemption codes. We determined this subset was the most reliable for assessing partial exemptions. The percentages of census tracts do not sum to 100 percent due to rounding.

[50]Similarly, partial exemptions had a limited impact on HMDA data availability for local communities in 2018. See app. III for more details.

[51]"All census tracts" refers to those census tracts that reported home mortgage loan activity in 2018 and 2019. There are additional census tracts that had no home mortgage loan activity in these years, and as a result do not show up in the HMDA data. Because these tracts had no HMDA reported lending activity, we did not include them in this analysis.

The local communities where partial exemptions had the greatest impact on HMDA data availability were those not in an MSA, such as small towns and rural areas. We found that in 2019, a higher share of non-MSA census tracts than MSA census tracts had less than 90 percent of HMDA data available as a result of partial exemptions for the data we reviewed. Non-MSA areas have less HMDA data in general because lenders without a home or branch office in an MSA and depository institutions with small asset size are not required to report any HMDA data, as previously noted.

Nationwide, for the data we reviewed, partial exemptions did not disproportionately affect the availability of HMDA data for borrowers of any race or ethnicity in 2018 and 2019. For instance, lenders did not report less HMDA data for Hispanic (any race) or non-Hispanic Black borrowers than for non-Hispanic White borrowers (see table 1). Specifically, we found that in 2018 and 2019, 97 percent of new data were available for non-Hispanic White borrowers, while 99 percent of data were available for non-Hispanic Black borrowers. Similar findings held true at the local level. For example, in both 2018 and 2019, in the great majority (94 percent) of census tracts with the largest percentages of Hispanic (any race) and non-White borrowers, at least 91 percent of data we reviewed were available.

Table 1: Percentage of New HMDA Data Available, by Borrower Ethnic or Racial Group, 2018 and 2019

Race and ethnicity of borrower[a]	2018	2019
Non-Hispanic White	96.8	96.7
Non-Hispanic Black	98.5	98.6
Hispanic (any race)	98.6	98.7
Non-Hispanic Asian	98.7	98.8
Non-Hispanic Other Race	98.3	98.3

Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

Note: We analyzed a subset of data from 10 of the 26 new HMDA data points for which lenders may report partial exemption codes. We determined this subset was the most reliable for our analysis.

[a]Includes borrowers who received loans and applicants who applied for loans.

Similarly, nationwide, partial exemptions did not disproportionately affect the availability of HMDA data we reviewed for borrowers of low and moderate income in 2018 and 2019.[52] Specifically, we found that in 2018 and 2019, data availability was over 97 percent for all income groups for the data we reviewed (see table 2). Further, data availability did not notably differ among borrowers of different income levels (less than half a percentage point difference in both years). In local communities, we found that the impact of partial exemptions on HMDA data availability for low- and moderate-income borrowers was similarly limited. For example, we found that in the great majority (89 percent) of low-income census tracts, at least 91 percent of data were available in 2018.

Table 2: Percentage of New HMDA Data Available, by Applicant Income, 2018 and 2019

Income quartile of applicant	2018	2019
Lowest income quartile	97.5	97.2
Second income quartile	97.7	97.5
Third income quartile	97.6	97.5
Highest income quartile	97.4	97.5

Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

Note: Lowest income quartile was less than $52,000 (2018) and $55,000 (2019); second income quartile was less than $80,000 (2018) and $85,000 (2019); third income quartile was less than $127,000 (2018) and $135,000 (2019). We analyzed a subset of data from 10 of the 26 new HMDA data points for which lenders may report partial exemption codes. We determined this subset was the most reliable for our analysis.

Some Lenders That Qualify for Partial Exemptions Voluntarily Reported Data

Some lenders that qualified for partial exemptions for closed-end loans chose to voluntarily report data for at least one of the new data fields we

[52]We considered low- and moderate-income borrowers to be those whose income was in the lowest income quartile. We constructed these quartiles using all HMDA application incomes regardless of application outcome, the number of borrowers per application, and potentially repeated applications from some borrowers. This is not directly comparable to definitions used in fair lending oversight. For example, under the CRA's implementing regulations, a low-income community is an area where the median family income is less than 50 percent of the area median income in a census tract. *See* 12 C.F.R. § 25.03. A moderate-income community is an area where the median family income is at least 50 percent and less than 80 percent of the area median income in a census tract.

reviewed, which contributed to overall HMDA data availability in 2019.[53] Specifically, we estimate that at least 37 percent of HMDA reporters eligible for partial exemption for their closed-end loans voluntarily reported new data we reviewed in 2019, even though they were eligible for reduced reporting.[54] If there had been no such voluntary reporting, we estimate that the amount of nationwide HMDA data reported would have decreased from 97 to 94 percent, for the data we reviewed. Put another way, the proportion of exemption codes would have increased from 3 percent of HMDA data to 6 percent.

The reasons why lenders choose to report voluntarily are unclear, and federal financial regulators told us it is not something they have formally analyzed. CFPB officials believe that some lenders voluntarily reported HMDA data because their annual originations are close to the threshold for partial exemption—500 loans—and reporting all HMDA data helped ensure that they complied with HMDA reporting requirements. FDIC and OCC noted that some lenders may have voluntarily reported data in 2018 because the reporting requirements changed mid-year, and lenders may have found it easier to continue collecting and reporting all data, rather than changing their data systems mid-year. Our analysis found that the percentage of lenders eligible for partial exemption for closed-end loans that voluntarily reported HMDA data on those loans decreased by an estimated 4 percentage points from 2018 to 2019.[55] According to two national industry associations, some small banks and credit unions have had difficulty interpreting the loan volume thresholds for partial exemption.

[53]We did not determine whether HMDA reporters voluntarily reported data for open-end lines of credit because there were not sufficient data to do so. Lenders were not required to include data on open-end lines of credit in their HMDA submissions prior to 2018. We estimate that between 85 and 88 percent of all HMDA records in 2019 were for closed-end loans.

[54]At least 22 percent of HMDA reporters (1,242) voluntarily reported new data in 2019, for their closed-end loans, even though they were eligible for reduced reporting. For 6 percent of HMDA reporters (321) in 2019, it is unknown whether they qualified for partial exemption for closed-end loans because of limitations in loan volume data needed to make this determination (discussed in more detail later in this report).

[55]Based on a subset of lenders for which we could determine closed-end eligibility equivalently in both years, we estimated that 60 percent of HMDA reporters eligible for partial exemptions for closed-end loans voluntarily reported at least one variable in some HMDA records in 2018, and 56 percent of HMDA reporters did so in 2019. At least three lenders were eligible for closed-end loans in 2019, but did not report any closed-end loan activity in that year.

Regulators' Oversight Would Benefit from an Additional HMDA Data Point and More Information from CFPB

Regulators Do Not Have Certain Information Needed to Assess Partial Exemption Compliance

The federal financial regulators supervise HMDA reporters and are responsible for enforcing HMDA. As part of this responsibility, the regulators may need to determine whether lenders that used exemption codes in their HMDA submissions were indeed eligible for partial exemption. However, we found that a data point needed by regulators to make this determination is not always available.

Specifically, one of the new HMDA data points added in 2018 was whether a loan is open-end or closed-end.[56] As noted earlier, a lender's eligibility for partial exemption is based, in part, on not exceeding 500 open-end loan originations in the 2 previous calendar years.[57] As a result, the data point on open-end lines of credit provides regulators with information to help assess whether lenders meet eligibility requirements for partial exemptions.

As discussed, EGRRCPA exempts certain lenders from reporting almost all of the new HMDA data points—including open-end lines of credit. Therefore, lenders that qualify for partial exemptions may report exemption codes instead of data for this data point. We found that 42

[56]CFPB added the open-end line of credit data point to the new HMDA data points under its discretionary authority. *See* 80 Fed. Reg. 66,128, 66,237-38 (Oct. 28, 2015) (codified at 12 C.F.R. § 1003.4(a)(37)).

[57]To qualify for partial exemption a lender must (1) be an insured depository institution (a bank or credit union), (2) have positive CRA ratings from its past examinations (CRA requirements only apply to banks), and (3) not exceed 500 open-end or 500 closed-end loan originations in each of the 2 previous calendar years. CRA ratings indicate how well a depository institution is meeting the credit needs of the communities it serves. Under EGRRCPA, to qualify for partial exemptions, lenders must not have had a rating of "needs to improve" on their two most recent examinations, or a rating of "substantial noncompliance" on their most recent examination. Depending on whether a lender's annual loan originations fall below the 500-loan thresholds, the lender can qualify for partial exemption for closed-end mortgage loans, open-end lines of credit, or both.

percent of HMDA reporters in 2019 did not report data on open-end lines of credit for any loan or application, and instead used the exemption code in all cases.[58]

Regulators were unable to readily validate many lenders' eligibility for partial exemptions in both 2018 and 2019 because not all HMDA filings included data on open-end lines of credit. Based on our analysis of HMDA data and discussions with the federal financial regulators, we found that available information on depository status, CRA ratings, and HMDA data could be used to validate eligibility or ineligibility for partial exemptions for closed-end loans for 94 percent of HMDA reporters in 2019.[59] We were not able to validate partial exemption eligibility for closed-end loans for the remaining 6 percent of HMDA reporters because the 2017-2018 HMDA data were not sufficient to determine their closed-end loan volumes for those years.

As previously noted, under EGRRCPA there is a 2-year look-back period for loan origination volumes. This means that for 2019 HMDA data, information on open-end and closed-end loan volumes is needed from both 2017 and 2018 to determine whether a lender is eligible for partial exemption. However, the information is not available because lenders were not asked to provide information needed to determine open-end and closed-end loan volumes in 2017, and lenders could use exemption codes for the open-end line of credit data point in 2018.[60]

HMDA reporting is the only potential source that regulators have for the data they need on loan volumes, according to the regulators. According to CFPB, FDIC, and OCC, HMDA is the only data readily available where lenders report loan-level open-end and closed-end loan volume data that could be used to determine partial exemption eligibility. Banks' call report data do not include annual loan originations for closed-end and open-end

[58]The corresponding figure for 2018 was 36 percent.

[59]For the 94 percent of HMDA reporters for which we were able to validate eligibility and ineligibility, we found that the majority of lenders that were ineligible for partial exemptions were nondepository lenders.

[60]In 2018, depository status, CRA ratings, and HMDA data could be used to validate eligibility and ineligibility for partial exemptions for fewer lenders—81 percent of all HMDA reporters. For the remaining 19 percent of HMDA reporters, we were not able to validate eligibility.

loans.[61] Credit unions' call report data do provide total annual originations for open-end and closed-end loans, but these also include originations that are not reported in HMDA, such as commercial and construction loans. Therefore, credit union call report data cannot be used alone to determine eligibility for partial exemption, as only HMDA-reported loans count toward eligibility criteria.[62]

Some regulators told us they use the examination process to validate the accuracy of a lender's HMDA data, and that they can request data on open-end and closed-end loan volumes to verify lenders' eligibility for partial exemptions.[63] However, CFPB officials stated that determining partial exemption eligibility for all CFPB's lenders in a given year would require a significant investment of resources that would not be justified given the agency's other supervision priorities.[64] Similarly, Federal Reserve officials told us the Federal Reserve's member banks would expend significant resources if they were required to search multiple years' examination records to document their partial exemption eligibility.

EGRRCPA exempted certain lenders from reporting a data point needed to verify their eligibility for partial exemption. As a result, federal financial regulators do not have the information needed to confirm lender compliance with the exemption provisions. According to CFPB officials, CFPB does not have the authority to mandate that lenders eligible for the partial exemption report this data point, and Congress would need to amend HMDA to require it.[65] By requiring these lenders to include the data point on open-end lines of credit, Congress could help regulators ensure that only those HMDA reporters that are eligible to use partial

[61]Call reports are financial condition reports that institutions submit to regulators.

[62]According to NCUA, examiners would need to validate credit union call report data using an examination or supervisory contact before determining eligibility for partial exemption.

[63]Regulators conduct CRA examinations on a fixed cycle, ranging from 1 to 5 years depending on the regulator and previous CRA examination score. In contrast, some regulators conduct fair lending examinations using a risk-based approach to select lenders for closer review. Therefore, some low-risk lenders may rarely receive a more detailed fair lending examination, while some high-risk lenders might be examined in back-to-back years.

[64]CFPB is required to use a risk-based approach for its supervision of nondepository lenders. 12 U.S.C. § 5514(b)(2). CFPB also uses a risk-based approach for its supervision of depository lenders to focus on the greatest risks to consumers.

[65]CFPB included a discussion of the effect of the partial exemptions on the new HMDA data points in its 2018 interpretive and procedural rule. *See* 83 Fed. Reg. 45,325 (Sept. 7, 2018).

exemptions are doing so. In turn, this would help ensure the completeness of HMDA data used for fair lending oversight and mortgage market research.

CFPB Could Enhance Plans to Provide Regulators with Information for Supervising Partial Exemption Compliance

As part of supervision of HMDA reporters and enforcement of HMDA, CFPB has developed plans to provide regulators with some information on lender eligibility. A memorandum of understanding between CFPB and the other regulators describes CFPB's responsibilities regarding HMDA data, including working with regulators to resolve any data quality problems. CFPB analyzes HMDA data each year to help ensure data quality.

CFPB officials told us that during this analysis they became aware that some lenders are using exemption codes even though they are not eligible to do so under EGRRCPA. During our analysis, we found that 89 lenders likely used exemption codes improperly in 2018 and 2019 because they were nondepository institutions; such lenders are not eligible for partial exemption. CFPB officials told us that any lenders that incorrectly used partial exemption codes will be contacted and required to correct and resubmit their HMDA data. According to CFPB, staff are currently conducting outreach to the 89 lenders and requesting they resubmit HMDA data, as needed.

CFPB officials told us the agency shares information on two of three criteria for partial exemption—depository status and open-end and closed-end loan volumes, as available—and is exploring options to share information on the other criterion, CRA ratings. CFPB maintains the HMDA database and provides regulators with a data file that links depository status to HMDA data. CFPB plans to develop a similar data file for CRA ratings and provide it to regulators.[66]

Additionally, as of February 2021, CFPB planned to share with regulators analysis indicating the likelihood of an inaccurate HMDA filing for lenders that do not report the open-end line of credit data point, based on total loan volumes and exemption code use. However, CFPB does not plan to include in this analysis additional information that could be useful in evaluating partial exemption eligibility criteria. Specifically, while CFPB has access to information on lenders' depository status, previous CRA

[66]According to CFPB officials, the agency has plans to match FFIEC's CRA database with HMDA data, and may integrate the CRA information into the HMDA data snapshot.

ratings, and some lenders' open-end and closed-end loan volumes, it does not plan to include this information in its analysis.

CFPB officials said they were not including this additional information in their analysis for other regulators for two primary reasons. First, they stated that regulators have access to information on open-end and closed-end loan volumes and depository status through CFPB, and CRA ratings through other sources.[67] CFPB does not oversee compliance with the CRA and thus does not compile or maintain data on CRA ratings. However, while this is true, it would be more efficient—and reduce duplication of effort among regulators—for CFPB to synthesize and share this information in the form needed by regulators for ensuring compliance with partial exemptions. Second, CFPB officials stated that open-end and closed-end loan volumes were unlikely to be helpful to regulators in finding lenders that are misusing the partial exemptions. However, this information would be helpful to the other regulators because ensuring compliance with partial exemption depends on knowing both the open-end and closed-end loan volumes of a lender.

According to the regulators' memorandum of understanding, CFPB should work with other regulators to resolve any data quality problems. Additionally, federal internal control standards state that management should externally communicate necessary quality information so that external parties can help the entity achieve its objectives and address related risks.[68] By including expanded information in the analysis it provides to regulators related to all of the criteria for partial exemption, CFPB can provide regulators with more complete information for their oversight of lender compliance.

Conclusions

HMDA data are a comprehensive, unique, and valuable tool for analyzing the U.S. mortgage market and helping identify discriminatory mortgage lending practices. To ensure these data remain comprehensive, it is important that only those lenders eligible for partial exemptions are able to use them. However, regulators lack certain information needed to confirm such eligibility because HMDA does not require all HMDA reporters to report whether a loan is for an open-end line of credit. As a

[67]CRA ratings are publicly available through FFIEC. In addition, FDIC, OCC, and the Federal Reserve determine CRA ratings for banks they supervise.

[68]GAO-14-704G.

result, regulators and the public may not have complete HMDA data for research and decision-making purposes.

Additionally, CFPB could help the other regulators ensure that only those lenders eligible to use partial exemption codes are doing so. Although CFPB plans to provide regulators with information on the likelihood of inaccurate HMDA reporting by some lenders, it does not plan to provide them with additional information to help regulators determine lenders' eligibility for partial exemption. By expanding the information it includes in the analysis it provides to regulators to include all criteria for partial exemption, CFPB can provide regulators with more complete information for their oversight.

Matter for Congressional Consideration

Congress should consider requiring all HMDA reporters to disclose whether a covered loan or application is for an open-end line of credit. (Matter for Consideration 1)

Recommendation for Executive Action

The Director of CFPB should provide the federal financial regulators with additional information in its analysis to help them oversee lenders' eligibility for partial exemptions and related HMDA reporting. (Recommendation 1)

Agency Comments and Our Evaluation

We provided a draft of this report to CFPB, FDIC, Federal Reserve, FFIEC, NCUA, OCC, HUD, and the Department of Justice for review and comment. We received written comments from CFPB and NCUA, which are reproduced in appendixes IV and V, respectively. In addition, CFPB, Federal Reserve, OCC, and HUD provided technical comments, which we incorporated as appropriate. FDIC, FFIEC, and the Department of Justice had no comments.

In its written comments, CFPB did not agree or disagree with our recommendation. CFPB noted the importance of sharing information with the other financial regulators to further HMDA compliance with respect to partial exemptions. Further, CFPB noted that it currently shares information on two of three criteria for partial exemption—depository status and open-end and closed-end loan volumes—and is exploring options to share information on the other criterion, CRA ratings. In its technical comments, CFPB suggested removing our finding that it does not synthesize information on the three partial exemption criteria in the form that would be most useful to regulators for ensuring compliance with partial exemption. However, we maintain that taking the step of synthesizing the additional information in its analysis would be an important element in fully implementing our recommendation. We clarified this point and revised our recommendation to specifically note that CFPB should provide the other regulators with additional information in its analysis. Lastly, CFPB noted in its technical comments that lenders were not required to report their open-end lines of credit in 2016 and 2017 HMDA filings. We agreed and updated our methodology. As a result, our numbers related to voluntary reporters and lenders eligible for partial exemption were updated in the final report.

In its written comments, NCUA noted that it would benefit from receiving the additional information CFPB would be providing if it were to implement our recommendation. Further, NCUA noted that HMDA data are an important resource for ensuring that lenders fairly and equitably offer safe, affordable credit to all applicants and that our report underscores the need for making HMDA data complete.

We are sending copies of this report to the appropriate congressional committees, the Acting Director of the Consumer Financial Protection Bureau, the Chairman of the Federal Deposit Insurance Corporation, the Chair of the Board of Governors of the Federal Reserve System, the Executive Secretary of the Federal Financial Institutions Examination Council, the Chairman of the National Credit Union Administration, the Acting Comptroller of the Currency, the Secretary of Housing and Urban Development, the Attorney General, and other interested parties. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or CackleyA@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VI.

Alicia Puente Cackley

Alicia Puente Cackley
Director, Financial Markets and Community Investment

Appendix I: Objectives, Scope, and Methodology

The objectives of this report were to (1) identify the uses and benefits of the new Home Mortgage Disclosure Act (HMDA) data for federal regulators and other users; (2) assess how partial exemptions have changed the extent of HMDA data availability at the national and local levels; and (3) examine federal regulators' oversight activities with respect to partial exemptions from HMDA reporting.

Our review focused on home mortgage activity (lenders, loans, and applications) in 2018 and 2019, which was subject to the partial exemption provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act.[1] The focus of the review included the federal entities that regulate, supervise, and enforce the collection and reporting of HMDA data—the Consumer Financial Protection Bureau (CFPB), the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC).[2] Additionally, we analyzed 2016–2019 HMDA data to quantify the number of loans and lenders subject to partial exemptions and determine the extent to which partial exemptions changed the availability of HMDA data at the national and local levels, as discussed in more detail later in this appendix.

Uses and Benefits of HMDA Data

While HMDA data are publicly available for anyone to use, we focused our review on the use of these data by federal and state financial regulators and attorney general offices, academics, research and advocacy organizations, and industry groups. To identify the use and benefits of the new HMDA data by these users, we

- conducted interviews and developed two brief questionnaires,
- reviewed recent HMDA reports, and
- analyzed public comments on recent HMDA rulemakings.

We conducted interviews with the five federal financial regulators that oversee HMDA reporting—CFPB, the Federal Reserve, FDIC, NCUA, and OCC—and three other federal entities that play a role in HMDA—the Federal Financial Institutions Examination Council (FFIEC), the Department of Housing and Urban Development, and the Department of

[1]Pub. L. No. 115-174, § 104, 132 Stat. 1296, 1300-01 (2018).

[2]While the Department of Housing and Urban Development has authorities under HMDA statute and regulation, CFPB exercises those authorities per an interagency memorandum of understanding.

Justice. For state financial regulator and attorney general offices, we contacted the national organizations that represent them—the Conference of State Bank Supervisors, the National Association of State Credit Union Supervisors, and the National Association of Attorneys General. These organizations helped us to select entities for our interviews that had experience using HMDA data. We conducted interviews with two state banking regulators and two state attorney general offices.

In addition, we developed a brief questionnaire for state agencies regarding how they use HMDA data and their views on the benefits of these data. We asked the Conference of State Bank Supervisors and the National Association of State Credit Union Supervisors to send this questionnaire to their member agencies on our behalf. These agencies consisted of 56 state banking supervisors and 45 state credit union supervisors, respectively, although there was some overlap between the two organizations' members. We received responses from a total of 26 of these state financial supervisors. In addition, on our behalf, the National Association of Attorneys General sent a similar questionnaire to its membership, consisting of 56 offices of attorneys general, and we received five responses. The information we reported from these questionnaires was not generalizable.

For academics, research and advocacy organizations, and industry groups, we identified potential interviewees by reviewing literature search results, recommendations from federal financial regulators, and public comments on recent HMDA rulemakings and congressional testimonies. We selected a nongeneralizable sample of interviewees based on their relevance to the scope of our review and to ensure we included a range of perspectives. We interviewed researchers at the Boston College Law School, the Terner Center for Housing Innovation at the University of California at Berkeley, the Urban Institute, and the Woodstock Institute. We also interviewed representatives from the following advocacy organizations: the Center for Responsible Lending, the National Consumer Law Center, and the National Community Reinvestment Coalition. Finally, we interviewed industry representatives at the American Bankers Association, the Credit Union National Association, the Independent Community Bankers of America, and the Mortgage Bankers Association.

We reviewed recent HMDA reports recommended by interviewees, identified through background research and published on federal financial regulator websites, including studies from academic and government researchers. We also reviewed guidance and regulatory documents from federal financial regulators. To inform our analytical approach and understanding of HMDA data limitations, we reviewed analyses by CFPB and the Urban Institute and interviewed their authors.[3] We interviewed researchers at the Federal Reserve Banks of Philadelphia and San Francisco with experience matching HMDA data to other datasets. We also interviewed a Federal Housing Finance Agency official who has prepared and used HMDA data since the 1990s about the evolution of HMDA data collection, processing, and distribution.

Finally, we reviewed comment letters that were submitted during the public comment periods for CFPB's 2019 Notice of Proposed Rulemaking on amendments to Regulation C.[4] Among the more than 700 comment letters, we focused on letters from government agencies, research organizations, national community advocacy organizations, and national industry associations, and those submitted by multiple organizations or with multiple organizations as signatories.

HMDA Data Availability at the National and Local Levels

HMDA Data

To assess how partial exemptions have changed the extent of HMDA data availability at the national and local levels, we analyzed the four most recent complete years of public HMDA data at the time of our review (2016–2019). We obtained publicly available HMDA data from FFIEC's website on September 24, 2020.[5] For 2018 and 2019 HMDA data, we downloaded the dynamic national loan-level datasets and converted them into static files for our analysis. Because the dynamic datasets are

[3]*See* eg. 85 Fed. Reg. 28,364 (May 12, 2020) and L. Goodman, E. Seidman, and B. Ganesh, *The Impact of Proposed Changes to HMDA*, Urban Institute (Washington, D.C.: April 2018).

[4]*See* 84 Fed. Reg. 20,972 (May 13, 2019); 84 Fed. Reg. 37,804 (Aug. 2, 2019).

[5]Since 2018, CFPB has collected and processed HMDA data. CFPB is responsible for ensuring data quality, protecting borrower identities, and making a version of the data publicly available each year. For more information on obtaining publicly available HMDA data, see https://ffiec.cfpb.gov/.

updated periodically for all HMDA reporters, the results of our analyses may differ if replicated using an updated dynamic dataset.[6] However, we maintain that any replicated analyses using updated data should produce substantially similar results.

To assess the reliability of HMDA data, we reviewed documentation, performed electronic testing on the data to check for missing values and obvious errors, and corroborated the data with other available sources (such as published CFPB reports).[7] Additionally, we interviewed agency officials and researchers about interpreting HMDA data fields, and our approach to our analyses. Based on these steps, we determined the data were sufficiently reliable for characterizing the availability of the new HMDA data at the national and local levels and for generating descriptive statistics for the 2-year period.

Census Bureau Data

To assess the reliability of the Census Bureau 2020 data on metropolitan and nonmetropolitan counties, we reviewed the related documentation for the data and tested the data for omissions and outliers.[8] We found the Census Bureau data were sufficiently reliable for our analysis of HMDA data by census tract.

HMDA Data Availability Analysis

To determine HMDA data availability, we focused on 10 of the 26 new HMDA data points for which lenders may report partial exemption codes. In HMDA, data points are represented through one or more data fields (variables). We reviewed all 36 publicly available data fields for the 26 new data points, and we selected 15 of these data fields for our analysis.

[6]CFPB periodically updates the dynamic datasets because lenders may file late or resubmit their HMDA data if they find inaccuracies.

[7]Specifically, we examined FFIEC's *A Guide to HMDA Reporting: Getting It Right!* for 2018 and 2019 and the filing instruction guides for HMDA data collected in 2017, 2018, and 2019. We also reviewed FFIEC's reporting and technical facts webpage on HMDA data and CFPB's technical documentation on HMDA data. We also reviewed articles published by CFPB about the 2018 HMDA data, including "FFIEC Announces Availability of 2018 Data on Mortgage Lending." Finally, we reviewed CFPB's 2018 and 2019 *Data Point: Mortgage Market Activity and Trends* reports and used them to help corroborate our results.

[8]Specifically, we reviewed the Office of Management and Budget 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas, 75 Fed. Reg. 37,246 (June 28, 2010); the Office of Management and Budget 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas Correction (FR Doc. C1 2010-15605); and Office of Management and Budget Bulletin No. 17-01: Revised Delineations of Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and Guidance on Uses of the Delineations of These Areas.

These 15 data fields are represented through the 10 data points (see table 3).

Table 3: HMDA Data Fields Analyzed and Corresponding HMDA Data Points

Data point	Data field analyzed
Application Channel	• Submission of application • Initially payable to your institution
Automated Underwriting System	• Automated underwriting system: 1
Business or Commercial Purpose	• Business or commercial purpose
Credit Score	• Applicant or borrower, name and version of credit scoring model • Co-applicant or co-borrower, name and version of credit scoring model
Reasons for Denial	• Reason for denial: 1
Manufactured Home Land Property Interest	• Manufactured home land property interest
Manufactured Home Secured Property Type	• Manufactured home secured property type
Non-amortizing Features	• Balloon payment • Interest-only payments • Negative amortization • Other non-amortizing features
Open-end Line of Credit	• Open-end line of credit
Reverse Mortgage	• Reverse mortgage

Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

We selected these 15 data fields for our analysis because they were publicly available and were the most likely to provide complete and accurate data on lender exemption use. The reason for this is that for these 15 data fields, HMDA reporters must choose from a discrete set of entries and could not choose to leave the field blank, which increased the reliability of the analysis.[9] In contrast, the 21 publicly available data fields we did not include in our analysis had instructions that did not mention partial exemptions or mentioned them but did not specify how to claim them.

[9]For example, the balloon payment data field, which describes “whether the contractual terms include, or would have included, a balloon payment,” requires that a HMDA reporter choose from one of three possible responses: “1 – Balloon payment”, “2 – No balloon payment”, or “1111 – Exempt.”

National-level analysis. For our national-level analysis, we determined how many exemption codes were used, as a percentage of all data reported across these 15 data fields. We also determined whether exemption codes were used more or less often in reported loan activity for White, Black, Hispanic, and Asian borrowers and borrowers of other races. We performed the same analysis to examine exemption code use by lenders for loans to borrowers in the first, second, third, and fourth income quartiles nationally.

Local-level analysis. For our local-level analysis, we examined whether lenders in certain types of census tracts reported more or less new HMDA data than lenders in other census tracts. We examined partial exemption code use by lenders within all census tracts that reported home mortgage loan activity in 2018 and 2019. We analyzed whether census tracts with certain characteristics—such as being nonmetropolitan, having a relatively large share of minority residents, or having a relatively low average income—had more or less new HMDA data available than other types of census tracts.

Partial Exemption Eligibility Analysis

To determine the number and percentage of lenders that are ineligible for partial exemptions, we analyzed Community Reinvestment Act (CRA) ratings data from FFIEC and 2016–2019 HMDA data on nondepository status, total loan volumes, and closed-end loan volumes where available.[10]

CRA Ratings

CRA ratings data are available publicly on FFIEC's website, and we analyzed data for 1990 through June 2018.[11] We used these ratings to determine whether any lenders were ineligible for partial exemptions. We looked for ratings of "needs to improve" on the previous two examinations, or "substantial noncompliance" on the most recent examination. We found that no HMDA reporters were ineligible for partial exemptions in 2018 and 2019 because of low CRA examination ratings. To determine the reliability of the CRA data, we reviewed related documentation and conducted manual data testing to identify outliers and

[10]Congress enacted the Community Reinvestment Act in 1977, requiring that federal financial regulators examine insured depository institutions periodically to assess whether the lender is meeting the needs of its community. At the end of the examination, lenders receive one of four possible ratings: outstanding, satisfactory, needs to improve, and substantial noncompliance.

[11]See https://www.ffiec.gov/craratings/default.aspx.

errors.[12] We found the CRA data to be sufficiently reliable for the purposes of determining partial exemption eligibility.

Nondepository Status

To identify lenders that were ineligible for partial exemptions because they were a nondepository institution, we the used "other lender code" data field in the 2018–2019 HMDA panel data, which provides information on depository status. Where "other lender code" was not available, we used the agency code to help determine whether a lender was a depository institution.

Loan Volume Thresholds

We used 2016–2019 HMDA loan and application record data to determine whether lenders that reported HMDA data on closed-end loans were eligible for partial exemptions for those loans in 2018 or 2019 based on their total origination volumes or, where available, their closed-end loan volumes (see table 4). As noted previously, lenders were not required to report HMDA data on their open-end lines of credit in 2016 or 2017 HMDA data. As a result, we could not use that data to determine eligibility for partial exemptions for open-end lines of credit in 2018 or 2019. Because of this, we only determined partial exemption eligibility for lenders that reported closed-end loans. Lenders that did not report any HMDA activity in 2016 or 2017 (or both) were considered unknown in 2018.

Table 4: HMDA Data Used to Determine Lender Partial Exemption Eligibility for Closed-End Activity, by Year

Year	HMDA data	Determination
2018	Lender is a nondepository institution.	Ineligible
	Total loan originations in 2016 and 2017 were fewer than 500.	Eligible
	Total originations in 2016 or 2017 were 500 or more.	Unknown
	The lender did not appear in the latest 2016 or 2017 (or both) version(s) of the HMDA data available at the time of the analysis.	Unknown
2019	Lender is a nondepository institution.	Ineligible
	Closed-end loan originations were 500 or greater in 2018.	Ineligible
	Total originations in 2017 were fewer than 500, and the 2018 sum of closed-end loan originations and originations where type was not reported was fewer than 500.	Eligible
	Total originations in 2017 were fewer than 500, and the 2018 sum of closed-end loan originations and originations where the type was not reported was 500 or greater (but 2018 closed-end loan originations alone were fewer than 500).	Unknown

[12]Specifically, we examined FFIEC's CRA Ratings Database File Specifications and Frequently Asked Questions.

Total loan originations in 2017 were 500 or more (and 2018 closed-end loan originations were fewer than 500).	Unknown
The lender did not appear in the latest 2017 version of the HMDA data available at the time of the analysis (and its 2018 closed-end loan originations were fewer than 500), or did not appear in the latest 2018 version of the HMDA data.	Unknown

Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

To compare the proportion of institutions choosing to voluntarily report the new HMDA data in 2018 and 2019, we looked at the subset of institutions eligible for partial exemptions for closed-end loans, and determined whether they reported any of the exemption-eligible HMDA data. We also used this information to help assess whether the availability of new HMDA data could change in the future if fewer lenders reported voluntarily.

To describe the impact of insufficient data on open-end and closed-end loan origination volumes, we determined the number of HMDA reporters for which it is not possible to determine partial exemption eligibility.

Analysis of Lender Characteristics

We used the 2019 HMDA panel data to determine lenders' asset size for that year. We also used data provided by S&P Global Market Intelligence on corporate affiliations to determine whether lenders that claimed partial exemptions in 2019 were affiliated with another 2019 HMDA reporter.[13] To assess the reliability of S&P data on corporate relationships, we compared these data with existing HMDA data. We also reviewed information on the quality of S&P's data and interviewed S&P staff about their data sources and their process for aggregating the data. We also reviewed S&P's data collection process and found it had not changed since our prior assessments of S&P data reliability. Based on these steps, we determined that the S&P data we used were sufficiently reliable for the purpose of describing corporate relationships of mortgage lenders.

Federal Oversight of Partial Exemptions

To describe the five federal financial regulators' oversight responsibilities with respect to partial exemptions from HMDA reporting, we reviewed the HMDA statute and its 2010 and 2018 amendments, its implementing

[13]S&P Global Market Intelligence aggregates and provides financial, ownership, and other information on both public and private companies across all sectors of the economy, including mortgage lenders.

regulation (Regulation C), and interagency agreements related to HMDA data collection, processing, supervision, and enforcement.[14]

For the federal financial regulators, we reviewed their policies and practices for partial exemption supervision and enforcement. We reviewed their guidance and examination procedures, and we interviewed officials responsible for HMDA policy, supervision, and enforcement.

We determined that the information and communication component of internal control was significant to this objective, along with the underlying principle that management should externally communicate the necessary quality information to achieve the agency's objectives.[15] We obtained information on the analyses and activities CFPB has undertaken or plans to take with respect to partial exemptions. We evaluated these activities and plans by comparing them with CFPB's duties described in the memorandum of understanding between CFPB and the other regulators. We also compared CFPB's activities against federal internal control standards, which state that management should externally communicate necessary quality information to achieve the entity's objectives.

We conducted this performance audit from April 2020 to May 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[14]The HMDA statute was originally enacted in Pub. L. No. 94-200, tit. III (1975). Among other updates, it was modified by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Pub. L. No. 111-203, § 1094 (2010). These changes were first implemented by CFPB in 80 Fed. Reg. 66,128 (Oct. 28, 2015). The statute was further amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act in 2018. Pub. L. No. 115-174, § 104 (2018). CFPB first implemented those changes through 83 Fed. Reg. 45,325 (Sept. 7, 2018).

[15]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

Appendix II: Home Mortgage Disclosure Act Data Points

Table 5 presents the data points included in the 2018 Home Mortgage Disclosure Act dataset, which provides publicly available loan-level information on mortgage applications and originations.

Table 5: Home Mortgage Disclosure Act Data Points, 2018

Data point	Description
Action Taken	Type of action the financial institution took on the loan, application, or preapproval request. Types of actions are loan originated; application approved but not accepted; application denied; application withdrawn by applicant; file closed for incompleteness; purchased loan; preapproval request denied; or preapproval request approved but not accepted.
Action Taken Date	Date of action the financial institution took on the loan, application, or preapproval request.
Age	Applicant’s or borrower’s age.
Application Channel	Indicators of whether the application was submitted directly to the financial institution, and whether the obligation was initially payable to the financial institution.
Application Date	Date the application was received or the date on the application form.
Automated Underwriting System	Name of the automated underwriting system used by the financial institution to evaluate the application and the result generated by that system.
Business or Commercial Purpose	Indicator of whether the transaction is primarily for a business or commercial purpose.
Census Tract	Census tract of the property securing the loan (or proposed to secure the loan).
Combined Loan-to-Value Ratio	Ratio of the total amount of debt that is secured by the property to the value of the property.
Construction Method	Whether the dwelling is site-built or a manufactured home.
County	County of the property securing the loan (or proposed to secure a loan).
Credit Score	Credit score(s) relied on and the name and version of the credit scoring model.
Debt-to-Income Ratio	Ratio of the applicant’s or borrower’s total monthly debt to total monthly income.
Discount Points	Points paid to the creditor to reduce the interest rate.
Ethnicity	Applicant’s or borrower’s ethnicity, and if information was collected by visual observation or surname.
HOEPA Status	Whether the loan is a high-cost mortgage under the Home Ownership and Equity Protection Act (HOEPA).
Income	If credit decision is made, 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.
Interest Rate	Interest rate on the approved application or loan.
Introductory Rate Period	Number of months until the first date the interest rate may change.
Legal Entity Identifier	Identifier issued to the financial institution by a utility endorsed by the Global Legal Entity Identifier Foundation or Legal Entity Identifier Regulatory Oversight Committee.
Lender Credits	Amount of lender credits.

Data point	Description
Lien Status	Whether the property is a first or subordinate lien.
Loan Amount	Amount of the loan or the amount applied for.
Loan Purpose	Whether the transaction is for home purchase, home improvement, refinancing, cash-out refinancing, or another purpose.
Loan Term	Number of months after which the legal obligation will mature or terminate.
Loan Type	Whether the loan or application is insured by the Federal Housing Administration or guaranteed by the Department of Veterans Affairs, Rural Housing Service, or Farm Service Agency.
Manufactured Home Land Property Interest	Information about the applicant's or borrower's ownership or leasehold interest in the land where the manufactured home is located.
Manufactured Home Secured Property Type	Whether the covered loan is secured by a manufactured home and land, or a manufactured home and not land.
Mortgage Loan Originator NMLSR Identifier	Nationwide Mortgage Licensing System and Registry (NMLSR) identifier for the mortgage loan originator.
Multifamily Affordable Units	Number of individual dwelling units related to the property that are income-restricted under federal, state, or local affordable housing programs.
Non-amortizing Features	Whether the transaction involves a balloon payment, interest-only payments, negative amortization, or any other type of non-amortizing feature.
Occupancy Type	Whether the property will be used as a principal residence, second residence, or investment property.
Open-End Line of Credit	Indicator of whether the transaction is for an open-end line of credit.
Origination Charges	Total borrower-paid origination charges.
Preapproval	Whether the transaction involved a preapproval request for a home purchase loan under a preapproval program.
Prepayment Penalty Term	Term in months of any prepayment penalty.
Property Address	Address of the property securing the loan (or proposed to secure a loan).
Property Value	Value of the property relied on that secures the loan.
Race	Applicant's or borrower's race, and if information was collected by visual observation or surname.
Rate Spread	Difference between the annual percentage rate and average prime offer rate for a comparable transaction.
Reasons for Denial	Reason(s) the application was denied. Reasons include debt-to-income ratio; employment history; credit history; collateral; insufficient cash (down payment, closing costs); unverifiable information; credit application incomplete; mortgage insurance denied; and other reasons.
Reverse Mortgage	Indicator of whether the transaction is for a reverse mortgage.
Sex	Applicant's or borrower's sex, and if information was collected by visual observation or surname.
State	State of the property securing the loan (or proposed to secure a loan).
Total Loan Costs or Total Points and Fees	Either total loan costs, or total points and fees charged.
Total Units	Number of individual dwelling units related to the property.

Data point	Description
Type of Purchaser	Type of entity that purchased the loan, if applicable. Types of purchasers are Fannie Mae; Ginnie Mae; Freddie Mac; Farmer Mac; private securitizer; commercial bank, savings bank, or savings association; credit union, mortgage company, or finance company; life insurance company; affiliate institution; or other type of purchaser.
Universal Loan Identifier or Non-universal Loan Identifier	Universal Loan Identifier: Identifier assigned to identify and retrieve a loan or application that contains the financial institution's Legal Entity Identifier, an internally generated sequence of characters, and a check digit. Non-universal Loan Identifier: Identifier assigned to identify a loan or application.

Source: Consumer Financial Protection Bureau. | GAO-21-350

Appendix III: Additional Analysis on the Availability of Home Mortgage Disclosure Act Data

This appendix presents additional analysis on the impact of partial exemptions on the availability of Home Mortgage Disclosure Act (HMDA) data in 2018 and 2019. Some lenders that report HMDA data are exempt from providing certain data points (known as partial exemption). In lieu of entering data into those points' respective data fields, lenders can enter an exemption code. Collectively, HMDA reporters that did not use exemption codes originated about 95 percent of the loans reported in HMDA in 2018 and 2019, and lenders that used exemption codes originated the other 5 percent (see table 6).

Table 6: Percentage of Loans Reported with and without HMDA Partial Exemptions, 2018 and 2019

HMDA reporters	2018 Loan originations reported (percentage)	2019 Loan originations reported (percentage)
Lenders that reported exemption codes	4.8	4.6
Lenders that did not report exemption codes	95.2	95.4
Top 25 lenders (by loan volume)	33.6	36.3
All other lenders	61.6	59.2
Total	**100**	**100**

Source: GAO analysis of Home Mortgage Disclosure Act (HMDA) data. | GAO-21-350

We also analyzed these proportions at the census tract level. Specifically, we estimated the amount of data that could have been unavailable if all closed-end mortgage lenders that qualified (lower bound) or may have qualified (upper bound) for partial exemptions in 2019 had only reported exemption codes for the data we reviewed (see table 7).

Table 7: Selected Percentiles of Census Tract Exemption Code Use and Eligibility for Closed-End Loans, 2018 and 2019

Census tract percentile	2018 exemption code use (percent)	2019 exemption code use (percent)	2019 lower bound eligible exemption code use (percent)[a]	2019 upper bound eligible exemption code use (percent)[b]
Minimum	0.0	0.0	0.0	0.0
50th	1.5	1.6	3.4	4.5
75th	4.2	4.4	7.4	9.1
90th	9.2	10.0	14.4	16.7
99th	26.4	29.0	35.0	38.1
99.9th	47.4	51.2	60.0	62.9
Maximum	100.0	100.0	100.0	100.0

Source: GAO analysis of Home Mortgage Disclosure Act data. | GAO-21-350

Note: The lower bound of eligibility is lower than actual exemptions used because exemptions are likely to be used in the variable indicating whether a record is open- or closed-end when claimed in other variables. Therefore to avoid biases in the calculation of closed-end exemptions used, we included all activity of unknown type, because this activity was highly likely to contain other exemption codes. The lower bound of eligibility excludes all unknown activity from the eligibility calculation, whereas the upper bound of eligibility includes unknown activity.

[a]The lower bound is the amount of data that could have been reported as exemption codes in 2019 if all the lenders that we determined qualified for partial exemptions for their closed-end loans had only reported exemption codes for the data we reviewed.

[b]The upper bound is the amount of data that could have been reported as exemption codes in 2019 if all the lenders that we determined qualified for partial exemptions for their closed-end loans and all the lenders that we were unable to determine whether they qualified for partial exemptions for their closed-end loans had only reported exemption codes for the data we reviewed.

We found that census tracts that had the lowest availability of HMDA data as a result of partial exemptions generally had the fewest loan originations. Specifically, census tracts with 50 or fewer loan originations in 2019 had the lowest percentage of data available, for the data we reviewed (see table 8).

Table 8: 2019 Distribution of Census Tract Data Availability by Tract Originations

2019 tract originations total	0–50 percent available (%)	51–75 percent available (%)	76–90 percent available (%)	91–100 percent available (%)
0–50	0.4	3.2	14.1	82.3
51–100	0.1	2.0	11.6	86.3
101–150	0.0	0.7	7.2	92.1
151+	0.0	0.2	3.7	96.1
Total	**0.1**	**1.5**	**9.1**	**89.2**

Source: GAO analysis of Home Mortgage Disclosure Act data. | GAO-21-350

Appendix IV: Comments from the Consumer Financial Protection Bureau

Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

April 14, 2021

Alicia Puente Cackley
Director,
Financial Markets and Community Reinvestment
Government Accountability Office
441 G Street, NW
Washington DC, 20548

Dear Ms. Cackley,

Thank you for the opportunity to review and comment on the draft report by the Government Accountability Office (GAO), titled *Home Mortgage Disclosure Act: Reporting Exemptions Had a Minimal Impact on Data Availability, but Additional Information Would Enhance Oversight* (GAO-21-350). The Bureau greatly appreciates GAO's work over the course of this engagement and believes the report provides the public with valuable information about (1) the uses and benefits of HMDA data; (2) the impact that partial exemptions have had on HMDA data availability; and (3) federal regulators' oversight activities related to partial exemption eligibility.

In the report, GAO makes one recommendation to the Bureau:

- The Director of CFPB should provide the federal financial regulators with additional information to help them oversee lenders' eligibility for partial exemptions and related HMDA reporting.

The Bureau recognizes the importance of sharing information with the other HMDA agencies to further HMDA compliance. As such, the Bureau provides all submitted HMDA data to our fellow HMDA agencies. With respect to partial exemption eligibility, the report highlights three types of information: an institution's open-end line of credit and closed-end loan volumes; depository status; and, if applicable, Community Reinvestment Act (CRA) ratings. The Bureau currently

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shares the first two types of information with the other HMDA agencies. However, as the report notes, analysis of partial exemption eligibility based on loan volume is limited by the fact that institutions can claim a partial exemption for the open-end line of credit HMDA data point, obscuring the distinction between their open-end line of credit and closed-end loan volumes. As to the last type of information, the Bureau does not oversee compliance with the CRA and thus does not compile or maintain data on CRA performance. Accordingly, to incorporate that information into our analysis, the Bureau would have to rely on data from the regulators that oversee CRA compliance. Nevertheless, the Bureau is exploring options for incorporating CRA identifier information to support the Bureau's and other agencies' analysis of HMDA partial exemption compliance, which the Bureau intends to share with the other HMDA agencies.

The Bureau remains committed to sharing information with our fellow HMDA agencies to further HMDA compliance, including ensuring institutions are not incorrectly claiming partial exemptions.

The Bureau looks forward to working with GAO as it monitors the Bureau's progress in implementing this recommendation.

Sincerely,

David K. Uejio

David Uejio
Acting Director

Appendix V: Comments from the National Credit Union Administration

National Credit Union Administration
Office of the Executive Director

April 13, 2021

Alicia Puente Cackley
Director, Financial Markets and Community Investment
U.S. Government Accountability Office
441 G. Street, NW
Washington, D.C. 20548

Dear Ms. Cackley:

We reviewed GAO's draft report entitled *Home Mortgage Disclosure Act: Reporting Exemptions Had a Minimal Impact on Data Availability, but Additional Information Would Enhance Oversight.* The report recommends that the Consumer Financial Protection Bureau provide to the federal financial regulators additional information related to lender eligibility for partial exemptions. The NCUA would benefit from receiving this information.

The partial exemptions for HMDA reporting result in a disproportionate reduction in the new HMDA data from credit unions given the prevalence of many small institutions. HMDA data is an important resource for ensuring financial institutions fairly and equitably offer safe, affordable credit to all applicants. Your report underscores the need for making that data readily available.

Thank you for the opportunity to comment on the draft report.

Sincerely,

LARRY FAZIO Digitally signed by LARRY FAZIO Date: 2021.04.13 10:04:26 -04'00'

Larry Fazio
Executive Director

1775 Duke Street – Alexandria, VA 22314-6113 – 703-518-6300

Appendix VI: GAO Contact and Staff Acknowledgments

GAO Contact

Alicia Puente Cackley, (202) 512-8678 or cackleya@gao.gov

Staff Acknowledgments

In addition to the contact named above, Beth Faraguna (Assistant Director), Davis Judson (Analyst in Charge), Risto Laboski, Jill Lacey, May Lee, Won (Danny) Lee, Rob Letzler, Marc Molino, Yann Panassie, David Raymond, Jennifer Schwartz, Tyler Spunaugle, and Leanne Violette made key contributions to this report.

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