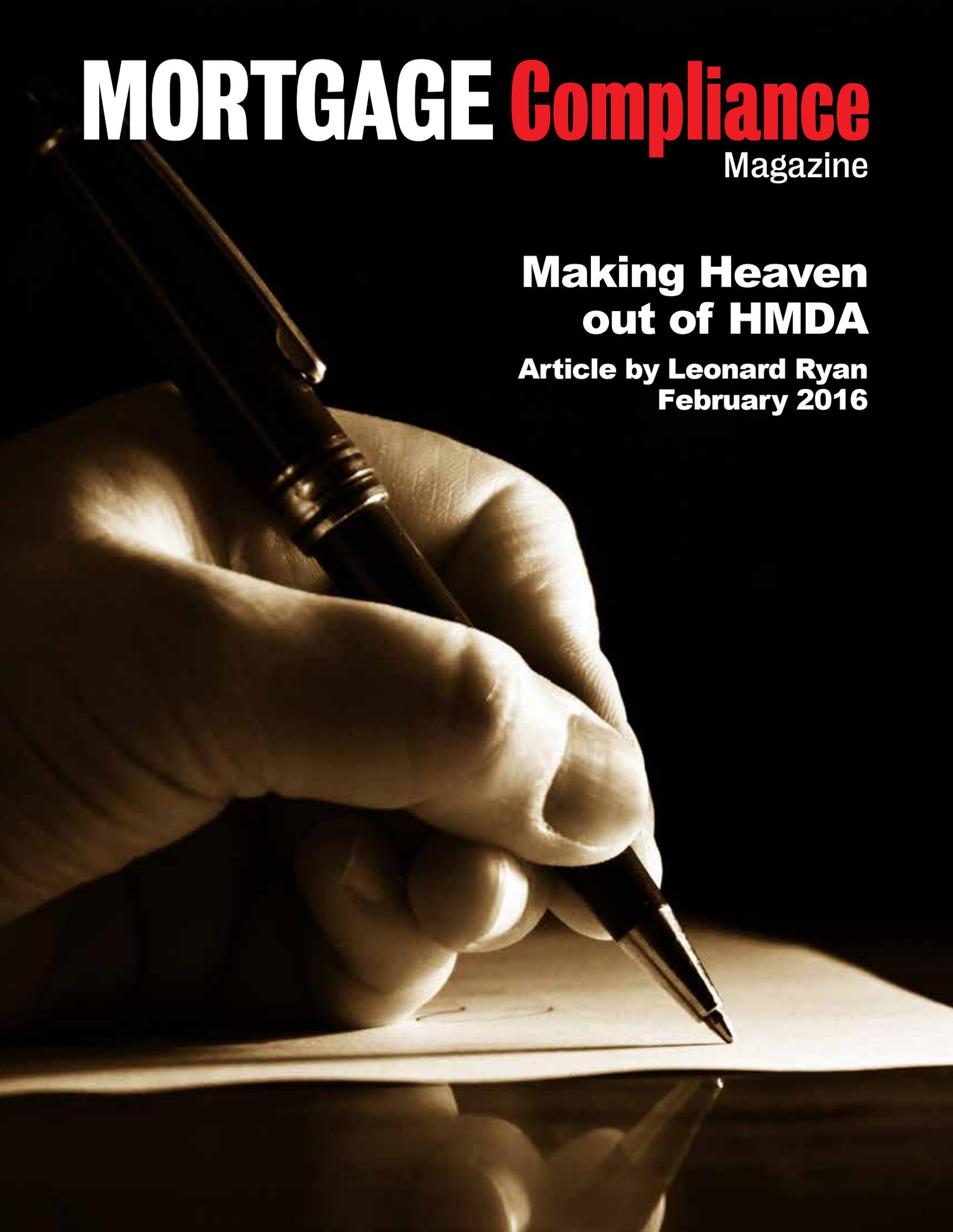


# **MORTGAGE** **Compliance** Magazine

## **Making Heaven out of HMDA**

**Article by Leonard Ryan  
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# MAKING HEAVEN OUT OF HMDA

BY LEONARD RYAN



Leonard Ryan

**The good news is the CFPB extended the implementation start date for the new CFPB HMDA rules to January 2018. However, this does not mean there is rest for the battle-weary compliance officer.**

Last October, I penned an article for this publication titled, “Something HMDA This Way Comes.” The column was a primer of things to come based on the proposed changes to the Home Mortgage Disclosure Act (HMDA) and personal knowledge of HMDA hearings conducted in 2010. Since that time, the official rule has been published, and TRID has become the disclosure law of the land.

The good news is the Consumer Financial Protection Bureau (CFPB or bureau) has found it in their heart to extend the implementation start date for the new CFPB HMDA rules to January 2018. However, this does not mean there is rest for the battle-weary compliance officer.

## HMDA IN A POST-TRID WORLD

While TRID is still fresh on everyone’s minds, it’s important not to take your eye off of the ball as you prepare for present day HMDA. Lenders report that HMDA

anxiety for the 2015 submission year has increased substantially because of the focus on implementing TRID. For the past year, HMDA was placed on the backburner as TRID issues became front and center. As a result, many institutions are playing catch-up for the March 1 submission deadline. So, the immediate HMDA task at hand is to submit an accurate filing for your year 2015 data before you concern yourself with the new requirements, which are not part of this (or next) year’s submission.

If you haven’t yet submitted your 2015 data, here is a quick overview of common issues:

1. Don’t confuse the rules – There are no new fields in HMDA for two more years. Forget about the new CFPB HMDA fields and concentrate on the immediate task at hand until you have submitted accurate 2015 data.

2. Don't fudge on your filing – HMDA is very serious business with substantial fines and fair lending implications. Don't cut corners on filing. Also check for loans stored in multiple locations or on multiple software applications (HMDA loans on commercial and consumer software).
3. Know what qualifies as a Prequalification vs. Application – If your company does not have a written bright line as to when a prequalification for a loan becomes a loan application, establish it, document it, and live it without exception. Companies that get fined are the ones that cherry-pick how a loan gets reported for HMDA. Also, HMDA does not use the new TRID six-field disclosure rules and can be far more liberal in its application to your company—so don't fall into the TRID trap on the issue of applications.
4. Unreported rate spreads – Second home reporting is usually where companies get tripped up when it comes to reporting rate spreads.
5. The 2015 Mid-Year Geocoding Switch – This is a problem with selecting census tracts to match your regulator rather than embracing accuracy. The Federal Financial Institutions Examination Council (FFIEC) site changed its geocoding vendor mid-year in 2015 and also switched the line files used to draw boundaries on their maps. Suddenly, tens of thousands of properties were adjusted to a different census tract. Did these properties just get up and move their foundations to a new census tract? Of course not. It was the methodology of the process, such as accounting for the earth's curvature, accuracy of the census tract boundary lines, and quality of postal address data that changed.
6. Pay attention to the big picture before you submit – Your data has serious implications for your company. Look at summary data before you submit to ensure the data submitted matches your loan origination software and that nothing sticks out that shouldn't.
7. Improper accuracy on "resurrected" loans – If you sent a statement of credit denial and the borrower comes back two months later with a stable job, it should be treated as a new loan—and you should report two loans (one a success and one a denial for lack of income).
8. Income Set to NA – Make sure that any loans reporting NA income are true FHA Streamline refinances or otherwise valid. In the post-Qualified Mortgage (QM) world, there are very few applications that should have no income reported.

**CFPB HMDA: Planning the Next Two Years**

Most institutions will be unaffected by CFPB HMDA until January 1, 2018, the first official date of the new CFPB HMDA expanded data collection rules. Even then, the first submission date will fall on March 1, 2019. Therefore, the key things to focus on during this period are your data collection systems and improvement of your internal processes.

There are no changes in HMDA rules for 2016 (due March 2017). The Federal Reserve Board is going to continue to collect the HMDA data until the new rules go into effect. During this period, it would be wise to begin to add the new fields to your data scrubbing process. Though the CFPB will not collect this expanded data, there are no reasons that state or federal regulators such as the Office of the Comptroller of the Currency (OCC) might not request this new data as part of a fair lending audit. These agencies already collect "HMDA Plus" data that contain some of these fields today.

There is one piece of good news for 2017 if you are a small volume lender: Lenders who have fewer than 25 closed end loans OR fewer than 100 open end loans (such as HELOCS) will be phased out of the HMDA collection requirements beginning January 1, 2017.

My biggest piece of advice during this planning stage is not to panic or buy into the hype. There is ▶

If you manually coded loans early in 2015 using the FFIEC site, unless you have printed documentation in your file, an examiner may consider your data incorrect. If you are relying on automation, make sure your vendor is focused on accuracy over matching a regulator because just like last year, you never know when the regulator's software will be enhanced and change their definition of a correct tract.

an entire cottage industry of lawyers and consultants that began seeing dollar signs when this rule was announced. Some sell protection plans. Some predict HMDA Armageddon. Plan, YES! Panic, NO!

### **DON'T EXPECT A LOT FROM YOUR VENDORS UNTIL 2017**

My company is a HMDA preparation company, and we expected that CFPB HMDA would be implemented in nine months to a year after the final rule was released. When it was announced with a 21-month implementation window, our company reassessed our software release timelines.

The resources on the CFPB website are colorful and easy to read, for the most part. There is one glaring omission, however. The CFPB has indicated to me that the data field dictionary and enumerations (the entries like 1=Purchase, 2=Refi) will likely not be available until late 2016. This means your vendors will have really only one year to implement the services instead of two. We as vendors can make educated guesses as to the fields and values based on the final rule, but there is a high probability they will change. Therefore, most LOS vendors will make sure they plan for adding or adjusting their fields, but will not begin programming them until the CFPB releases the final technical specifications for submission of the data.

That said, there will be companies on the HMDA preparation side that will begin the process of transitioning their systems into CFPB HMDA collection programs as early as this summer.

### **CFPB HMDA = INSTANT INSTITUTIONAL DEATH FOR LENDERS NOT TAKING IT SERIOUSLY**

Make no mistake: When the new CFPB HMDA goes into effect, if you have not implemented systems to perform data scrubbing for about 30 new fields, your institution will end up being flagged within minutes of submission. This is because CFPB HMDA is fully automated fair lending and not just traditional HMDA. Fields such as Age, Credit Score, AUS Scoring, Lending Channel (retail, wholesale, etc.), DTI, LTV, Full Loan Term, and more are all part of the mandatory reporting under CFPB HMDA.

When these fields are stacked next to your peers

and competitors, it will become instantly clear who the regulators should put on their target list. Today's HMDA is difficult for most institutions. Imagine what it will be like when you have to ensure that twice the data fields are accurate. The potential for fines and penalties will have grown tenfold.

### **THE NEW CFPB HMDA FIELDS**

There are both new fields and modified fields once the new CFPB HMDA data collection starts in January, 2018.

The NEW data fields are:

1. Property Address – In addition to geocoding, you will need to send over the entire property address. This will be problematic with loans that are denied or cancelled early, so you will need to ensure addresses are captured accurately at the time of application.
2. Age
3. Credit Score
4. Credit Score Provider
5. Credit Provider Model Version
6. Total Loan Costs (total points and fees charged)
7. Origination Charges (total borrower paid origination charges)
8. Discount Points (points paid to lower the interest rate)
9. Lender Credits
10. Interest Rate
11. Prepayment Penalty Term
12. Total DTI (ratio of all debt to all income used to approve the loan)
13. CLTV (total amount of debt secured on the property compared to value)
14. Loan Term (months)
15. Introductory Rate Period
16. Non-Amortizing Features (balloon, IO, negative amortization, etc.)
17. Property Value (the number you used — appraised value, purchase price or something else)
18. Manufactured Home
19. Manufactured Home Land Interest (own land, lease land, etc.)
20. Total Units
21. Multifamily Affordable Units – think Fair Lending and low income housing quotas

22. Lending Channel (Retail, Wholesale, Correspondent, etc.)
23. Mortgage Loan Originator NMLS ID
24. AUS System
25. AUS Result
26. Reverse Mortgage Flag
27. Open-End Line of Credit – all HELOCS are mandatory to report, not optional
28. Business or Commercial Purpose

As you can see, the new HMDA data fields are mostly Fair Lending fields combined with a new universal loan identifier to track the lenders, investors, and NMLS IDs for anywhere the loan is ever sold.

### ONE YEAR VERSUS TWO YEARS

The best initial explanation for scheduling the new HMDA rules out a full two years before implementation is that the bureau received highly negative feedback from lenders and vendors over the implementation times for QM and TRID, and they wanted to allow plenty of time for HMDA implementation.

However, I don't believe this is the only concern the bureau has heading into the new HMDA. From reading through the 797-page Final Rule, you get the sense that the CFPB was analyzing data in terms of MISMO data standards, internal efficiency improvements, and overall quality control. It seems the lessons from less than stellar previous regulatory rollouts have finally caught up to the bureau. With the urging of lenders and vendors alike, they are allowing more time for feedback to ensure a smoother transition.

I also believe there was one more concern that pushed this out to a second year. The new requirement for mandatory HELOC and open end loan reporting caused significant technological concerns during the evaluation process. This is due to the fact that many HELOCS are originated on consumer loan platforms that do not have Government Monitoring Information (GMI—race, sex, and ethnicity) fields as part of their data collection. Because HELOCS are optional reporting under the current rules, the banks merely would not report them. Now these systems along with Private Lending plat-

forms (Hard Money) need to be upgraded to begin collection of these fields.

### WHAT'S THE PROPER PATH TO GET TO HMDA HEAVEN?

The following guideless will ensure that your institution has a smooth transition to the new rules:

- Don't Panic! (As long as you start implementing your plan by this summer, you should be fine.)
- Don't pressure your LOS vendors until January 2017. They are waiting for the CFPB to issue their final specifications.
- Improve your data collection practices with the new CFPB HMDA fields. You are collecting almost all of the new data fields today as part of your normal loan processes. There is little new information to gather.
- Analyze where you have HMDA and Fair Lending data collection mistakes and determine corrective action for increased accuracy. Begin a planned rollout of improvements so that when it really counts, your lending operation is a well-oiled data collection machine.
- Think Fair Lending and not just HMDA. HMDA and Fair Lending will be synonymous when the CFPB HMDA rule go into effect. Most of these fields are regularly provided to an examiner today if they wish to perform a detailed Fair Lending analysis. As long as your internal systems are in place and your data is accurate, you won't have a problem. 

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