lives affect consumers' ability to successfully obtain and use card credit?

(e) The Safety and Soundness of Credit Card Issuers

How is the credit cycle evolving? What, if any, safety and soundness risks are present or growing in this market, and which entities are disproportionately affected by these risks? How, if at all, do these safety and soundness risks to entities relate to long-term indebtedness on the part of some consumers, or changes in consumers' ability to manage their debts? Has the impact of the CARD Act on safety and soundness changed over the past two years?

(f) The Use of Risk-Based Pricing for Consumer Credit Cards

How has the use of risk-based pricing for consumer credit cards changed since the Bureau reported on the credit card market in 2017? What has driven those changes or lack of changes? Has the impact of the CARD Act on risk-based pricing changed over the past two years?

How have CARD Act provisions relating to risk-based pricing impacted (positively or negatively) the evolution of practices in this market?

(g) Consumer Credit Card Product Innovation

How has credit card product innovation changed since the Bureau reported on the credit card market in 2017? What has driven those changes or lack of changes? Has the impact of the CARD Act on product innovation changed over the past two years?

How have broader innovations in finance, such as (but not limited to) new products and entrants, evolving digital tools, greater availability of and new applications for consumer data, and new technological tools (like machine learning), impacted the consumer credit card market, either directly or indirectly? In what ways do CARD Act provisions encourage or discourage innovation? In what ways do innovations increase or decrease the impact of certain CARD Act provisions, or change the nature of those impacts?

Dated: December 21, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019–00487 Filed 1–30–19; 8:45 am]

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BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2017–0025]

Disclosure of Loan-Level HMDA Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final policy guidance.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing final policy guidance describing modifications that the Bureau intends to apply to the loan-level data that financial institutions report under the Home Mortgage Disclosure Act (HMDA) and Regulation C before the data is disclosed to the public. This final policy guidance applies to HMDA data compiled by financial institutions in or after 2018 and made available to the public by the Bureau beginning in 2019.

DATES: The Bureau released this final policy guidance on its website on December 21, 2018.

FOR FURTHER INFORMATION CONTACT: Benjamin Cady and David Jacobs, Counsels; Laura Stack, Senior Counsel, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/*. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary

HMDA requires certain financial institutions to collect, report, and disclose data about their mortgage lending activity. HMDA is implemented by Regulation C, 12 CFR part 1003. In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended HMDA and transferred HMDA rulemaking authority and other functions from the Board of Governors of the Federal Reserve System (Board) to the Bureau. Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA and authorized the Bureau to require by rule financial institutions to collect, report, and disclose additional information. In 2015, the Bureau published a final rule amending Regulation C (2015 HMDA Final Rule) to implement the Dodd-Frank Act amendments to HMDA and make other changes, including adding a number of new data points. Most provisions of the 2015 HMDA Final Rule took effect on January 1, 2018, and apply to data financial institutions collect beginning in 2018 and report beginning in 2019. With respect to the public disclosure of HMDA data, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. On September 25, 2017, the Bureau published proposed policy guidance that described the Bureau's balancing test and how the Bureau proposed to apply it to the loan-level HMDA data made available to the public.[1]

After considering the comments the Bureau received on the proposal, the Bureau is publishing this final policy guidance describing the loan-level HMDA data it intends to make available to the public, including modifications to be applied to the data. The Bureau intends to make these modifications to data financial institutions collected in 2018 when the Bureau discloses that data in 2019. The Bureau is making these determinations based upon the information currently available to it, including the comments received on the proposal, with respect to the risks and benefits associated with the disclosure of loan-level HMDA data. The Bureau intends to commence a rulemaking in the spring of 2019 that will enable it to identify more definitively modifications to the data that the Bureau determines to be appropriate under the balancing test and incorporate these modifications into a legislative rule. The rulemaking will reconsider the determinations reflected in this final policy guidance based upon the Bureau's experience administering the final policy guidance in 2019 and on a new rulemaking record, including data concerning the privacy risks posed by the disclosure of the HMDA data and the benefits of such disclosure in light of HMDA's purposes.

In developing this final policy guidance, the Bureau consulted with the prudential regulators (the Board, the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC)); the Department of Housing and Urban Development (HUD); and the Federal Housing Finance Agency (FHFA).

For the reasons described below and in the proposed policy guidance,[2] the Bureau is modifying its proposed policy guidance to change the proposed

[1] Disclosure of Loan-Level HMDA Data, 82 FR 44586 (Sept. 25, 2017) (hereinafter Proposed Policy Guidance).

[2] *See id.* at 44596–44610.

treatment of the following data fields: (1) The ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision; (2) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan; and (3) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, that are income-restricted pursuant to Federal, State, or local affordable housing programs.

Pursuant to this final policy guidance, the Bureau intends to disclose loan-level HMDA data reported under Regulation C with the following modifications to the data: First, the Bureau intends to modify the public loan-level HMDA data to exclude: (1) The universal loan identifier or non-universal loan identifier; (2) the date the application was received or the date shown on the application form; (3) the date of action taken by the financial institution on a covered loan or application; (4) the address of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan; (5) the credit score or scores relied on in making the credit decision; (6) the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator; and (7) the result generated by the automated underwriting system used by the financial institution to evaluate the application. The Bureau also intends to exclude free-form text fields used to report the following data: (1) Applicant or borrower race; (2) applicant or borrower ethnicity; (3) the name and version of the credit scoring model used; (4) the principal reason or reasons the financial institution denied the application, if applicable; and (5) the automated underwriting system name.

Second, the Bureau intends to modify the public loan-level HMDA data to reduce the precision of most of the values reported for the following data fields. With respect to the amount of the loan or the amount applied for, the Bureau intends to disclose the midpoint for the $10,000 interval into which the reported value falls. The Bureau also intends to indicate whether the reported value exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination, as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2). With respect to the age of an applicant or borrower, the Bureau intends to bin reported values into the following ranges: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74; bottom-code reported values under 25; top-code reported values over 74; and indicate whether the reported value is 62 or higher.[3] With respect to the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision, the Bureau intends to disclose without modification reported values greater than or equal to 36 percent and less than 50 percent. The Bureau also intends to bin reported values into the following ranges: 20 percent to less than 30 percent; 30 percent to less than 36 percent; and 50 percent to less than 60 percent; bottom-code reported values under 20 percent; and top-code reported values of 60 percent or higher. With respect to the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, the Bureau intends to disclose the midpoint for the $10,000 interval into which the reported value falls. With respect to the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, the Bureau intends to bin reported values into the following ranges: 5 to 24; 25 to 49; 50 to 99; 100 to 149; and 150 and over. And with respect to the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, that are income-restricted pursuant to Federal, State, or local affordable housing programs, the Bureau intends to disclose reported values as a percentage, rounded to the nearest whole number, of the value reported for the total number of individual dwelling units related to the property securing the covered loan.

This final policy guidance is exempt from notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553(b), and is non-binding. As previously noted, the Bureau believes that it is beneficial to commence a separate notice and comment legislative rulemaking under the APA to consider and adopt a more definitive approach to disclosing HMDA data to the public in future years. The Bureau will commence such a rulemaking in May 2019.

[3] Binning, sometimes known as recoding or interval recoding, allows data to be shown clustered into ranges rather than as precise values. Top- and bottom-coding mask any value that is above or below a certain threshold.

II. Background

A. HMDA's Purposes and the Public Disclosure of HMDA Data

HMDA requires certain financial institutions to collect, report, and disclose data about their mortgage lending activity. The home mortgage market is the country's largest market for consumer financial products and services, with $10 trillion in mortgage debt outstanding.[4] Homeownership is a critical source of wealth-building for families and communities. As of 2016, 48 million consumers had a mortgage, representing 64 percent of all owner-occupied homes.[5]

HMDA is implemented by Regulation C, 12 CFR part 1003. HMDA identifies its purposes as providing the public and public officials with sufficient information to enable them to determine whether financial institutions are serving the housing needs of the communities in which they are located, and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.[6] In 1989, following amendments to HMDA, the Board recognized a third HMDA purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, which now appears with HMDA's other purposes in Regulation C.[7] Today, HMDA data are the preeminent data source that regulators, researchers, economists, industry, and advocates use to achieve HMDA's purposes and to analyze the mortgage market.

Public disclosure of HMDA data is central to the achievement of HMDA's purposes. Since HMDA's enactment in 1975, the data that financial institutions are required to disclose under HMDA and Regulation C have been expanded; public access to HMDA data has increased; and the formats in which HMDA data have been disclosed have evolved. As enacted and implemented

[4] FRED Economic Data, ''Mortgage Debt Outstanding by Type of Property: One- to Four-Family Residences (MDOTP1T4FR),'' Fed. Res. Bank of St. Louis, Bd. of Govs. of the Fed. Res. Sys., *https://fred.stlouisfed.org/series/MDOTP1T4FR* (last updated Sept. 24, 2018).

[5] U.S. Census Bureau, ''Selected Housing Characteristics: 2012–2016 American Community Survey 5-Year Estimates,'' *https://factfinder.census.gov/bkmk/table/1.0/en/ACS/16_5YR/DP04/0100000US* (last visited Dec. 3, 2018).

[6] 12 U.S.C. 2801(b).

[7] *See* Home Mortgage Disclosure, 54 FR 51356, 51357 (Dec. 15, 1989) (recognizing the purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes in light of the 1989 amendments to HMDA, which mandated the reporting of the race, sex, and income of loan applicants).

in Regulation C, HMDA required covered financial institutions to make available to the public at their home and branch offices a ''disclosure statement'' reflecting aggregates of certain mortgage loan data.[8] In 1980, Congress amended HMDA section 304 to require that the Federal Financial Institutions Examination Council (FFIEC) implement a system to increase public access to the data required to be disclosed under the statute, including a ''central depository of data'' in each metropolitan statistical area (MSA). The 1980 HMDA amendments also required the FFIEC to compile annually, for each MSA, aggregate data by census tract for all financial institutions required to disclose data under HMDA. The 1980 amendments further required the FFIEC to produce tables indicating, for each MSA, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.[9]

In 1989, Congress amended HMDA to require that financial institutions collect, report, and disclose data concerning the race, sex, and income of applicants and borrowers, as well as data on loan applications, in addition to originations and purchases.[10] In implementing these amendments in Regulation C, the Board required financial institutions to report HMDA data to Federal regulators on a loan-by-loan and application-by-application basis using the ''loan/application register'' format.[11] In 1990, the FFIEC issued a notice announcing that it would make all reported HMDA data available to the public in a loan-level format, after deleting three fields to protect applicant and borrower privacy: application or loan number, application date, and action taken date.[12] The FFIEC stated that it believed public disclosure of the reported loan-level HMDA data to be ''consistent with the congressional intent to maximize the utilization of lending data.'' [13] The FFIEC first disclosed the reported loan-level HMDA data to the public in October 1991.

In 1992, Congress amended HMDA to add section 304(j), which required that each financial institution make available to the public its ''loan application register information'' for each year as early as March 31 of the succeeding year, as required under regulations prescribed by the Board.[14] The Board implemented this amendment by requiring that financial institutions make their ''modified'' loan/application registers available to the public after deleting the same three fields deleted from the loan-level HMDA data disclosed by the FFIEC.[15]

B. The Dodd-Frank Act and Amendments to HMDA and Regulation C

In 2010, the Dodd-Frank Act amended HMDA and transferred HMDA rulemaking authority and other functions from the Board to the Bureau.[16] Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA and authorized the Bureau to require by rule financial institutions to collect, report, and disclose additional information. The Dodd-Frank Act amendments to HMDA also added new section 304(h)(1)(E), which directs the Bureau to develop regulations, in consultation with the agencies identified in section 304(h)(2),[17] that ''modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.'' Section 304(h)(3)(B), also added by the Dodd-Frank Act, directs the Bureau to ''prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of [HMDA], in light of the privacy interests of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information . . . in aggregate or other reasonably modified form, in order to effectuate the purposes of [HMDA].'' [18]

On October 28, 2015, the Bureau published the 2015 HMDA Final Rule to implement the Dodd-Frank Act amendments and make other changes, including adding a number of new data points.[19] Most provisions of the 2015 HMDA Final Rule took effect on January 1, 2018, and apply to data financial institutions collect beginning in 2018 and report beginning in 2019. The 2015 HMDA Final Rule addressed the public disclosure of HMDA data in two ways.

First, the 2015 HMDA Final Rule shifted public disclosure of HMDA data entirely to the agencies. Beginning with HMDA data compiled in 2017, financial institutions were no longer required to provide their modified loan/application registers and disclosure statements directly to the public. Instead, they were required only to provide a notice advising members of the public seeking their data that the data may be obtained on the Bureau's website. In addition to reducing burden on financial institutions, this shift of responsibility to the agencies eliminated risks to financial institutions associated with errors in preparing their modified loan/application registers that could result in the unintended disclosure of data. This shift of responsibility also permitted the Bureau to consider modifications to protect applicant and borrower privacy that preserve data utility but that may be burdensome for financial institutions to implement. Finally, this shift of responsibility allowed for easier adjustment of modifications as privacy risks and potential uses of HMDA data evolve.

Second, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted HMDA to require that public HMDA data be modified when the release of the unmodified data creates risks to applicant and borrower privacy

[8] Home Mortgage Disclosure Act of 1975, Public Law 94–200, section 304, 89 Stat. 1124, 1125–28 (Dec. 31, 1975); 12 CFR 203.5(a)(1) (effective June 28, 1976).

[9] Housing and Community Development Act of 1980, Public Law 96–399, section 340, 94 Stat. 1614, 1657–59 (1980).

[10] Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), Public Law 101–73, section 1211, 103 Stat. 183, 524–26 (1989).

[11] 54 FR 51356, 51361 (Dec. 15, 1989).

[12] Home Mortgage Disclosure Act; Disclosure Statements and Aggregate MSA Reports; Availability of Data, 55 FR 27886, 27888 (July 6, 1990).

[13] *Id.*

[14] Housing and Community Development Act, Public Law 102–550, section 932, 106 Stat. 3672, 3889–91 (1992).

[15] 12 CFR 203.5(a)–(e) (effective Mar. 1, 1993).

[16] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1980, 2035–38, 2097–2101 (2010).

[17] These agencies are the prudential regulators—the Board, the FDIC, the NCUA, and the OCC—and HUD. Together with the Bureau, these agencies are referred to herein as ''the agencies.''

[18] Section 304(h)(3)(A) provides that a modification under section 304(h)(1)(E) shall apply to information concerning ''(i) credit score data . . . in a manner that is consistent with the purpose described in paragraph (1)(E); and (ii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.'' 12 U.S.C. 2803(h)(3)(A).

[19] Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015); *see also* Home Mortgage Disclosure (Regulation C), 80 FR 69567 (Nov. 10, 2015) (making technical corrections).

interests that are not justified by the benefits of such release to the public in light of HMDA's statutory purposes.[20] The 2015 HMDA Final Rule's interpretation of HMDA section 304(h)(1)(E) and 304(h)(3)(B) to require a balancing test imposed binding obligations on the Bureau to evaluate the HMDA data, individually and in combination, to assess whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes.

On September 25, 2017, the Bureau published proposed policy guidance that described the Bureau's balancing test and how the Bureau proposed to apply it to the loan-level HMDA data made available to the public beginning in 2019, with respect to data compiled by lenders in or after 2018.[21]

On May 24, 2018, the President signed into law the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which amended HMDA by adding partial exemptions from HMDA's data collection and reporting requirements for certain insured depository institutions and insured credit unions.[22] On September 7, 2018, the Bureau published an interpretive and procedural rule to implement and clarify the EGRRCPA's requirements (2018 HMDA Final Rule).[23] Among other things, the Bureau clarified that institutions covered by a partial exemption have the option of reporting exempt data points as long as they report all data fields that the specific data point comprises. The Bureau also clarified which of the data points in Regulation C are covered by the partial exemptions.[24] The partial exemptions apply beginning with the 2018 HMDA data, which institutions must report to the Bureau by March 1, 2019.

III. The Balancing Test

As noted above, in the 2015 HMDA Final Rule, the Bureau interpreted HMDA to require that public HMDA data be modified when the disclosure of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such disclosure to the public in light of HMDA's purposes. The Bureau included in the proposed policy guidance a detailed description of the balancing test and its proposed application, including the benefits of public disclosure, the risks to applicant and borrower privacy that may be created by public disclosure, and the Bureau's approach to balancing these benefits and risks, including through modifying some of the data to be disclosed.

As described in more detail in the proposal,[25] under the balancing test, the disclosure of the loan-level HMDA dataset creates risks to applicant and borrower privacy interests only where: (1) At least one data field or a combination of data fields substantially facilitates the identification of an applicant or borrower, and (2) at least one data field or combination of data fields discloses information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. At the individual data field level, a field may create ''re-identification risk'' by substantially facilitating the identification of an applicant or borrower in the HMDA data (for example, because it may be used to match a HMDA record to an identified record), or may create ''risk of harm or sensitivity'' by disclosing information about the applicant or borrower that is not otherwise public and may be harmful or sensitive.[26]

Where the public disclosure of the unmodified loan-level HMDA dataset would create risks to applicant and borrower privacy, the balancing test requires that the Bureau consider the benefits of disclosure to HMDA's purposes and, where these benefits do not justify the privacy risks the disclosure would create, modify the dataset to appropriately balance the privacy risks and disclosure benefits. An individual data field is a candidate for potential modification under the balancing test if its disclosure in unmodified form would create a risk of re-identification or a risk of harm or sensitivity.

The Bureau explained in the proposal that, with respect to the HMDA data that financial institutions will report to the agencies under the 2015 HMDA Final Rule, it initially determined public disclosure of the unmodified loan-level dataset, as a whole, would create risks to applicant and borrower privacy interests. The Bureau stated that this was due to the presence in the dataset of individual data fields that the Bureau believed would create re-identification risk and the presence of individual data fields that the Bureau believed are not currently public and would create a risk of harm or sensitivity. The Bureau thus applied the balancing test to determine whether and how it should modify the HMDA data financial institutions must collect and report under the 2015 HMDA Final Rule before it is disclosed to the public. Based on its analysis, the Bureau initially determined it would have to modify the loan-level HMDA data before it disclosed that data to the public. The Bureau also stated it initially determined the modifications to the loan-level HMDA dataset proposed in the proposed policy guidance would reduce risks to applicant and borrower privacy and appropriately balance them with the benefits of disclosure for HMDA's purposes.

For the reasons described below and in the proposed policy guidance,[27] the Bureau is modifying its proposed policy guidance to change the proposed treatment of the following data fields: (1) The ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision (debt-to-income ratio); (2) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan (total units); and (3) the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, that are income-restricted pursuant to Federal, State, or local affordable housing programs (affordable units). The Bureau determines that public disclosure of the unmodified loan-level dataset, as a whole, would create risks to applicant and borrower privacy interests and that the loan-level HMDA data must be modified before the data is disclosed to

[20] 80 FR 66128, 66134 (Oct. 28, 2015).

[21] *See* 82 FR 44586 (Sept. 25, 2017).

[22] Economic Growth, Regulatory Relief, and Consumer Protection Act, Public Law 115–174, section 104(a), 132 Stat. 1296 (2018). The EGRRCPA provided, among other things, that the requirements of HMDA section 304(b)(5) and (6) (which requires collection and reporting of certain data points and provides the Bureau discretion to require additional data points) shall not apply to closed-end mortgage loans of an insured depository institution or insured credit union if the institution originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. The EGRRCPA also included a similar exemption with respect to open-end lines of credit.

[23] Partial Exemptions from the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), 83 FR 45325 (Sept. 7, 2018).

[24] The Bureau interpreted the partial exemption to cover 26 of the 48 HMDA data points, including 12 data points that the Bureau added to Regulation C in the 2015 HMDA Final Rule to implement data points specifically identified in HMDA section 304(b)(5)(A) through (C) or (b)(6)(A) through (I), and 14 data points that were not found in Regulation C prior to the Dodd-Frank Act and that the Bureau required in the 2015 HMDA Final Rule pursuant to its discretionary authority under HMDA sections 304(b)(5)(D) and (b)(6)(J).

[25] *See* 82 FR 44586, 44590 (Sept. 25, 2017).

[26] *See id.* at 44592–95.

[27] *See id. at* 44596–44610.

the public. The Bureau further determines, based on the information currently available to it, that the modifications described in this final policy guidance will reduce risks to applicant and borrower privacy and appropriately balance them with the benefits of disclosure in light of HMDA's purposes. This final policy guidance describes the data the Bureau intends to disclose on each financial institution's modified loan/application register as well as in the combined loan-level data the agencies make available to the public each year.[28]

IV. Comments Received and the Bureau's Responses

The Bureau received 26 comments on the proposed policy guidance. These included general comments on the Bureau's proposal; views on the proposed treatment of particular data fields; and comments on other topics. The majority of the comments received did not address how the Bureau should treat specific data fields, and many comments opposing or expressing concern with the Bureau's proposal did not provide any evidence or analysis in support of their positions.

A. General Comments Concerning the Application of the Balancing Test to Loan-Level HMDA Data

Comments Received

Several industry commenters generally stated that the Bureau's proposal did not sufficiently address the privacy risks posed by the disclosure of HMDA data, but many of these commenters offered little evidence or analysis to support their views or specific suggestions to address their concerns. A few industry commenters stated that the HMDA data the Bureau proposed to disclose would be highly re-identifiable. They also stated that the new data fields required under the 2015 HMDA Final Rule increased this re-identification risk compared to the data publicly disclosed under the disclosure regime adopted by the Board in implementing the 1992 amendments to HMDA (the Board's disclosure regime).[29] A group of industry commenters stated that over 80 percent of loans publicly disclosed under the Board's disclosure regime could be re-identified and that the addition of the new data fields increases the possibility of re-identification to ''virtually 100%.''[30] These commenters also suggested that the amount of HMDA data the Bureau proposed to disclose would create incentives to re-identify the data. Several industry commenters stated that technological advances increase the ease with which public HMDA data can be re-identified. One industry commenter stated that the Bureau had underestimated adversaries'[31] motives to re-identify the HMDA data and that the Bureau's proposal downplayed the risk that an adversary with personal knowledge of an applicant or borrower would re-identify the applicant or borrower in the HMDA data.

A few industry commenters also expressed general concern that, if the HMDA data were re-identified, the data could be used to target what one described as ''predatory'' marketing to applicants and borrowers and to commit financial fraud and identity theft. Two industry commenters suggested that these risks were posed by the data disclosed under the Board's disclosure regime but that the Bureau's proposed disclosure of the new data fields required by the 2015 HMDA Final Rule increased these risks. One industry commenter stated that data the Bureau proposed to disclose could be used for social engineering attacks, such as an adversary posing as a borrower's lender. The commenter also stated that disclosure could undermine lenders' use of fraud detection measures such as authentication questions that rely on a customer's personal knowledge of her financial information. The commenter also stated that data the Bureau proposed to disclose could be used to identify a vacation home for purposes of theft or adverse possession. A group of industry commenters stated that data the Bureau proposed to disclose could be used by an adversary to target older borrowers in particular, and also would allow the public to form a very accurate estimate of consumers' creditworthiness. A few industry commenters expressed general concern that the Bureau proposed to disclose data consumers would consider sensitive or would like or expect to remain private. One industry commenter suggested that lenders would be subject to ''increased litigation'' if HMDA data disclosed by the Bureau were used for criminal purposes.

With respect to disclosure benefits, a few industry commenters stated that public disclosure of the HMDA data, and in particular the new data required to be reported under the 2015 HMDA Final Rule, would not further HMDA's purposes. One industry commenter suggested that regulator access to HMDA data alone would be sufficient to accomplish HMDA's goals. This commenter and another industry commenter also stated that the data disclosed to the public under the Board's disclosure regime are sufficient to allow the public to achieve HMDA's goals. Another industry commenter suggested that the Bureau should publicly disclose limited data at first, and then later determine whether the information disclosed is sufficient to allow the public to achieve HMDA's purposes. None of these commenters specifically addressed the benefits of the data's public disclosure to HMDA's purposes identified in the proposal.

Two industry commenters addressed the balancing of privacy risks and disclosure benefits. One industry commenter stated that if there is ''any chance'' that HMDA data could be used for criminal purposes, the benefits of disclosure could not outweigh the privacy risks created by disclosure. Another industry commenter suggested that the balancing test requires the Bureau to modify the data to the point that re-identification risk is ''remote,'' although the commenter did not elaborate on what that term means or

[28] As described below in part IV.B and C, the Bureau will not include on the modified loan/application registers (1) an indication of whether the reported loan amount exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2) or (2) information about the MSA or Metropolitan Division in which the property securing or proposed to secure the loan is located. This information will be included in the annual loan-level disclosure of all reported HMDA data combined.

[29] 12 CFR 203.5(c) (effective Mar. 1, 1993) (identifying the data a financial institution must delete from its modified loan/application register prior to making it available to the public).

[30] These commenters cited a 2017 research paper in support of their statement that attaching a borrower's name and address to a HMDA record can be achieved in over 80 percent of cases. *See* Anthony Yezer, ''Personal Privacy of HMDA in a World of Big Data,'' at 4 (Geo. Wash. U., Inst. for Int'l Econ. Policy, Working Paper No. IIEP–WP–2017–21, 2017). In this paper, the author states that, in a particular census tract that he identified as presenting low re-identification risk compared to others in the same county, he was able to re-identify 72 percent of borrowers with loans by the same lender by matching the 2014 public HMDA data to public records. *Id.* at 14–16. He also describes several projects in which academic and government researchers matched HMDA data to other data sources—some to private datasets, others to public records—and achieved up to a 75 percent match rate. *Id.* at 11–14. It is unclear which research supports the author's claim that re-identification of HMDA data disclosed under the Board's disclosure regime ''can be achieved in over 80% of cases.'' *Id.* at 3.

[31] The Bureau used the term ''adversary'' in the proposed policy guidance to refer to persons that may attempt to re-identify the HMDA data. *See, e.g.,* Nat'l Inst. of Standards & Tech., ''De-Identification of Personal Information (2015),'' *available at http://nvlpubs.nist.gov/nistpubs/ir/2015/NIST.IR.8053.pdf* (using ''adversary'' to refer to an entity attempting to re-identify data).

what would need to be shown to meet it.

A few industry commenters recommended that the Bureau disclose the new data required under the 2015 HMDA Final Rule only in aggregate form, and one industry commenter stated that the Bureau should not disclose the new data to the public at all. Another industry commenter suggested that the Bureau disclose all HMDA data, including data publicly disclosed under the Board's disclosure regime, in aggregate form only.

Several commenters generally supported the Bureau's proposal. These commenters generally agreed with the Bureau's assessment and proposed balancing of privacy risks and disclosure benefits, although almost all of these commenters disagreed with the proposal's treatment of a few specific fields and advocated for greater disclosure, as discussed below in part IV.B. A group of consumer advocate commenters emphasized that loan-level HMDA data have long been publicly disclosed without any evidence the data has been used to harm applicants and borrowers. These commenters asserted that industry commenters' claims about re-identification risk failed to account for the Bureau's proposed modifications and stated that the HMDA data the Bureau proposed to disclose would be unlikely to be used to engage in identity theft. These commenters also provided detailed descriptions of the benefits of public disclosure of HMDA data to HMDA's purposes. An industry commenter described HMDA data as a critical source of information for the public to understand the mortgage market and to analyze the impact of public policies on communities and borrowers. This industry commenter supported the expansion of the data under the 2015 HMDA Final Rule and the Bureau's proposal to disclose much of the new data. Another industry commenter similarly stated that much of the new data required to be reported under the 2015 HMDA Final Rule is vital to accurate and complete fair lending analyses and to understanding the housing needs of communities. An individual commenter also expressed support for the public availability of HMDA data, noting in particular the usefulness of the data to identify what the commenter described as ''predatory'' lending.

Bureau Response

For the reasons described below, the Bureau determines that none of the general comments it received provide a sufficient basis to make changes to the proposed policy guidance. On the other hand, as explained below in part IV.B, the Bureau determines that some specific comments it received about particular data fields provide an adequate basis to make changes to the proposed treatment of these fields.

HMDA is a disclosure statute; public disclosure of HMDA data is central to the achievement of HMDA's goals.[32] The Bureau acknowledges, as it did in the proposal, that the modifications it intends to apply to the loan-level HMDA data disclosed to the public will not completely eliminate privacy risks. Nevertheless, the Bureau determines that, to the extent disclosure creates risks to applicant and borrower privacy, such risks are justified by the benefits of such release to the public in light of HMDA's purposes.

The public loan-level HMDA data have always displayed a high level of record uniqueness and included fields that are also found in identified public records.[33] The Bureau believes that some degree of re-identification risk in connection with the public disclosure of the data is acceptable because HMDA requires the Bureau to consider not only the risk posed by disclosure, but also the benefits of disclosure to HMDA's purposes. The Bureau does not believe that HMDA permits it to modify data based solely on the existence of a ''chance'' that HMDA data could be used for harmful purposes, as suggested by one industry commenter, without considering such risk in light of the benefits of disclosure to HMDA's purposes. Similarly, the Bureau believes it would be inconsistent with HMDA to modify the public data to the point that re-identification risk is ''remote,'' as suggested by another industry commenter, instead of to the point that any privacy risk created by the disclosure is justified by the benefits of the data to HMDA's purposes.

Under the final policy guidance, the Bureau intends to modify every new field required under the 2015 HMDA Final Rule that it has identified as likely to substantially facilitate the re-identification of an applicant or borrower. The Bureau is also making changes to the proposal concerning specific data fields where commenters pointed out that the proposal would have left unmodified data that would substantially facilitate re-identification. Further, the Bureau intends to significantly reduce the precision of loan amount in the public data.[34] Loan amount is a field that was required to be reported prior to the 2015 HMDA Final Rule and that the Bureau believes to be a significant contributor to re-identification risk in the HMDA data.

The Bureau has carefully considered the risk that a potential adversary, such as an applicant's or borrower's neighbor or acquaintance, may be able to re-identify the HMDA data by relying on personal knowledge about the applicant or borrower. As discussed in more detail in the proposal,[35] although the Bureau believes that location and demographic information may be more likely to be known than other information in the HMDA data, it is impossible to determine the exact content of any pre-existing personal knowledge such a potential adversary may possess. None of the comments provided any basis for the Bureau to make reliable predictions as to what this knowledge would be.

[32] *See* 12 U.S.C. 2801(b) (''The purpose of this chapter *is to provide the citizens and public officials of the United States with sufficient information*'' to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment) (emphasis added); 12 CFR 1003.1 (''This part implements the Home Mortgage Disclosure Act, *which is intended to provide the public with loan data* that can be used:'' to help determine whether financial institutions are serving the housing needs of their communities; to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes) (emphasis added).

[33] In 2005, researchers at the Board found that ''[m]ore than 90 percent of the loan records in a given year's HMDA data are unique—that is, an individual lender reported only one loan in a given census tract for a specific loan amount.'' Robert B. Avery et al., ''New Information Reported under HMDA and Its Application in Fair Lending Enforcement,'' at 367, Fed. Res. Bull. (Summer 2005), *available at http://www.federalreserve.gov/pubs/bulletin/2005/3-05hmda.pdf.* In the 2017 paper cited by a group of industry commenters, the author described the high record uniqueness observed in the 2014 public HMDA data for a particular county and stated that, in a census tract that he identified as presenting low re-identification risk compared to others in the county, he was able to re-identify 72 percent of borrowers with loans by the same lender by matching the public HMDA data to public records. *See* Yezer, *supra* note 30, at 14–16.

[34] Prior to the 2015 HMDA Final Rule, loan amount was reported rounded to the nearest thousand. Under the Board's disclosure regime, this field was disclosed to the public without modification. Consistent with its proposal and as discussed in part IV.B below, under the final policy guidance the Bureau intends to disclose loan amount binned in $10,000 intervals.

[35] *See* 82 FR 44586, 44594 (Sept. 25, 2017). The Bureau noted that, to the extent that disclosure of census tract and demographic information such as ethnicity and race would create risk to applicant and borrower privacy, it believed the risks would be justified by the benefits of disclosure. *Id.* at 44598. As discussed in part IV.B, two industry commenters opposed the proposal to disclose without modification census tract. No commenter opposed the proposal to disclose without modification race and ethnicity.

This uncertainty creates challenges for evaluating the degree to which individual data fields contribute to the risk of re-identification by such a potential adversary. The Bureau initially determined that, because the pre-existing personal knowledge possessed by such a potential adversary is typically limited to information about a single individual, or a small number of individuals, any re-identification attempt by such a potential adversary would likely target or affect a limited number of individuals.[36] No commenter disputed this statement, much less rebutted it with data or analysis.

The Bureau concludes, based on the information currently available to it, that the HMDA data it intends to disclose under this final policy guidance will be of minimal value to an adversary seeking to perpetrate identity theft or financial fraud against applicants and borrowers or to engage in other unlawful conduct.[37] Specifically, as noted in the proposal, the HMDA data do not include information typically required to open new accounts in a consumer's name, such as Social Security number, date of birth, place of birth, passport number, or driver's license number, nor do they include information useful to perpetrate existing account fraud, such as account numbers or passwords. Although an adversary might try to use almost any information relating to an individual to steal her identity or commit fraud against her, the Bureau concludes that disclosure of HMDA data would be unlikely to increase the information already publicly available that an adversary could exploit for these purposes. For example, the public HMDA data will include the name of the financial institution and other details about the loan terms that could be used in a social engineering attack against a borrower by a perpetrator pretending to be the financial institution or against a financial institution by a perpetrator pretending to be the borrower. However, these and other data that could be used for this purpose are often already publicly available—in identified form—in real estate transaction records.

The Bureau determines that an individual seeking to rob or adversely possess a property would be unlikely to undertake the effort required to re-identify public HMDA data to determine whether such a property is a vacation home, as suggested by an industry commenter. With respect to the industry commenter that expressed concern that lenders would be subject to increased litigation in the event public HMDA data was used for criminal purposes, as noted above, the Bureau concludes that it is unlikely the public HMDA data would be used for criminal purposes. Even if the data were used for such purposes, the Bureau is unable to identify a basis for lender liability under such a circumstance, and the commenter did not describe how such increased litigation would arise.

The Bureau acknowledges that, if the public HMDA data were re-identified, that is, if an adversary were to link an identified individual to his or her HMDA data, certain fields would reveal information about an applicant's or borrower's creditworthiness. However, information about applicant and borrower creditworthiness is important to HMDA's purposes. For example, this information assists in identifying possible discriminatory lending patterns by helping ensure that users are comparing applicants and borrowers with similar profiles, thereby controlling for factors that might provide non-discriminatory explanations for disparities in credit and pricing decisions. As explained below, despite the opposition of many commenters, the Bureau is issuing final policy guidance that excludes from the public HMDA data credit score, which is the field that would reveal the most about an applicant's or borrower's creditworthiness.

The Bureau described and analyzed potential adversaries' incentives to re-identify public HMDA data in the proposed policy guidance.[38] Even though some adversaries may have such incentives and loan-level HMDA data has been made available to the public since 1991, the Bureau is unaware of any instances of re-identification of the data for harmful purposes. Commenters provided no evidence of such re-identification. In the 2017 paper cited by a group of industry commenters, the author states that, using the 2014 public HMDA data, he re-identified 72 percent of borrowers with loans by the same lender in a particular census tract by matching the data to public records, but it appears that this exercise was undertaken solely to demonstrate that such matching can be done.[39] Also in this paper, the author points to several projects in which academic and government researchers matched HMDA data to other data sources—some to private datasets, others to public records—for purposes of research related to mortgage lending.[40] It is not clear from several of the resulting papers whether the researchers used public HMDA data to perform the matching (at least one appears to have relied on nonpublic HMDA data), but, in any event, it appears that in none of these instances were the HMDA data matched to other data sources for purposes of re-identifying borrowers, let alone for purposes of harming consumers. The Bureau concludes the modifications it intends to apply to the public HMDA data under the final policy guidance will minimize the attractiveness of the HMDA data for harmful purposes, and so will reduce any incentives for adversaries to re-identify the data.[41]

In 2015, the Bureau determined that public disclosure of the new HMDA data required under the 2015 HMDA Final Rule would further the purposes of HMDA. As noted above, the statute and Regulation C are clear that HMDA's purpose is the provision of data to the public and public officials in furtherance of HMDA's goals. Congress itself determined that many of the new data should be collected and reported to further HMDA's purposes, and the Bureau determined in the rulemaking resulting in the 2015 HMDA Final Rule that each of the new HMDA data fields it added using its discretionary authority furthers HMDA's goals. Several commenters described how the new HMDA data furthers HMDA's purposes, and no commenters provided analysis or data to support the general statement made by a few commenters that the public disclosure of HMDA data does not further the statute's purposes. For purposes of this final policy guidance, the Bureau takes as given the determinations made in the 2015 HMDA Final Rule, but the Bureau has stated that it may reconsider these determinations with respect to some or all of the discretionary fields through a new legislative rulemaking.

Finally, the Bureau declines to exclude from the public data or disclose only in aggregate form all HMDA data or all new data required to be reported under the 2015 HMDA Final Rule, as suggested by several commenters. As noted, HMDA is a disclosure statute. It requires that HMDA data is made

[36] *Id.* at 44594.

[37] Indeed, as noted in the proposal, the Bureau believes that the data would be of minimal use for such purposes even without modification. *Id.* at 44595.

[38] *See id.* at 44593–95.

[39] Yezer, *supra* note 30, at 14–16.

[40] *Id.* at 11–14.

[41] For example, the Bureau believes that low credit scores and high debt-to-income ratios may provide information about a borrower's financial condition that may suggest vulnerability to scams relating to debt relief or credit repair. The final policy guidance will exclude credit score from the public HMDA data and will top-code debt-to-income ratio to protect very high ratios.

available to the public except as the Bureau determines necessary to protect applicant and borrower privacy interests. The Bureau interprets its obligation under the statute to permit modification of the data made available to the public only where the privacy risk such disclosure would pose would not be justified by the benefits of such disclosure in light of HMDA's purposes. Under the balancing test, excluding from public disclosure or disclosing only in aggregate form all HMDA data or all new HMDA data would require the Bureau to determine that the loan-level disclosure of each individual data field creates privacy risks that are not justified by the benefits of disclosure to HMDA's purposes and that the only modification available to appropriately balance the risks and benefits is exclusion from the public data. However, for the reasons discussed in the proposal,[42] the Bureau determines that most of the HMDA data create low, if any, privacy risk—they neither substantially facilitate re-identification nor do they create a risk of harm or sensitivity—and that any risks are justified by the benefits in light of HMDA's purposes. Except with respect to total units and affordable units, discussed below in part IV.B, none of the comments provided any information that casts doubt on this conclusion. Therefore, the Bureau concludes that excluding all HMDA data or all new HMDA data would be inconsistent with the statute and the balancing test, which the Bureau has by law bound itself to use to make disclosure determinations.

B. Comments Concerning the Proposed Treatment of Specific Data Fields Under the Balancing Test

Data To Be Disclosed Without Modification

The Bureau proposed to publicly disclose the following data fields as reported, without modification: [43]

- The following information about applicants, borrowers, and the underwriting process: Income, sex, race, ethnicity, name and version of the credit scoring model, reasons for denial, and automated underwriting system (AUS) name.[44]
- The following information about the property securing the loan: State, county, census tract, occupancy type, construction method, manufactured housing secured property type, manufactured housing land property interest, total units, and affordable units.
- The following information about the application or loan: Loan term, loan type, loan purpose, whether the application was submitted directly to the financial institution, whether the loan was initially payable to the financial institution, whether a preapproval was requested, action taken, type of purchaser, lien status, prepayment penalty term, introductory rate period, interest rate, rate spread, total loan costs or total points and fees, origination charges, total discount points, lender credits, whether the loan was a high-cost mortgage under the Home Ownership and Equity Protection Act (HOEPA), balloon payment, interest-only payment, negative amortization, other non-amortizing features, combined loan-to-value ratio, open-end line of credit flag, business or commercial purpose flag, and reverse mortgage flag.
- The following information about the lender: Legal Entity Identifier (LEI) and financial institution name.[45]

The data fields above that were required to be reported under Regulation C prior to the 2015 HMDA Final Rule were disclosed to the public without modification under the Board's disclosure regime. The Bureau's continued disclosure of these data fields thus is consistent with the government's longstanding approach.

With the exception of LEI, financial institution name, action taken, reasons for denial, census tract, and income, each of which is discussed further below, the Bureau initially determined that disclosing the data listed above in the loan-level HMDA data released to the public would likely present low risk to applicant and borrower privacy. The Bureau also stated that, to the extent that disclosure of these fields would create risk to applicant or borrower privacy, the Bureau believed the risks would be justified by the benefits of disclosure in light of HMDA's purposes.[46]

An industry commenter and a group of consumer advocate commenters supported the Bureau's proposal to disclose without modification the fields the Bureau identified as likely to create low privacy risk. The industry commenter stated these data fields would provide valuable information about the mortgage market that is not available from any other source. The consumer advocate commenters stated that data fields relating to pricing—including the fields for interest rate, rate spread, total loan costs or total points and fees, origination charges, and discount points—would help data users identify potentially discriminatory price disparities within the prime and subprime mortgage markets. These commenters also stated that the data fields related to loan terms and conditions—such as the term of any prepayment penalty, the length of any introductory rate period, and whether the contractual terms include non-amortizing features such as a balloon payment—would serve as an early-warning system, enabling community organizations and government agencies to assess the prevalence of unfair, deceptive, and unaffordable lending. These commenters additionally supported the Bureau's proposal to disclose new race and ethnicity subcategories for Asian and Hispanic loan applicants. In their view, disclosure of these subcategories would help data users identify ''discrimination and targeting'' with greater precision and would promote responsible lending in all communities. These commenters also stated that disclosure of new data fields on manufactured housing would provide important information about the manufactured home market, including any issues of concern related to affordability, sustainability, or fair lending. Another consumer advocate commenter supported the Bureau's proposal to disclose whether the property is or will be used by the applicant or borrower as a principal residence, a second residence, or an investment property.

Except for total units and affordable units, the Bureau intends to disclose without modification the data fields the Bureau identified in the proposal as likely presenting low risk to applicant and borrower privacy, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing these data fields as reported appropriately balances the privacy risks that may be created by such disclosure and the benefits of such disclosure in light of HMDA's purposes.

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[42] *See* 82 FR 44586, 44597–98 (Sept. 25, 2017).

[43] *Id.* at 44597–99.

[44] Note that, as discussed below, the Bureau proposed to exclude free-form text fields used to report certain data for the following data fields: ethnicity, race, name and version of the credit scoring model, reasons for denial, and AUS name. *Id.* at 44609–10.

[45] *See* 12 CFR 1003.4(a)(2)–(7), (a)(8)(i), (a)(9)(ii), (a)(10)(i), (a)(10)(iii), (a)(11)–(14), (a)(15)(i) (name and version of credit scoring model), (a)(16)–(22), (a)(24)–(27), (a)(29)–(33), (a)(35)(i) (AUS name), (a)(36)–(38).

[46] 82 FR 44586, 44598 (Sept. 25, 2017) (describing the utility of these data fields in light of HMDA's purposes: helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities, to distribute public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

With respect to LEI, financial institution name, and census tract, the Bureau acknowledged in the proposal that disclosure would likely substantially facilitate the re-identification of applicants or borrowers. However, the Bureau initially determined that these risks to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[47] With respect to income, action taken, and reasons for denial, the Bureau recognized in the proposal that, if the HMDA data were re-identified, disclosure would likely create a risk of harm or sensitivity, but the Bureau initially determined these risks would be justified by the benefits of disclosure in light of HMDA's purposes.[48] The Bureau responds to the specific comments it received on its proposed treatment of these data and describes its final determinations below.

Legal Entity Identifier and Financial Institution Name

Regulation C requires a financial institution, when submitting its loan/application register to the Bureau, to report the financial institution's LEI and name.[49] This requirement is effective January 1, 2019, and will apply to the submission of 2018 HMDA data.[50] The LEI is an identifier issued to the financial institution by either a utility endorsed by the LEI Regulatory Oversight Committee or a utility endorsed or otherwise governed by the Global LEI Foundation (GLEIF) (or any successor of the GLEIF) after the GLEIF assumes operational governance of the global LEI system.[51] Prior to the 2015 HMDA Final Rule, a financial institution was required to report its name and HMDA Reporter's Identification Number (HMDA RID), a ten-digit number that consisted of an entity identifier specified by the financial institution's appropriate Federal agency combined with a code that designates the agency. Both the financial institution's name and HMDA RID were disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose to the public without modification LEI and financial institution name as reported.[52] The Bureau initially determined that disclosure of these data fields in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of applicants or borrowers, but that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[53] An industry commenter stated that, due to the risk of frivolous class action litigation against financial institutions, the public HMDA data should not reveal financial institutions' identities.

The Bureau declines to exclude LEI and financial institution name from the public HMDA data based on the risk of frivolous class action litigation against financial institutions. As described above, HMDA requires each financial institution to make its modified loan/application register available to the public, which necessarily entails identification of the lender. Though the 2015 HMDA Final Rule shifted responsibility for disclosing the modified loan/application register from institutions to the Bureau, the Bureau concludes that it must maintain the public's ability to obtain loan-level data for an individual lender. Further, the Bureau concludes that excluding these data fields, and thereby concealing the identities of lenders, would greatly undermine the utility of the public data for HMDA's purposes, because HMDA's purposes in large part concern evaluating the practices of individual lenders. Although the Bureau appreciates the industry commenter's concern about frivolous litigation against financial institutions and agrees such litigation should not be encouraged, it declines to exclude LEI and financial institution name from the public data on this basis.

The Bureau intends to disclose without modification LEI and financial institution name, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification LEI and financial institution name appropriately balances the privacy risks that may be created by disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

Action Taken and Reasons for Denial

Regulation C requires financial institutions to report the action taken by the financial institution in response to an application.[54] Financial institutions must report a code from a specified list set forth in the HMDA Filing Instructions Guide to indicate the action taken.[55] Financial institutions were required to report this data field prior to the 2015 HMDA Final Rule, and this data field was disclosed to the public without modification under the Board's disclosure regime.

Regulation C also requires financial institutions to report the principal reason or reasons the financial institution denied the application, if applicable.[56] If the financial institution denied the application, it must report one or more codes from a specified list to indicate the reason or reasons for denial.[57] Prior to the 2015 HMDA Final Rule, reporting of reasons for denial was optional, except as required by the OCC and FDIC for certain supervised financial institutions.[58] When reported, reasons for denial was disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose to the public without modification action taken and reasons for denial as reported.[59] The Bureau initially determined that disclosing action taken (if an application was denied) and reasons for denial in the loan-level HMDA data released to the public would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. Nevertheless, the Bureau

[47] *Id.* at 44597–99.

[48] *Id.*

[49] 12 CFR 1003.4(a)(1)(i)(A); 12 CFR 1003.5(a)(3) (effective Jan. 1, 2019).

[50] 80 FR 66128, 66312 (Oct. 28, 2015).

[51] 12 CFR 1003.4(a)(1)(i)(A).

[52] 82 FR 44586, 44597–99 (Sept. 25, 2017).

[53] *Id.* at 44598 (stating that the ability to identify the financial institution by name is critical for users to evaluate the lending practices of a financial institution).

[54] 12 CFR 1003.4(a)(8)(i).

[55] Bureau of Consumer Fin. Prot., "Filing instructions guide for HMDA data collected in 2018—OMB Control No. 3170–0008," at 81 (Sept. 2018) (hereinafter FIG), *available at https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2018-hmda-fig-2018-hmda-rule.pdf.* Action taken is reported using the following codes: Code 1—Loan originated; Code 2—Application approved but not accepted; Code 3—Application denied; Code 4—Application withdrawn by applicant; Code 5—File closed for incompleteness; Code 6—Purchased loan; Code 7—Preapproval request denied; Code 8—Preapproval request approved but not accepted.

[56] 12 CFR 1003.4(a)(16). Insured depository institutions and insured credit unions are not required to report reasons for denial for loans or applications that are partially exempt under the EGRRCPA, although reporting may be required by another law or regulation. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[57] FIG, *supra* note 55, at 96–98. Reasons for denial is reported using the following codes: Code 1—Debt-to-income ratio; Code 2—Employment history; Code 3—Credit history; Code 4—Collateral; Code 5—Insufficient cash (down payment, closing costs); Code 6—Unverifiable information; Code 7—Credit application incomplete; Code 8—Mortgage insurance denied; Code 9—Other; Code 10—Not applicable; Code 1111—Exempt.

[58] 12 CFR 1003.4(c) (effective Jan. 1, 1990). Financial institutions regulated by the OCC are required to report reasons for denial on their HMDA loan/application registers pursuant to 12 CFR 27.3(a)(1)(i), 128.6. Similarly, pursuant to regulations transferred from the Office of Thrift Supervision, certain financial institutions supervised by the FDIC are required to report reasons for denial on their HMDA loan/application registers. 12 CFR 390.147.

[59] 82 FR 44586, 44597–99 (Sept. 25, 2017).

initially determined that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[60]

A group of consumer advocate commenters supported the Bureau's proposal to disclose action taken, stating that it is essential for determining whether lenders are responsibly meeting credit needs in a non-discriminatory manner. These commenters also stated that disclosure of reasons for denial—in conjunction with disclosure of the name and version of the credit scoring model and automated underwriting system used by the financial institution, as the Bureau proposed—would increase transparency in the marketplace and support fair lending enforcement by enabling data users to determine if there are differences in reasons for denial based on the credit scoring model or automated underwriting system used.

An industry commenter recommended that the Bureau exclude action taken and reasons for denial from the public HMDA data for commercial-purpose multifamily loans only. The commenter stated that disclosure of these fields would create re-identification risk and pose a unique risk of harm for commercial-purpose multifamily applicants. In the commenter's view, if the HMDA data were re-identified, commercial-purpose multifamily applicants could suffer negative reputational harm from certain information reported for action taken—specifically, ''Denied,'' ''Withdrawn by applicant,'' or ''Closed as incomplete''—and from any information relating to the reason for a denial. According to the commenter, the disclosure of this information could adversely affect these applicants' business relationships and these applicants may not be able to mitigate such harm effectively.

The Bureau does not believe that the concerns expressed by the industry commenter justify excluding from the public HMDA data action taken and reasons for denial for commercial-purpose multifamily applications and loans. The risk of harm identified by the commenter could arise only with respect to an application that did not result in an origination. As discussed in more detail in the proposal,[61] the Bureau concludes that re-identification risk is significantly reduced for applications that did not result in originations. The Bureau is not aware of any public or private dataset containing information about applications that do not result in originated mortgage loans. The Bureau believes that the lack of public information about applications would significantly reduce the likelihood that an adversary could match the record of a HMDA loan application that was not originated to an identified record in another dataset. Even if an applicant were to be re-identified, however, the Bureau concludes the harms the commenter envisions are unlikely to occur. Loan-level data for multifamily applications have been disclosed publicly since 1991, and the Bureau is not aware of any evidence that adversaries have re-identified these applications in the public HMDA data or that this type of harm has occurred. Further, even if this type of reputational harm were likely to occur, this harm would not be unique to commercial-purpose multifamily borrowers. Finally, if action taken were excluded, users would be unable to determine whether an application was originated, critically impairing the utility of the public data for HMDA's purposes.

The Bureau intends to disclose without modification action taken and reasons for denial, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification action taken and reasons for denial appropriately balances the privacy risks that may be created by disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

State, County, and Census Tract

Regulation C requires financial institutions to report the State, county, and census tract of the property securing or proposed to secure the covered loan if the property is located in an MSA or Metropolitan Division (MD) in which the institution has a home or branch office, or if the institution is subject to § 1003.4(e).[62] Institutions must report the State using the two-letter State code of the property; the county using the five-digit Federal Information Processing Standards code for the county; and the census tract using the 11-digit census tract number defined by the U.S. Census Bureau.[63] As originally enacted and implemented in Regulation C, HMDA required financial institutions to disclose information about the financial institution's mortgage lending activity by census tract.[64] The 1992 amendments to HMDA requiring institutions to make publicly available their modified loan/application registers included language stating ''[i]t is the sense of the Congress that a depository institution should provide loan register information under this section in a format based on the census tract in which the property is located.'' [65] State, county, and census tract were disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose to the public without modification State, county, and census tract as reported.[66] The Bureau initially determined that disclosure of State and county would likely present low risk to applicant and borrower privacy, and that, to the extent that disclosure of these fields would create risk to applicant and borrower privacy, the risks would be justified by the benefits of disclosure in light of HMDA's purposes. The Bureau initially determined that disclosure of census tract would likely substantially facilitate the re-identification of applicants or borrowers, but that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[67]

One industry commenter opposed the Bureau's proposal to disclose census tract without modification, and another industry commenter opposed the disclosure of this field for commercial-purpose multifamily loans. The first industry commenter stated that, to reduce re-identification risk, the Bureau should exclude census tract from the public loan-level HMDA data and instead disclose ''generalized census tract classifications'' for each application or loan. The commenter suggested that, for example, the Bureau could indicate whether the property is located in a low- or moderate-income census tract or a census tract with a high percentage of minority residents. The second industry commenter stated that, for commercial-purpose multifamily loans only, the Bureau should exclude

[60] *Id.* at 44598 (describing the utility of action taken and reasons for denial in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[61] *See id.* at 44593 n.55.

[62] 12 CFR 1003.4(a)(9)(ii). 12 CFR 1003.4(e) requires banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the Community Reinvestment Act (CRA) to collect the information required by 12 CFR 1003.4(a)(9) for property located outside MSAs and MDs in which the institution has a home or branch office, or outside any MSA.

[63] FIG, *supra* note 55, at 83–84.

[64] Home Mortgage Disclosure Act of 1975, Public Law 94–200, section 304(a)(2)(A), 89 Stat. 1126 (Dec. 31, 1975); 12 CFR 203.4(a)(1) (effective June 28, 1976).

[65] 12 U.S.C. 2803(j)(2)(C).

[66] 82 FR 44586, 44597–99 (Sept. 25, 2017).

[67] *Id.* at 44598 (describing the utility of census tract in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

census tract and county, and should disclose State only where there are enough multifamily originations in the State to make re-identification risk ''remote,'' although the commenter did not identify the number of originations that would satisfy that standard. According to the commenter, the disclosure of these data fields would pose elevated re-identification risk for multifamily borrowers, as significantly fewer commercial-purpose multifamily loans are originated each year than single-family loans.

The Bureau recognizes that disclosing generalized census tract classifications instead of the census tract would reduce re-identification risk. Nevertheless, the Bureau concludes that doing so would critically undermine the utility of the data for HMDA's purposes. If census tract were excluded from the HMDA data, the public and public officials would be unable to analyze the data at a geographic level smaller than county. Consequently, excluding census tract would make it virtually impossible for data users to identify possible discriminatory lending patterns within counties. For example, for a data user to analyze whether a lender was engaged in redlining, the user would need census tract to compare lending behavior among lenders in a particular community or an individual lender's behavior in different communities. Without census tract, users would also be unable to determine whether lenders were serving the housing needs of communities within counties or identify communities within counties where public-sector investment is needed to attract private investment. Additionally, excluding census tract from disclosure would also prevent financial institutions from using HMDA to assess their own fair lending risk by comparing their data with other institutions.[68]

The Bureau also declines to exclude State, county, and census tract for commercial-purpose multifamily loans. The Bureau determines that the privacy risk created by the disclosure of census tract, even if heightened with respect to multifamily loans, is justified by the critical benefits of this field to HMDA's purposes, as described in the above paragraph. The Bureau notes that, if census tract is disclosed, disclosure of county and State do not create additional privacy risk, because knowing the census tract allows a user to discern the county and state, as counties are geographic units within states and census tracts are geographic units within counties.

The Bureau intends to disclose without modification State, county, and census tract, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification State, county, and census tract appropriately balances the privacy risks that may be created by disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

Income

Regulation C requires financial institutions to report the gross annual income they relied on in making the credit decision or, if a credit decision was not made, the gross annual income they relied on in processing the application. Financial institutions do not have to report income for covered loans for which the credit decision did not consider income (or for applications for which the credit decision would not have considered income).[69] Financial institutions must report income rounded to the nearest thousand.[70] The Board amended Regulation C in 1989 to require reporting of income as part of its implementation of FIRREA.[71] Prior to the 2015 HMDA Final Rule, financial institutions were required to report this data field rounded to the nearest thousand. Under the Board's disclosure regime, this data field was disclosed to the public without modification.

The Bureau proposed to disclose without modification income as reported.[72] The Bureau initially determined that disclosing income in the loan-level HMDA data released to the public would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. Nevertheless, the Bureau initially determined that this risk to applicant and borrower privacy would be justified by the benefits of disclosure in light of HMDA's purposes.[73]

An industry commenter opposed the Bureau's proposal to disclose income without modification and recommended that the Bureau exclude income from the public HMDA data. The commenter stated that the new data required under the 2015 HMDA Final Rule would increase the risk that the HMDA data could be re-identified, and that information about a consumer's income is generally not available to the public and is considered sensitive by many consumers. The commenter also stated that income data would be ''inconsequential'' because the 2015 HMDA Final Rule modified Regulation C to require financial institutions to report debt-to-income ratio.

The Bureau does not believe that the concerns expressed by the commenter justify excluding income from the public HMDA data. The Bureau recognizes, as it stated in the proposal, that, if the HMDA data were re-identified, disclosure of income would likely create a risk of harm or sensitivity.[74] However, the Bureau believes that this risk is justified by the benefits of disclosure to HMDA's purposes. For example, income data plays a crucial role in: (1) Helping to identify whether the credit needs of people with low and moderate incomes in particular communities are being met; (2) the extent to which borrowers with low and moderate incomes are using certain products, such as home equity lines of credit; and (3) the extent to which lower-income borrowers are receiving credit under different terms than higher-income borrowers. The Bureau also believes that income data will continue to be valuable for achieving HMDA's fair lending purposes, notwithstanding the disclosure of debt-to-income ratio data pursuant to HMDA. Although lenders may rely more on debt-to-income ratio than on income in underwriting a loan, income will continue to be valuable as a proxy for debt-to-income ratio if debt-to-income ratio is not reported as a result of the EGRRCPA[75] or if the precision of debt-to-income ratio is reduced in the public data as a result of binning or top- or bottom-coding. To the extent the commenter's concern is that the HMDA data the Bureau proposed to disclose presents increased re-identification risk compared to the data disclosed under the Board's disclosure

[68] *See, e.g.,* Melanie Brody & Anjali Garg, ''2013 HMDA Data Is Now Available; Mortgage Lenders Should Consider Evaluating Redlining Risk,'' K&L Gates, Consumer Fin. Servs. Watch (Sept. 25, 2014), *available at https://www.consumerfinancialserviceswatch.com/2014/09/2013-hmda-data-is-now-available-mortgage-lenders-should-consider-evaluating-redlining-risk/* (''With the release of the 2013 HMDA data, lenders can now evaluate their own 2013 redlining risk by comparing their applications and originations in high-minority census tracts to those of their peers.'').

[69] 12 CFR 1003.4(a)(10)(iii).

[70] Comment 4(a)(10)(iii)–10.

[71] 54 FR 51356, 51363 (Dec. 15, 1989).

[72] 82 FR 44586, 44597–99 (Sept. 25, 2017).

[73] *Id.* at 44598 (describing the utility of income in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[74] *Id.*

[75] As described in greater detail in part II.B, above, the EGRRCPA amended HMDA by adding partial exemptions from HMDA's data collection and reporting requirements for certain insured depository institutions and insured credit unions.

regime, the Bureau notes that it intends to modify every new field required under the 2015 HMDA Final Rule that it has identified as likely to substantially facilitate the re-identification of an applicant or borrower. Further, the Bureau intends to modify loan amount, a field that was disclosed without modification under the Board's disclosure regime and that the Bureau determines to be a significant contributor to re-identification risk in the HMDA data.

The Bureau intends to disclose without modification income. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that disclosing without modification income appropriately balances the privacy risks that may be created by disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Data To Be Excluded or Otherwise Modified in the Loan-Level HMDA Data

The Bureau proposed to exclude or otherwise modify several data fields in the public HMDA data: The universal loan identifier; application date; loan amount; action taken date; property address; age; credit score; property value; debt-to-income ratio; the unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator; and AUS result. The Bureau also proposed to exclude free-form text fields used in certain instances to report the following data: Ethnicity; race; the name and version of the credit scoring model; reasons for denial; and AUS name. Below the Bureau addresses the comments it received and describes its final action on each of these data fields and on two additional data fields it did not propose to modify but intends to modify under the final policy guidance: Total units and affordable units.

Universal Loan Identifier or Non-Universal Loan Identifier

Regulation C requires financial institutions to report a universal loan identifier (ULI) for each covered loan or application that can be used to identify and retrieve the application file.[76] Regulation C sets forth detailed requirements concerning the ULI to be assigned and reported.[77] A ULI must begin with the financial institution's LEI, followed by up to 23 additional characters to identify the covered loan or application, and then end with a two-character check digit calculated according to the methodology prescribed in appendix C of Regulation C.[78] In addition, a ULI must be unique within the institution and must not contain any information that could be used to directly identify the applicant or borrower.[79] Institutions reporting a loan for which a ULI was previously assigned and reported must report the ULI that was previously assigned and reported for the loan. The ULI must be reported as an alphanumeric field.[80] The requirement in the 2015 HMDA Final Rule to report a ULI replaced the requirement under prior Regulation C that a financial institution report an identifying number for the loan or loan application. Under the Board's disclosure regime, this loan or loan application identifying number was excluded from the public HMDA data. The Bureau added the requirement to report a ULI to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of, ''as the Bureau may determine to be appropriate, a universal loan identifier.'' [81]

Insured depository institutions and insured credit unions are not required to report ULI for loans or applications that are partially exempt under the EGRRCPA.[82] The 2018 HMDA Final Rule provides, however, that—because loans and applications must be identifiable in the HMDA data to ensure proper HMDA submission, processing, and compliance—institutions that choose not to report ULI pursuant to the EGRRCPA must report a non-universal loan identifier (NULI) for each loan and application.[83] The NULI may be composed of up to 22 characters and, among other requirements, must be unique within the insured depository institution or insured credit union, though it need not be unique within the industry.[84]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding ULI.[85] The Bureau initially determined that disclosing ULI in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[86]

A few industry commenters supported the Bureau's proposal to exclude ULI from the public HMDA data. A group of consumer advocate commenters did not oppose the Bureau's proposal to exclude ULI but recommended that, separate from the HMDA data, the Bureau publish an additional data product that, according to these commenters, would serve some of the same purposes as ULI. Specifically, these commenters recommended that the Bureau publish data on each financial institution's loan purchases by income level and by year originated. According to these commenters, this data would help data users assess whether financial institutions are purchasing loans made to low- and moderate-income borrowers from one another to improve their CRA ratings.

The Bureau intends to exclude ULI from the public HMDA data, as proposed, and to exclude NULI if it is reported instead of ULI. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding ULI and NULI from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.[87]

Application Date

Regulation C requires financial institutions to report, except for purchased covered loans, the date the application was received or the date shown on the application form.[88] This date must be reported by financial institutions as the exact year, month, and day, in the format of YYYYMMDD.[89] Financial institutions were required to report this data field prior to the 2015 HMDA Final Rule. The Board amended Regulation C in 1989 to require reporting of the date the application was received as part of its implementation of FIRREA.[90] Under the Board's disclosure regime, application date was excluded from the public HMDA data.

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by continuing to exclude

[76] 12 CFR 1003.4(a)(1)(i).

[77] *Id.*

[78] 12 CFR 1003.4(a)(1)(i)(A) through (C).

[79] 12 CFR 1003.4(a)(1)(i)(B)(3).

[80] FIG, *supra* note 55, at 77–79.

[81] 12 U.S.C. 2803(b)(6)(G).

[82] 83 FR 45325, 45329 (Sept. 7, 2018).

[83] *Id.* at 45330.

[84] *Id.; see also* FIG, *supra* note 55, at 78–79.

[85] 82 FR 44586, 44599–44600 (Sept. 25, 2017).

[86] *Id.* at 44599 (describing the utility of ULI in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities).

[87] Regarding the consumer advocate commenters' request for additional data, the Bureau will consider, as it does in the ordinary course of its business, whether to make additional information related to mortgage lending available to the public.

[88] 12 CFR 1003.4(a)(1)(ii).

[89] FIG, *supra* note 55, at 79.

[90] 54 FR 51356, 51363 (Dec. 15, 1989).

application date.[91] The Bureau initially determined that disclosing application date in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of disclosure in light of HMDA's purposes.[92]

A few industry commenters supported the Bureau's proposal to continue to exclude application date from the public HMDA data. Two of these commenters stated that excluding application date, along with the other data points the Bureau proposed to exclude, would reduce re-identification risk. Another of these commenters stated that excluding this data field, along with the other data points the Bureau proposed to exclude, would reduce the likelihood that community bank customers would become victims of identity theft or fraud.

The Bureau intends to exclude application date from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding application date from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Loan Amount and Property Value

Regulation C requires financial institutions to report the amount of the covered loan or the amount applied for.[93] For closed-end mortgage loans, open-end lines of credit, and reverse mortgages, this amount is the amount to be repaid as disclosed on the legal obligation, the amount of credit available to the borrower, and the initial principal limit, respectively. Loan amount must be submitted by financial institutions in numeric form reflecting the exact dollar amount of the loan.[94] Prior to the 2015 HMDA Final Rule, this data field was reported rounded to the nearest thousand; it was publicly disclosed without modification under the Board's disclosure regime. Although HMDA has always required financial institutions to report information about the dollar amount of a financial institution's mortgage lending activity,[95] the Board amended Regulation C in 1989 to require reporting of loan amount on a loan-level basis as part of its implementation of FIRREA.[96]

Regulation C also requires financial institutions to report the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan.[97] Financial institutions must report the value they relied on in making the credit decision, such as an appraisal value or the purchase price of the property.[98] Property value must be reported in numeric form reflecting the exact dollar amount of the value the financial institution relied on.[99] The Bureau added the requirement to report property value the financial institution relied on in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of the value of the real property pledged or proposed to be pledged as collateral.[100]

The Bureau proposed to modify the loan-level HMDA dataset disclosed to the public by disclosing the midpoint for the $10,000 interval into which the reported loan amount or property value falls instead of the exact value reported.[101] For example, for a reported loan amount or property value of $117,834, the Bureau would disclose $115,000 as the midpoint between values equal to $110,000 and less than $120,000. The Bureau initially determined that disclosing reported loan amount and property value in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[102] The Bureau also proposed to include an indicator of whether the reported loan amount exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2) (GSE conforming loan limit).[103] The Bureau sought comment on whether to add a similar indicator for the applicable limit for loans eligible for insurance by the Federal Housing Administration (FHA conforming loan limit).[104]

A few commenters opposed the Bureau's proposal to disclose loan amount in $10,000 bins and asked the Bureau to disclose more precise loan amount values. A group of consumer advocate commenters and an industry commenter each recommended disclosing loan amount rounded to the nearest $1,000, like under the Board's disclosure regime. They asserted that $10,000 bins would disproportionately affect the utility of the data for smaller loans. Conversely, an industry commenter opposed the Bureau's proposal and asked the Bureau to disclose less precise loan amount values, stating that $10,000 bins would insufficiently obscure the reported value for larger loans, such as multifamily loans, and thus would yield insufficient protection against re-identification relative to smaller loans. As with loan amount, a few commenters urged the Bureau to disclose more precise property values, such as by rounding to the nearest $1,000, while an industry commenter supported disclosing less precise values. An industry commenter stated that property value, or the property value derived from loan-to-value ratio, could be matched to publicly-available property or appraisal records.

One industry commenter supported the Bureau's proposal to disclose loan amount and property value in $10,000 bins because it believed these bins would help prevent re-identification of applicants and borrowers while preserving much of the utility of these data fields. A government agency commenter supported the proposed GSE

[91] 82 FR 44586, 44600–01 (Sept. 25, 2017).

[92] *Id.* at 44600 (describing the utility of application date in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[93] 12 CFR 1003.4(a)(7).

[94] FIG, *supra* note 55, at 81.

[95] Home Mortgage Disclosure Act, Public Law 94–200, sections 301–310, 89 Stat. 1124, 1125–28 (1975).

[96] *See* 54 FR 51356 (Dec. 15, 1989).

[97] 12 CFR 1003.4(a)(28). Insured depository institutions and insured credit unions are not required to report property value for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[98] Comment 4(a)(28)–1.

[99] FIG, *supra* note 55, at 104.

[100] Dodd-Frank Act section 1094(3)(A)(iv), 12 U.S.C. 2803(b)(6)(A).

[101] 82 FR 44586, 44601–02; 44607–08 (Sept. 25, 2017).

[102] *See id.* at 44601, 44607 (describing the utility of loan amount and property value in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[103] The dollar amount limitation on the original principal obligation as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2) refers to the annual maximum principal loan balance for a mortgage acquired by Fannie Mae and Freddie Mac (the "GSEs"). The FHFA is responsible for determining the maximum conforming loan limits for mortgages acquired by the GSEs. See Press Release, Fed. Hous. Fin. Agency, FHFA Announces Increase in Maximum Conforming Loan Limits for Fannie Mae and Freddie Mac in 2017 (Nov. 23, 2016), *available at https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-Increase-in-Maximum-Conforming-Loan-Limits-for-Fannie-Mae-and-Freddie-Mac-in-2017.aspx.*

[104] *See* 24 CFR 203.18 (providing maximum amounts for eligible mortgages).

conforming loan limit indicator because the indicator would allow it to continue using public HMDA data to identify the market size for conforming loans for the purpose of setting housing goals for its regulated entities and to perform other analyses related to the conforming loan limit. Similarly, a group of consumer advocate commenters supported the proposed GSE conforming loan limit flag. These commenters also recommended adding a similar indicator for the FHA conforming loan limit, stating that analysis of loans below the FHA conforming loan limit was important for fair lending purposes.

The Bureau determines that disclosing loan amount in $10,000 intervals will create a meaningful reduction in record uniqueness in the HMDA data when evaluating three data fields that the Bureau concludes contribute most to re-identification risk: Loan amount, census tract, and lender name. Although the Bureau recognizes that disclosing loan amount in $10,000 intervals will reduce the utility of this field compared to disclosing more precise amounts, it believes it will still allow users to rely on loan amount to further HMDA's purposes to some degree. For example, $10,000 intervals will still allow users to have some understanding of the amount of credit that financial institutions have made available to consumers in certain communities and the extent to which such institutions are providing credit in varying amounts.

The Bureau acknowledges that, as commenters stated, $10,000 intervals create a larger reduction in uniqueness for small loan amounts—providing more privacy protection and less data utility—and a smaller reduction in uniqueness for large loan amounts—providing less privacy protection and more data utility—relative to the baseline reduction in uniqueness for all loans in the dataset. To address the fact that the proposed uniform binning approach would not yield the same balance of benefits and risks across all loan amounts, the Bureau considered whether it could apply bin sizes that differed by reported loan amount. For example, the Bureau could create bin sizes that were a function of loan amount, such as a percentage of the reported value. However, this approach may allow adversaries to determine the precise loan amount by reversing the function applied to the reported loan amount value. The Bureau also considered graduated bin sizes for segments of loans. However, the larger bin sizes in a graduated binning scheme would disproportionately reduce the utility of the data in more expensive geographic regions. Graduated bin sizes also would more significantly impair overall data utility compared to $10,000 bins, as users who wish to work with a consistently binned dataset would have to use the largest bin size for all loans. Finally, identifying a basis upon which to segment loan amount values into different sized bins presents challenges. In principle, the Bureau could analyze the reported HMDA data annually and determine segments based on the distribution of loan amounts in a given year to try to achieve more consistent reduction in uniqueness across loans of all sizes. In practice, however, resubmissions and late submissions may change the distribution of loan amounts, creating a risk that the Bureau would lack sufficient time to determine and apply the appropriate bins before disclosing the modified loan/application registers.

Regarding an industry commenter's claim that property value could be matched to public appraisal records and could be derived from the loan-to-value ratio, the Bureau notes that appraisal records are not public, and the HMDA data will not contain loan-to-value ratio.[105] However, the Bureau believes that identified property tax records or real estate transaction records may contain values close enough to the reported property value that property value would substantially facilitate the re-identification of a loan. Property value was not required to be reported prior to the 2015 HMDA Final Rule. The Bureau nevertheless expects its uniqueness to be similar to the uniqueness of the values reported for loan amount and believes that disclosing property value in $10,000 intervals would create a meaningful reduction in uniqueness. The Bureau concludes that disclosing property value in $10,000 intervals would still allow data users to determine the general values of properties for which financial institutions are providing financing. As with loan amount, the Bureau considered approaches that would bin property value in different intervals depending on the reported value, but for the reasons described above, the Bureau is not adopting such approaches.

Disclosing property value in $10,000 intervals also reduces adversaries' potential ability to use combined loan-to-value ratio to derive the reported loan amount. As mentioned above, the Bureau intends to disclose without modification combined loan-to-value ratio. Although both loan amount and property value would likely substantially facilitate re-identification, the Bureau concludes that loan amount will be easier to match to public records where available, because public records that contain the loan amount will likely contain the exact loan amount reported under HMDA. In contrast, the Bureau concludes that financial institutions will likely report the appraisal value as the property value, and the appraisal value is not publicly available. However, even with property value disclosed in $10,000 intervals, if the reported combined loan-to-value ratio for a particular transaction is actually the loan-to-value ratio, the loan amount, property value, and combined loan-to-value ratio feasibly could be used to narrow the possible values for loan amount, thus decreasing the reduction in record uniqueness relative to $10,000 intervals.[106] The extent to which this possible interaction could decrease the benefits of binning loan amount is uncertain. As an initial matter, under the 2018 HMDA Final Rule, certain small insured depository institutions and insured credit unions will not be required to report combined loan-to-value ratio or property value, so the interaction at issue will not be possible for many loans. Moreover, the percentage of transactions for which the reported combined loan-to-value ratio will equal the loan-to-value ratio will vary based on market conditions, and the Bureau believes that adversaries will not be able to determine exactly when the combined loan-to-value and loan-to-value ratios are equal for a given transaction. Finally, even if an adversary could narrow for a particular transaction the range of possible loan amount values, the narrowed range may not yield a record that is unique on the data fields that most contribute to re-identification.

The Bureau proposed the GSE conforming loan limit indicator to facilitate the accuracy and transparency of the FHFA Housing Goals program.[107] FHFA has historically relied on public HMDA data to set statutorily-required housing goals for the GSEs to ensure the GSEs and the public are aware of and can provide feedback on FHFA's methodology. Binning loan amount as proposed would significantly reduce the accuracy of many calculations necessary to set these goals and measure performance, which hinge on determining whether loans meet the

[105] Unlike combined loan-to-value ratio, which includes the total amount of all debt secured by the property securing the loan reported, the loan-to-value ratio includes only the amount of the reported loan itself.

[106] Similarly, an adversary could narrow the possible values for property value.

[107] 12 CFR 1281.11 (bank housing goals); 12 CFR 1282.12 (GSE housing goals).

GSE conforming loan limit. Although FHFA could use non-public HMDA data for modeling purposes, this would result in FHFA, its regulated entities, and the public working from different datasets to evaluate the accuracy and transparency of the FHFA Housing Goals program.

In contrast to the GSE conforming loan limit indicator, a FHA conforming loan limit indicator would not serve a similarly compelling purpose. Disclosing loan amount in $10,000 intervals will sometimes reduce the ability of the public to determine whether a loan is at or above the FHA conforming loan limit. However, no commenter stated that the absence of this information would impact the FHA's ability to perform statutorily-required functions. Additionally, no commenter addressed the question of whether factors not reflected in the HMDA data would affect the accuracy of a FHA conforming loan limit indicator, and the Bureau remains concerned about its ability to accurately produce such an indicator using the HMDA data.

The Bureau intends to modify the loan-level HMDA data disclosed to the public by disclosing the midpoint for the $10,000 interval into which the reported loan amount or property value falls, as proposed. The Bureau also intends to indicate in the data disclosed whether the reported loan amount exceeds the GSE conforming loan limit.[108] For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that these modifications appropriately balance the privacy risks that would likely be created by the disclosure of these fields and the benefits of such disclosure in light of HMDA's purposes.

Action Taken Date

Regulation C requires financial institutions to report the date of action taken by the financial institution on a covered loan or application.[109] For originated loans, this date is generally the date of closing or the date of account opening.[110] Regulation C provides some flexibility in reporting the date for other types of actions taken, such as applications denied, withdrawn, or approved by the institution but not accepted by the applicant. For example, for applications approved but not accepted, a financial institution may report ''any reasonable date, such as the approval date, the deadline for accepting the offer, or the date the file was closed,'' provided it adopts a generally consistent approach.[111] This date is submitted by financial institutions as the exact year, month, and day, in the format of YYYYMMDD.[112] Financial institutions were required to report this data field prior to the 2015 HMDA Final Rule. As with the application date, the Board added the requirement to report the action taken date as part of the amendments to Regulation C that implemented FIRREA.[113] Under the Board's disclosure regime, action taken date was excluded from the public HMDA data.

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by continuing to exclude action taken date.[114] The Bureau initially determined that disclosing action taken date in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[115] A few industry commenters supported the Bureau's proposal to continue to exclude action taken date from the HMDA data disclosed to the public.

The Bureau intends to exclude action taken date from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding action taken date from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Property Address

Regulation C requires financial institutions to report the address of the property securing the loan or, in the case of an application, proposed to secure the loan.[116] This address corresponds to the property identified on the legal obligation related to the covered loan.[117] The property address reported by financial institutions includes the street address, city name, State name, and zip code.[118] The Bureau added the requirement to report property address in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of, ''as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral.'' [119]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding property address.[120] The Bureau initially determined that disclosing property address in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[121]

A few industry commenters supported the Bureau's proposal to exclude property address from the public HMDA data. A group of consumer advocate commenters recommended that the Bureau disclose a hashed value for each property address in lieu of the property address.[122] According to these commenters, disclosure of a hashed value in place of property address would help data users track ''loan flipping,'' which these commenters described as a predatory practice in which lenders target borrowers for a series of refinancings that increase the borrower's debt and strip equity. These commenters did not address whether the recommended hashed value should be used in place of a particular property address from year to year, *i.e.,* every time that the particular property address is included in reported HMDA data.

[108] The GSE conforming loan limit indicator will be included in the annual loan-level disclosure of all reported HMDA data combined, rather than in the modified loan/application register for each financial institution.

[109] 12 CFR 1003.4(a)(8)(ii).

[110] Comment 4(a)(8)(ii)–5.

[111] Comment 4(a)(8)(ii)–4.

[112] FIG, *supra* note 55, at 81.

[113] 54 FR 51356, 51363 (Dec. 15, 1989).

[114] 82 FR 44586, 44602–03 (Sept. 25, 2017).

[115] *Id.* at 44602 (describing the utility of action taken date in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[116] 12 CFR 1003.4(a)(9)(i). Insured depository institutions and insured credit unions are not required to report property address for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[117] Comment 4(a)(9)(i)–1. For applications that did not result in an origination, the address corresponds to the location of the property proposed to secure the loan as identified by the applicant. *Id.*

[118] Comment 4(a)(9)(i)–2.

[119] 12 U.S.C. 2803(b)(6)(H).

[120] 82 FR 44586, 44603–04 (Sept. 25, 2017).

[121] *Id.* at 44603 (describing the utility of property address in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[122] A hashed value is a value generated by a secure hash algorithm. A hash algorithm is designed to be non-invertible, meaning that the original value, in this case the reported property address, could not be derived from the hashed value.

The Bureau declines to disclose a hashed value in place of the property address. The Bureau finds that a hashed value used only within a particular year's HMDA data would have limited value for studying loan flipping. However, if a hashed value were carried over from year to year, the Bureau is concerned that, if one transaction related to the property were re-identified, the hashed value could be used to re-identify every loan secured by the property in any other year's HMDA data. The Bureau also finds it would be difficult to develop a hashing algorithm that recognizes, with certainty, if a reported property address is unique, given slight differences in how property addresses may be reported.

The Bureau intends to exclude property address from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding property address from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Age

Regulation C requires financial institutions to report the age of the applicant or borrower.[123] A financial institution complies with this requirement by reporting age, as of the application date reported, as the number of whole years derived from the date of birth as shown on the application form.[124] The Bureau added the requirement to report age in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of age.[125]

The Bureau proposed to disclose age binned into the following ranges: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74. The Bureau also proposed to bottom-code age under 25 and to top-code age over 74.[126] The Bureau initially determined that disclosing reported age in the public HMDA data would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[127]

The Bureau also proposed to indicate whether a reported age is 62 or higher to enhance the utility of the data for identifying the particular fair lending risks that may be posed with regard to older populations.[128] The Bureau recognized that an effect of this indicator would be to divide the 55 to 64 bin into two bins, 55 to 61 and 62 to 64. The Bureau sought comment on whether, instead of binning age as proposed and indicating whether a reported age is 62 or higher, the Bureau should disclose reported ages of 55 to 74 in ranges of 55 to 61 and 62 to 74.

An industry commenter expressed support for the Bureau's proposal to modify reported age. A group of consumer advocate commenters expressed general support for the Bureau's proposal. These commenters stated that applicant and borrower age is vital for fair lending enforcement and to identify potential unfair and deceptive lending. These commenters also stated that, in the years before the 2008 financial crisis, abusive lenders targeted older adults, especially older adults of color, and that abuses also occurred in the reverse mortgage market for adults over age 62. These commenters expressed support for the Bureau's proposal to indicate whether a reported age is 62 or higher. These commenters also expressed a preference for the proposed bins and indicator approach to the alternative the Bureau considered (binning reported ages of 55 to 74 in ranges of 55 to 61 and 62 to 74), noting that the proposed bins would provide more precise data with respect to borrowers newly eligible for reverse mortgages (*i.e.,* 62- to 64-year old borrowers). Finally, these commenters asked the Bureau to top-code age at 84, instead of 74. They stated that Americans are living longer, and top-coding age at 84 would help the public identify reverse mortgage and other lending patterns affecting the oldest seniors, including any fair lending or affordability concerns.

An industry commenter expressed opposition to the Bureau's proposal and recommended that the Bureau exclude age entirely from the public HMDA data. The commenter expressed concern that disclosing age could facilitate re-identification of applicants and borrowers and enable adversaries to prey on vulnerable age groups.

The Bureau acknowledges the risks identified by the industry commenter. However, as explained in the proposal, applicant or borrower age would assist users in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes by allowing users to examine potential age discrimination in lending.[129] Applicant or borrower age would also assist in determining whether financial institutions are serving the housing needs of their communities, including the needs of various age cohorts.

The Bureau determines that indicating whether the reported age is 62 or higher would provide the greater utility identified by the commenters, as compared to the alternative bins about which the Bureau sought comment. Additionally, this approach would result in more consistent binning of the data and would allow analysis of the HMDA data in combination with data found in other public data sources, such as U.S. Census Bureau data, to further HMDA's purposes. The Bureau determines that the difference in privacy protection provided by the proposed approach compared to the alternative is minimal and is justified by the benefits of the proposed approach.

Finally, the Bureau believes that top-coding age over 84 could allow greater visibility into lending practices with respect to the oldest consumers and could further HMDA's purposes: Specifically, such disclosure could permit the public and public officials to better understand whether lenders are serving the housing needs of the oldest seniors of their communities and to observe lending patterns relating to such consumers, a typically fixed-income population that is engaging in increased dwelling-secured borrowing with respect to which there is little public data currently available. However, the Bureau believes this approach also could increase privacy risk. The Bureau believes the reported HMDA data likely will not include significant numbers of records for applicants and borrowers over age 84, which could pose re-identification risk. Thus, the harm and sensitivity risks identified in the proposal may be heightened to the extent that adversaries could re-identify the oldest borrowers. Based on the information currently available to it, in light of the potential risks and benefits of this approach, the Bureau determines not to top-code age over 84.

The Bureau intends to modify the loan-level HMDA data disclosed to the

[123] 12 CFR 1003.4(a)(10)(ii).

[124] Comment 4(a)(1)(ii)–1.

[125] 12 U.S.C. 2803(b)(4).

[126] 82 FR 44586, 44604 (Sept. 25, 2017).

[127] *Id.* (describing the utility of age in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[128] Under Federal law, age 62 or higher is considered to be older age for certain purposes. *See, e.g.,* 24 CFR 206.33 (concerning eligibility for a home equity conversion mortgage); 12 CFR 1002.2(o) (defining ''elderly'' as 62 or older).

[129] *See* 82 FR 44586, 44604 (Sept. 25, 2017).

public by disclosing age binned into the following ranges: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74, as proposed. The Bureau also intends to bottom-code age under 25 and to top-code age over 74. Finally, the Bureau intends to indicate whether reported age is 62 or higher. For the reasons discussed above and in more detail in the proposal, the Bureau determines, based on the information currently available to it, that these modifications appropriately balance the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Credit Score

Regulation C requires financial institutions to report, except for purchased covered loans, the credit score or scores relied on in making the credit decision and the name and version of the scoring model used to generate each credit score.[130] It also provides that, for purposes of this requirement, ''credit score'' has the meaning set forth in section 609(f)(2)(A) of the Fair Credit Reporting Act (FCRA).[131] Financial institutions must report credit score as a numeric field, *e.g.,* 650.[132] Financial institutions must also report a code from a specified list to indicate the name and version of the scoring model used to generate each credit score reported.[133] The Bureau added the requirement to report these data in the 2015 HMDA Final Rule to implement the Dodd-Frank Act's amendment to HMDA providing for the collection and reporting of ''the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe.''[134]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding credit score.[135] The Bureau initially determined that disclosing credit score in the loan-level HMDA data released to the public would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[136]

A few industry commenters supported the Bureau's proposal to exclude credit score from the public HMDA data. Another industry commenter opposed the Bureau's proposal to exclude credit score. The commenter stated that it would be extremely difficult to re-identify applicants or borrowers using this data field because credit scores are not publicly available, and that sensitivity alone should not be a basis for withholding data from the public where re-identification risk is low. The commenter stated further that credit scores are critically important in identifying possible discriminatory lending patterns, enforcing antidiscrimination statutes, and determining whether financial institutions are serving the housing needs of their communities, because they are an important factor in financial institutions' underwriting decisions.

A group of consumer advocate commenters also opposed the Bureau's proposal to exclude credit score. These commenters stated that credit scores are essential in fair lending analysis because they help determine whether similarly situated applicants are treated differently solely due to their race or gender. The commenters recommended that, to address the privacy concerns identified by the Bureau, the Bureau ''normalize'' reported credit scores before disclosure to the public. The commenters suggested that the Bureau either disclose credit scores: (1) As ''z-scores,'' which the commenters described as ''a measure of a credit score's place in the overall distribution of credit scores for loan applicants that year,'' or (2) in ''percentile ranges based on the distribution of loan applicants' credit scores.'' The commenters also recommended that, if the Bureau excludes credit score from the public HMDA data, the Bureau disclose credit scores in aggregate form by census tract, for all lenders and for each lender. According to the commenters, this information would help the public assess whether the industry as a whole or individual lenders are treating similarly situated neighborhoods differently due to the racial, ethnic, income, or age composition of the neighborhood.

The Bureau finds that the industry commenter underestimates the re-identification risk associated with the HMDA data, even modified as proposed, and that, where re-identification risk is present, sensitivity alone is a basis for modification under the balancing test. The Bureau declines to adopt the consumer advocate commenters' recommendation that the Bureau normalize the credit score data and disclose the normalized data. The Bureau finds that this alternative would not reduce privacy risks to the point that they would be justified by the disclosure benefits. Disclosure of a normalized credit score would reflect the applicant's or borrower's reported credit score in relation to all other applicants and borrowers in a particular year's HMDA data. Thus, the Bureau believes that, if the HMDA data were re-identified, disclosure of this information would likely create a risk of harm or sensitivity similar to the risk created by disclosure of reported credit score.[137]

The Bureau intends to exclude credit score from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding credit score from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Debt-to-Income Ratio

Regulation C requires financial institutions to report, except for purchased covered loans, the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision (debt-to-income ratio).[138] The debt-to-income ratio must be reported as a percentage.[139] The Bureau added the requirement to report debt-to-income ratio in the 2015 HMDA Final Rule using its discretionary authority provided by the Dodd-Frank Act's amendment to HMDA to require the reporting of ''such other information as the Bureau may require.''[140]

The Bureau proposed to disclose reported debt-to-income ratio of greater than or equal to 40 percent and less than 50 percent.[141] The Bureau also proposed to bin reported debt-to-income ratio

[130] 12 CFR 1003.4(a)(15)(i). Insured depository institutions and insured credit unions are not required to report credit score for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[131] 12 CFR 1003.4(a)(15)(ii).

[132] FIG, *supra* note 55, at 94–95.

[133] *Id.* at 95–96.

[134] 12 U.S.C. 2803(b)(6)(I).

[135] 82 FR 44586, 44604–06 (Sept. 25, 2017).

[136] *Id.* at 44605 (describing the utility of credit score in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[137] Regarding the consumer advocate commenters' recommendation that the Bureau disclose credit scores in aggregate form, the Bureau will consider, as it does in the ordinary course of its business, whether to make additional information related to mortgage lending available to the public.

[138] 12 CFR 1003.4(a)(23). Insured depository institutions and insured credit unions are not required to report debt-to-income ratio for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[139] FIG, *supra* note 55, at 101.

[140] 12 U.S.C. 2803(b)(6)(J).

[141] 82 FR 44586, 44606–07 (Sept. 25, 2017).

values into the following ranges: 20 percent to less than 30 percent; 30 percent to less than 40 percent; and 50 percent to less than 60 percent. In addition, the Bureau proposed to bottom-code reported debt-to-income ratio values under 20 percent and to top-code reported debt-to-income ratios of 60 percent or higher. The Bureau initially determined that disclosing reported debt-to-income ratio would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that, for certain debt-to-income ratio values, this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[142]

The Bureau also initially determined that, for many financial institutions, debt-to-income ratio of 36 percent serves as an internal underwriting benchmark, so that the ability to identify whether an applicant's debt-to-income ratio is above or below this value would help users analyzing lending patterns to control for factors that might provide a legitimate explanation for disparities in credit or pricing decisions. The Bureau sought comment on whether the benefits of disclosing more granular information concerning debt-to-income ratio values at or around 36 percent would justify the risks to applicant and borrower privacy such disclosure would likely create, and how such information should be disclosed.

An industry commenter expressed support for the Bureau's proposed treatment of debt-to-income ratio. A group of consumer advocate commenters expressed general support for the Bureau's proposal and also urged the Bureau to adopt more granular disclosure of debt-to-income ratio values near 36 percent, agreeing with the Bureau that 36 percent is a common underwriting benchmark. An industry commenter expressed opposition to the Bureau's proposal to bin debt-to-income ratio values into ranges, arguing that the Bureau should disclose debt-to-income ratio without modification. According to the commenter, binning reduces the utility of the data, thereby hampering understanding of lending practices. The commenter added that misuse of the data would be ''almost impossible'' because, if property address were not disclosed, as the Bureau proposed, re-identification of applicants and borrowers would be extremely difficult.

The Bureau finds that the industry commenter underestimates the re-identification risk associated with the HMDA data, even modified as proposed. The Bureau determines that the existence of various regulatory, guarantor, and investment program benchmarks justifies disclosing exact debt-to-income ratio values between 40 and 50 percent, for the reasons set forth in more detail in the proposal.[143] Further, based on the comment from a group of consumer advocates and further analysis, the Bureau finds that a 36 percent debt-to-income ratio serves as an internal underwriting benchmark for many lenders. The ability to identify whether an applicant's debt-to-income ratio is at or above this level therefore also would help data users control for factors that might provide a legitimate explanation for disparities in credit and pricing decisions. The Bureau determines that the best way to allow users to determine whether a value is at or above this benchmark is to extend the range of debt-to-income values disclosed without modification from ''greater than or equal to 40 percent and less than 50 percent'' to ''greater than or equal to 36 percent and less than 50 percent.'' The Bureau believes that the modifications the Bureau intends to apply will reduce the privacy risks created by the public disclosure of debt-to-income ratio while preserving much of the benefits of the data field.

The Bureau intends to disclose debt-to-income ratio as proposed, except that it intends to disclose without modification debt-to-income ratio values greater than or equal to 36 percent and less than 50 percent instead of greater than or equal to 40 percent and less than 50 percent. The Bureau intends to bin reported debt-to-income ratio values into the following ranges: 20 percent to less than 30 percent; 30 percent to less than 36 percent; and 50 percent to less than 60 percent. The Bureau also intends to bottom-code reported debt-to-income ratio values under 20 percent and to top-code reported debt-to-income ratios of 60 percent or higher. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that the disclosure of reported debt-to-income ratio values greater than or equal to 36 percent and less than 50 percent, and the modifications it intends to apply to other reported debt-to-income ratio values, appropriately balance the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Total Units and Affordable Units

Regulation C requires financial institutions to report the total number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan (total units).[144] Regulation C also requires financial institutions to report, for properties that include multifamily dwellings, the number of affordable units related to the property. The rule defines affordable units as individual dwelling units related to the property that are income-restricted pursuant to Federal, State, or local affordable housing programs.[145] The rule defines ''multifamily dwelling'' as a dwelling, regardless of construction method, that contains five or more individual dwelling units.[146]

The total units and affordable units data fields were not reported fields prior to the 2015 HMDA Final Rule; the Bureau added them to the 2015 HMDA Final Rule using its discretionary authority provided by the Dodd-Frank Act's amendment to HMDA to require the reporting of ''such other information as the Bureau may require.'' [147] Prior to the 2015 HMDA Final Rule, however, data users could determine whether a property was a multifamily property, because the ''property type'' data field—which was eliminated under the 2015 HMDA Final Rule—included a code for ''multifamily.'' Property type was disclosed to the public without modification under the Board's disclosure regime.

The Bureau proposed to disclose these data fields to the public as reported.[148] The Bureau initially determined that disclosing these data fields would likely present low risk to applicant and borrower privacy, and, to the extent that disclosing these fields would create risk to applicant and borrower privacy, that the risks would

[142] *See id.* at 44606 (describing the utility of debt-to-income ratio in light of HMDA's purposes, including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[143] *See id.* at 44606–07.

[144] 12 CFR 1003.4(a)(31).

[145] 12 CFR 1003.4(a)(32). Insured depository institutions and insured credit unions are not required to report affordable units for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[146] 12 CFR 1003.2(n). Under Regulation C, a covered loan is secured by a multifamily dwelling if it is secured by the entire multifamily dwelling; thus, a loan to purchase an entire apartment building or condominium building would be a loan secured by a multifamily dwelling, while a loan to purchase an individual condominium in that building would not be. Comment 2(n)–3.

[147] 12 U.S.C. 2803(b)(6)(J).

[148] 82 FR 44586, 44597–99 (Sept. 25, 2017).

be justified by the benefits of disclosure in light of HMDA's purposes.[149]

Several consumer advocate commenters supported the Bureau's proposal to disclose without modification these data fields. One consumer advocate commenter stated that multifamily loan data, in general, would help the public assess how lending practices affect low- and moderate-income tenants. This commenter also stated that data on total units would help data users determine how many households are affected by a loan and that the data on affordable units would provide valuable information about the financing of affordable housing.

An industry commenter opposed the proposal to disclose total units and affordable units for multifamily loans. This commenter stated that disclosure of this data for multifamily loans would create a heightened risk of re-identification, because the number of units and number of affordable units can vary widely across multifamily properties and therefore may allow identification of specific properties. The commenter requested that, for multifamily loans only, the Bureau exclude these data fields from the publicly available HMDA data if the relevant geographic area does not include enough multifamily loans to protect against re-identification, although the commenter did not specify the minimum number of loans necessary to do so. The commenter further recommended that, if there is a sufficient number of multifamily loans to protect against re-identification, the Bureau should disclose total units binned into ranges—the commenter suggested bins of 5 to 49 and 50 and above—and disclose the value reported for the number of affordable units as a percentage of the number of total units.

Based on these comments and the additional analysis described below in this paragraph, the Bureau believes that disclosing without modification reported values for total units of 5 and above in the loan-level HMDA data would likely substantially facilitate the re-identification of applicants or borrowers and that this risk would not be justified by the benefits of disclosure. The Bureau determines that multifamily loans are somewhat more unique than other loans in the data and that, in many cases, an adversary could match the reported total units for multifamily loans with publicly available information about the number of units in a multifamily property, because this information is widely available to the public from sources including public records and real estate websites.

For these reasons, the Bureau intends to modify the loan-level HMDA data disclosed to the public so that total units are binned into the following ranges: 5 to 24; 25 to 49; 50 to 99; 100 to 149; and 150 and over. The Bureau further determines that these modifications will reduce re-identification risk while preserving much of the benefit from disclosing this field, as data users will still be able to approximate with some precision how many units a particular transaction affects. Additionally, under the Bureau's approach, the bins for total units will align with the bins used by HUD's Rental Housing Finance Survey—the preeminent Federal data source on rental housing finance characteristics—allowing users to analyze HMDA data in combination with data from that survey to further HMDA's purposes. The Bureau determines, based on the information currently available to it, that these modifications appropriately balance the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes. The Bureau declines to adopt the bins suggested by the commenter—5 to 49 and 50 and over—because the Bureau concludes that these bins would provide insufficient precision regarding the number of housing units a transaction affects. The Bureau believes that the bins it is adopting better balance the privacy risks and disclosure benefits associated with the disclosure of this field.

The Bureau determines that disclosure in the loan-level HMDA data of affordable units creates minimal risk, if any, of substantially facilitating the re-identification of applicants and borrowers in the HMDA data. However, it determines that, under certain circumstances, disclosure without modification of affordable units would undermine the privacy protection that binning total units achieves and that this risk is not justified by the benefits of disclosure. To reduce this risk, the Bureau intends to disclose affordable units as a percentage of the value reported for total units, rounded to the nearest whole number. The Bureau determines that this modification appropriately balances the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Nationwide Mortgage Licensing System and Registry Identifier

Regulation C requires financial institutions to report the unique identifier the Nationwide Mortgage Licensing System and Registry (NMLSR ID) assigned to the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable.[150] The NMLSR ID must be reported in numeric form, such as 123450.[151] In the 2015 HMDA Final Rule, the Bureau added the requirement to report the NMLSR ID to implement the Dodd-Frank Act's requirement that financial institutions report, ''as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the [Secure and Fair Enforcement for] Mortgage Licensing Act of 2008.'' [152]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding the NMLSR ID.[153] The Bureau initially determined that disclosing the NMLSR ID in the loan-level HMDA data released to the public would likely substantially facilitate the re-identification of an applicant or borrower and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[154]

Several industry commenters and a group of consumer advocate commenters expressed support for the Bureau's proposal to exclude the NMLSR ID. The consumer advocate commenters also recommended that, in place of the NMLSR ID for the individual mortgage loan originator, the Bureau disclose the applicable NMLSR ID for the loan originator's company or branch. According to these commenters, disclosing the company or branch identifier would eliminate re-identification risk while helping data users assess the practices of mortgage brokers in the mortgage lending market, which these commenters described as a critical but hidden facet of the market.

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[149] *Id.* at 44598 (describing in light of HMDA's purposes the utility of total units and affordable units—along with the other data fields that the Bureau proposed to disclose without modification on the basis that they present low privacy risk—including helping the public and public officials to determine whether financial institutions are serving the housing needs of their communities, to distribute public-sector investment so as to attract private investment to areas where it is needed, and to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[150] 12 CFR 1003.4(a)(34). Insured depository institutions and insured credit unions are not required to report NMLSR ID for loans or applications that are partially exempt under the EGRRCPA. 83 FR 45325, 45329 (Sept. 7, 2018).

[151] FIG, *supra* note 55, at 107–08.

[152] 12 U.S.C. 2803(b)(6)(F).

[153] 82 FR 44586, 44608–09 (Sept. 25, 2017).

[154] *See id.* (describing the utility of NMLSR ID in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforcing antidiscrimination statutes).

The Bureau does not intend to disclose the NMLSR ID for the loan originator's company or branch as some commenters suggested. As discussed in the proposal, the Bureau believes the NMLSR ID for a loan originator would substantially facilitate re-identification of the HMDA data because it is required to appear on various documents associated with the loan, including the security instrument, and many jurisdictions publicly disclose these real estate transaction records in an identified form.[155] For companies or branches with small numbers of mortgage loan originators, disclosing the company or branch identifier may allow adversaries to narrow the potential mortgage loan originator NMLSR IDs for the loan, which would create similar re-identification concerns. Further, the HMDA data reported to the Bureau will not contain the NMLSR ID for the loan originator's company or branch. Because mortgage loan originators may work out of multiple branches, assigning the correct branch identifier may not be possible.

The Bureau intends to modify the loan-level HMDA data disclosed to the public by excluding the NMLSR ID, as proposed. For the reasons discussed above and in more detail in the proposal, the Bureau determines, based on the information currently available to it, that this modification appropriately balances the privacy risks that would likely be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Automated Underwriting System Result

Regulation C requires that, except for purchased covered loans, financial institutions report ''the name of the automated underwriting system used by the financial institution to evaluate the application and the result generated by that automated underwriting system.'' [156] Regulation C defines ''automated underwriting system'' for the purposes of this requirement as ''an electronic tool developed by a securitizer, Federal government insurer, or Federal government guarantor . . . that provides a result regarding the credit risk of the applicant and whether the covered loan is eligible to be originated, purchased, insured, or guaranteed by that securitizer, Federal government insurer, or Federal government guarantor.'' [157] Financial institutions report a code from a specified list to indicate the result or results generated by the AUS or AUSs used.[158] Financial institutions may report up to five AUS names and five AUS results.[159] The Bureau added these requirements in the 2015 HMDA Final Rule using its discretionary authority provided by the Dodd-Frank Act's amendment to HMDA to require the reporting of ''such other information as the Bureau may require.'' [160]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding AUS result.[161] The Bureau initially determined that disclosing AUS result in the public HMDA data would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive and that this risk would not be justified by the benefits of the disclosure in light of HMDA's purposes.[162]

A few industry commenters supported the Bureau's proposal to exclude AUS result from the public HMDA data. Two AUS owner commenters also supported the Bureau's proposal to exclude AUS result, agreeing with the Bureau's assessment that AUS results are sensitive. These commenters also incorporated by reference comments they submitted in connection with the 2015 HMDA Final Rule in which they expressed concern that AUS result could be used to reverse-engineer proprietary information about how AUSs are designed.

A group of consumer advocate commenters opposed the Bureau's proposal to exclude AUS result. The commenters disagreed with the Bureau's assessment that the benefits of disclosing AUS result do not justify the privacy risks that may be created by such disclosure. The commenters stated that AUS result can aid significantly in fair lending analysis by helping data users determine whether similarly situated borrowers were treated differently due to race, gender, or age. The commenters also stated that the codes for AUS result—such as ''Approve/Ineligible,'' ''Ineligible,'' or ''Incomplete''—would not reflect any more negatively on applicants than the fact of a loan application denial.[163] An industry commenter also opposed the Bureau's proposal. The commenter stated that it would be extremely difficult to re-identify applicants or borrowers using AUS result because it is not available in other public databases, and that sensitivity alone should not be a basis for withholding data from the public where re-identification risk is low. The commenter stated further that AUS result is critically important in identifying possible discriminatory lending patterns, enforcing antidiscrimination statutes, understanding lenders' underwriting decisions, and determining whether financial institutions are serving the housing needs of their communities.

The Bureau determines that disclosing AUS result in the public HMDA data would likely disclose information about the applicant or borrower that is not otherwise public and may be harmful or sensitive. The Bureau finds that the industry commenter that opposed the Bureau's proposal underestimated the re-identification risk associated with the HMDA data, even modified as proposed, and that, where re-identification risk is present, sensitivity alone is a basis for modification under the balancing test. The Bureau further finds that the consumer advocate commenters understated the sensitivity of AUS result data. As the Bureau explained in the proposal, if a HMDA record were associated with an identified applicant or borrower, disclosure of a ''negative'' AUS result would reveal information that would likely be perceived as reflecting negatively on the applicant's or borrower's willingness or ability to pay.[164] Most consumers would consider such information sensitive and disclosure of this information could lead to dignity harm or embarrassment. The Bureau also determines that scam artists and other bad actors could use this field to target marketing to applicants or borrowers to try to take advantage of vulnerable consumers. The Bureau determines these privacy risks are not justified by the benefits of disclosure.

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[155] *Id.*

[156] 12 CFR 1003.4(a)(35)(i). Insured depository institutions and insured credit unions are not required to report these data fields for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[157] 12 CFR 1003.4(a)(35)(ii).

[158] FIG, *supra* note 55, at 109–10. AUS result is reported using the following codes: Code 1—Approve/Eligible; Code 2—Approve/Ineligible; Code 3—Refer/Eligible; Code 4—Refer/Ineligible; Code 5—Refer with Caution; Code 6—Out of Scope; Code 7—Error; Code 8—Accept; Code 9—Caution; Code 10—Ineligible; Code 11—Incomplete; Code 12—Invalid; Code 13—Refer; Code 14—Eligible; Code 15—Unable to Determine or Unknown; Code 16—Other; Code 17—Not applicable; Code 1111—Exempt. *Id.*

[159] Comment 4(a)(35)–3.iv.

[160] 12 U.S.C. 2803(b)(6)(J).

[161] 82 FR 44586, 44609 (Sept. 25, 2017).

[162] *Id.* (describing the utility of AUS result in light of HMDA's purposes, including helping the public and public officials to identify possible discriminatory lending patterns and enforce antidiscrimination statutes).

[163] As noted above, the Bureau proposed to disclose data on the action taken by the financial institution—which includes information that a consumer's application was denied—without modification. *Id.* at 44597–99.

[164] *Id.* at 44609.

The Bureau intends to exclude AUS result from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding AUS result from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.

Free-Form Text Fields

Regulation C requires financial institutions to use free-form text fields to report certain data. Free-form text fields are unique in the HMDA data reported to the Bureau because they allow the reporting of any information, rather than certain specified types of numbers or codes. Free-form text fields must be used to report the name and version of the credit scoring model used, reasons for denial, AUS system name, and AUS result where the financial institution reports a code indicating that a non-listed value applies, and the fields may also be used to report certain ethnicity and race information, if provided by the applicant or borrower.[165] Free-form text fields used to report race and ethnicity must be completed by applicants; all other free-form text fields must be completed by the financial institution.[166] The maximum number of characters for the AUS system name, AUS result, and reasons for denial free-form text fields, including spaces, is 255; the maximum number of characters including spaces for all other free-form text fields is 100.[167]

The Bureau proposed to modify the loan-level HMDA data disclosed to the public by excluding these free-form text fields.[168] The Bureau initially determined that free-form text fields would allow the reporting of any information, including information that creates risks to applicant and borrower privacy, and that, given the amount of HMDA data reported each year, it would not be feasible for the Bureau to review the contents of each free-form text field submitted before disclosing the loan-level HMDA data to the public. The Bureau initially determined that excluding free-form text fields is a modification to the public loan-level HMDA data that appropriately balances the risks to applicant and borrower privacy and the benefits of disclosure in light of HMDA's purposes.[169]

Two industry commenters supported the Bureau's proposal to exclude free-form text fields. A group of consumer advocate commenters requested that the Bureau clarify that financial institutions cannot use the free-form text field to report a reason for denial if the reason for denial can be reported using an available code.

The Bureau intends to exclude free-form text fields from the public HMDA data, as proposed. For the reasons discussed above and in the proposal, the Bureau determines, based on the information currently available to it, that excluding free-form text fields from the public HMDA data appropriately balances the privacy risks that may be created by the disclosure of this field and the benefits of such disclosure in light of HMDA's purposes.[170]

Inclusion of Multifamily Loan Data

One industry commenter recommended that the Bureau not disclose any loan-level data concerning loans secured by multifamily dwellings. The commenter stated that all data reported for these applications and loans should be excluded from the loan-level data made available to the public because HMDA's principal focus is single-family consumer-purpose mortgage transactions; the data required to be reported are inapplicable to multifamily loans; and multifamily lending differs from consumer-purpose single-family lending (*e.g.,* because different criteria is considered in underwriting).

The Bureau declines to categorically exclude multifamily loan data from the public HMDA data. As noted above, HMDA requires that HMDA data be made available to the public except as the Bureau determines necessary to protect applicant and borrower privacy interests.[171] Because the Bureau determines that most of the HMDA data create low, if any, privacy risk, and that any risks are justified by the benefits in light of HMDA's purposes, excluding all multifamily loan data would be inconsistent with the statute and the balancing test. In addition, multifamily loans have always been included in the public HMDA data and Regulation C exempts lenders, on a data field-by-data field basis, from reporting data that is inapplicable to multifamily loans. Further, the Bureau concludes that the differences between single-family and multifamily loans do not reduce the value of public multifamily loan data for advancing HMDA's purposes, especially considering that multifamily housing is a vital component of the nation's housing stock.

C. Other Comments Received

Additional Data

Prior to the 2015 HMDA Final Rule, Regulation C required financial institutions to report the location of the property to which the loan or application relates, by MSA or by Metropolitan Division, by State, by county, and by census tract, if the institution has a home or branch office in that MSA or Metropolitan Division. To reduce burden on financial institutions, the 2015 HMDA Final Rule eliminated from this provision the requirement to report the MSA or Metropolitan Division in which the property is located.[172] The Bureau proposed to identify in the public data, for each loan and application that would have been subject to this provision prior to the 2015 HMDA Final Rule, the MSA or Metropolitan Division in which the property securing or proposed to secure the loan is located. The Bureau received no comments on this proposal. For each loan and application with respect to which the financial institution reports property location information, the Bureau intends to identify in the public data the applicable MSA or Metropolitan Division.[173]

The FFIEC has historically included with its annual loan-level disclosure of all reported HMDA data the following census and income data: (1) Population (total population in tract); (2) Minority Population Percent (percentage of minority population to total population for tract, carried to two decimal places); (3) FFIEC Median Family Income (FFIEC Median family income in dollars for the MSA/MD in which the tract is

[165] *See* FIG, *supra* note 55, at 85–86 (ethnicity), 88–89 (race), 96 (name and version of credit scoring model used), 98 (reasons for denial), 108–09 (AUS system name), and 110 (AUS result). Insured depository institutions and insured credit unions are not required to report these data fields for loans or applications that are partially exempt under the EGRRCPA. *See* 83 FR 45325, 45329 (Sept. 7, 2018).

[166] *Id.*

[167] *Id.*

[168] 82 FR 44586, 44609–10 (Sept. 25, 2017).

[169] *Id.*

[170] The consumer advocate commenters' request seeks clarification about a matter unrelated to the subject of this final policy guidance, which is the disclosure of loan-level HMDA data. For information about how reasons for denial should be reported, see 12 CFR 1003.4(a)(16), Comment 4(a)(16)–1 through –4, and the FIG, *supra* note 55, at 96–98.

[171] *See supra* note 18 and accompanying text; part IV.A (responding to comments suggesting that the Bureau exclude from the public data or disclose only in aggregate form all HMDA data or all new data required to be reported under the 2015 HMDA Final Rule).

[172] 12 CFR 1003.4(a)(9)(ii) (effective Jan. 1, 2018); 80 FR 66128, 66187 (Oct. 28, 2015).

[173] If applicable, the MSA or Metropolitan Division will be included in the annual loan-level disclosure of all reported HMDA data combined, rather than in the modified loan/application register for each financial institution.

located (adjusted annually by FFIEC)); (4) Tract to MSA/MD Median Family Income Percentage (percentage of tract median family income compared to MSA/MD median family income, carried to two decimal places); (5) Number of Owner Occupied Units (number of dwellings, including individual condominiums, that are lived in by the owner); and (6) Number of 1- to 4-Family units (dwellings that are built to house fewer than five families). These data are intended to provide additional context to the reported HMDA data. The Bureau proposed to continue to include these data in the combined loan-level HMDA data disclosed to the public.

A group of consumer advocate commenters supported the proposal to continue to include the census and income data the FFIEC historically has included with its annual loan-level disclosure of all reported HMDA data. These commenters stated that the Minority Population Percent data can be incomplete as a demographic indicator and that disclosing the percentages of African-American and Hispanic populations separately would allow for a more accurate picture of the experience of geographic areas and neighborhoods in lending markets. These commenters also stated that, although neighborhoods with predominantly Asian residents are currently not as widespread as predominantly Hispanic and African-American neighborhoods, adding the percentage of Asians living in each census tract would be valuable in some major markets.

The Bureau intends that the census and income data historically included with the annual loan-level disclosure of all reported HMDA continues to be included with this disclosure. The Bureau will consider whether to recommend that the FFIEC add to these data the more granular minority population percentage data the consumer advocate commenters requested. Issuance of this final policy guidance does not require that a determination be made concerning the addition of the more granular data to the FFIEC's annual loan-level disclosure.

The FFIEC historically also has included with its annual loan-level disclosure of all reported HMDA an application date indicator reflecting whether the application date was before January 1, 2004, on or after January 1, 2004, or not available. The Bureau stated in the proposal that it believed the application date indicator for pre- and post-January 2004 is no longer useful to the analysis of the HMDA data and therefore proposed to no longer include the indicator in the combined loan-level HMDA data disclosed to the public. The Bureau received no comments concerning the application date indicator. The Bureau intends that the application date indicator historically included with the annual loan-level disclosure of all reported HMDA data is no longer included with this disclosure.

Restricted Access Program

The Bureau stated in the proposal that, as it had previously indicated in the supplementary information to the 2015 HMDA Final Rule, it believed HMDA's public disclosure purposes may be furthered by allowing industry and community researchers and academics to access the unmodified HMDA data through a restricted access program, for research purposes. The Bureau did not propose to establish a restricted access program but rather stated in the proposal that it continued to evaluate whether access to unmodified HMDA data should be permitted through such a program, the options for such a program, and the risks and costs that may be associated with such a program.

Two industry commenters expressed concerns that such a program would create risk that the data would be misused or subject to a data breach. A group of consumer advocate commenters supported such a program and offered specific suggestions concerning how it should be structured. The Bureau will take these comments into consideration as it continues to evaluate access to unmodified HMDA data through a restricted access program. Issuance of this final policy guidance does not require that a determination be made concerning a restricted access program.

Legislative Rulemaking

A group of industry commenters asserted that HMDA requires the Bureau to use a legislative rulemaking under the APA, rather than policy guidance, to identify the modifications to be applied to the loan-level HMDA data before it is disclosed to the public and suggested that the Bureau delay public disclosure of the data until such rulemaking is complete. Another industry commenter expressed concern that the Bureau did not use a rulemaking to determine the HMDA data to be disclosed to the public and stated that the Bureau should not disclose any new HMDA data until such a rulemaking is undertaken.

The Bureau determines that its adoption of the balancing test in the 2015 HMDA Final Rule satisfies its obligations under HMDA; HMDA does not require a legislative rulemaking to identify modifications to the public HMDA data. As discussed in more detail in the proposal,[174] in the 2015 HMDA Final Rule, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to public disclosure to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted HMDA to require that public HMDA data be modified when the disclosure of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such disclosure in light of the statutory purposes.[175] This interpretation implemented HMDA sections 304(h)(1)(E) and 304(h)(3)(B) because it prescribed standards for requiring modification of itemized information, for the purpose of protecting the privacy interests of mortgage applicants and borrowers, that is or will be available to the public.[176] The final policy guidance applies the balancing test to determine whether and how to modify the HMDA data reported under the 2015 HMDA Final Rule before it is disclosed on the loan level to the public.

Nonetheless, as noted above, even though it is not required to do so as a matter of law, the Bureau has decided that it would be beneficial to undergo a separate notice and comment legislative rulemaking under the APA to determine what HMDA data will be disclosed in future years. The Bureau will commence such a rulemaking in May 2019.

Data Collection and Reporting Under the 2015 HMDA Final Rule and Related Data Security Concerns

Several industry commenters raised concerns with the data collection and reporting requirements imposed on financial institutions by the 2015 HMDA Final Rule, and one consumer advocate commenter requested that the Bureau require the collection and reporting of additional data. These comments are outside the scope of the proposed policy guidance, which concerned only the public disclosure of data collected and reported, not the collection and reporting itself.[177] As

[174] *See* 82 FR 44586, 44589 (Sept. 25, 2017).

[175] 80 FR 66128, 66134 (Oct. 28, 2015).

[176] *Id.*

[177] The Bureau noted in the proposed policy guidance that the proposal did not reopen any portion of the 2015 HMDA Final Rule, as the Bureau did not intend, in the policy guidance, to revisit any decisions made in that rulemaking. *See* 82 FR 44586, 44587 (Sept. 25, 2017).

mentioned above, the Bureau intends to reconsider aspects of the 2015 HMDA Final Rule. Concerns about the data required to be collected and reported under Regulation C are more appropriately raised in comments submitted in connection with that rulemaking.

Several industry commenters also raised data security concerns related to the collection and reporting of HMDA data, including concerns with the system lenders use to submit their HMDA data to the Bureau and the Bureau's ability to protect the data during transmission and storage. A few of these commenters urged the Bureau to publish the details of its information security practices and procedures to address these concerns. One industry commenter suggested that financial institutions would be liable for a data breach at the Bureau that exposed nonpublic HMDA data, and also that financial institutions would be required to mitigate damages incurred by their customers as a result of such a breach. Again, these comments are outside the scope of the proposed policy guidance, which concerns the Bureau's intentional disclosure of HMDA data to the public as required by the statute. No comments received on the proposed policy guidance addressed data security concerns raised by the Bureau's proposed disclosure of HMDA data as required by HMDA.

Public Education

A group of industry commenters expressed concern that applicants do not understand why financial institutions must ask for certain sensitive information and report the information to the Bureau, and why such information may be publicly disclosed. These commenters suggested that explanatory information provided at the time of application would be especially helpful, and asked that the Bureau consult with industry and engage in educational efforts concerning the purposes and requirements of HMDA. A group of consumer advocate commenters requested that the Bureau produce materials to help data users understand the HMDA data to be made public and in what form. These commenters suggested that the Bureau update a chart it has previously made public, describing the HMDA data to be collected and reported, to reflect if and how the data will be made available to the public. The Bureau will consider, as it does in the ordinary course of its business, whether to address the concerns expressed in these comments.

V. Regulatory Requirements

The Bureau concludes that the final policy guidance on Disclosure of Loan-Level HMDA Data is a non-binding general statement of policy and/or a rule of agency organization, procedure, or practice exempt from notice and comment rulemaking requirements under the APA pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking was required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[178] The existing information collections contained in Regulation C have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 3170–0008. The Bureau determines that this final policy guidance does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The Bureau has a continuing interest in the public's opinions regarding this determination. At any time, comments regarding this determination may be sent to the Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington DC 20552, or by email to *CFPB_Public_PRA@cfpb.gov.* The Bureau stated these conclusions in the proposed policy guidance and did not receive any comments on them.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau plans to submit a report containing this policy guidance and other required information to each House of the Congress and the Comptroller General. The Bureau plans to make such a submission at least 60 days prior to the date the Bureau will first publish loan-level HMDA data consistent with this policy guidance. The Bureau expects to publish such information on March 29, 2019. The Office of Information and Regulatory Affairs has designated this policy guidance as a ''major rule'' under 5 U.S.C. 804(2).

VII. Final Policy Guidance on Disclosure of Loan-Level HMDA Data

The text of the final policy guidance is as follows:

[178] 5 U.S.C. 603(a), 604(a).

Policy Guidance on Disclosure of Loan-Level HMDA Data

A. Background

The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.,* requires certain financial institutions to collect, report, and disclose data about their mortgage lending activity. HMDA is implemented by Regulation C, 12 CFR part 1003. HMDA identifies its purposes as providing the public and public officials with sufficient information to enable them to determine whether financial institutions are serving the housing needs of the communities in which they are located, and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.[179] In 1989, the Board of Governors of the Federal Reserve System (Board) recognized a third HMDA purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, which now appears with HMDA's other purposes in Regulation C.[180]

In 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[181] Among other changes, the Dodd-Frank Act expanded the scope of information relating to mortgage applications and loans that must be collected, reported, and disclosed under HMDA and authorized the Bureau to require by rule financial institutions to collect, report, and disclose additional information. The Dodd-Frank Act amendments to HMDA also added new section 304(h)(1)(E), which directs the Bureau to develop regulations, in consultation with the agencies identified in section 304(h)(2),[182] that ''modify or require modification of itemized information, for the purpose of protecting the privacy interests of the mortgage applicants or mortgagors, that is or will be available to the public.'' Section 304(h)(3)(B), also added by the Dodd-Frank Act, directs

[179] 12 U.S.C. 2801(b).

[180] *See* Home Mortgage Disclosure, 54 FR 51356, 51357 (Dec. 15, 1989) (recognizing the purpose of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes in light of the 1989 amendments to HMDA, which mandated the reporting of the race, sex, and income of loan applicants).

[181] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1980, 2035–38, 2097–101 (2010).

[182] These agencies are the prudential regulators—the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency—the Department of Housing and Urban Development. Together with the Bureau, these agencies are referred to herein as ''the agencies.''

the Bureau of Consumer Financial Protection (Bureau) to ''prescribe standards for any modification under paragraph (1)(E) to effectuate the purposes of [HMDA], in light of the privacy interests of mortgage applicants or mortgagors. Where necessary to protect the privacy interests of mortgage applicants or mortgagors, the Bureau shall provide for the disclosure of information . . . in aggregate or other reasonably modified form, in order to effectuate the purposes of [HMDA].'' [183]

On October 28, 2015, the Bureau published a final rule amending Regulation C (2015 HMDA Final Rule) to implement the Dodd-Frank Act amendments and make other changes, including adding a number of new data points.[184] Most provisions of the 2015 HMDA Final Rule took effect on January 1, 2018,[185] and apply to data financial institutions collect beginning in 2018 and report beginning in 2019.

B. The Balancing Test

In the 2015 HMDA Final Rule, in consultation with the agencies and after notice and comment, the Bureau interpreted HMDA, as amended by the Dodd-Frank Act, to require that the Bureau use a balancing test to determine whether and how HMDA data should be modified prior to its disclosure to the public to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. The Bureau interpreted HMDA to require that public HMDA data be modified when the release of the unmodified data creates risks to applicant and borrower privacy interests that are not justified by the benefits of such release to the public in light of HMDA's purposes. In such circumstances, the need to protect the privacy interests of mortgage applicants or mortgagors requires that the itemized information be modified. This binding interpretation implemented HMDA sections 304(h)(1)(E) and 304(h)(3)(B) because it prescribed standards for requiring modification of itemized information, for the purpose of protecting the privacy interests of mortgage applicants and borrowers, that is or will be available to the public.[186]

The Bureau has applied the balancing test to determine whether and how to modify the HMDA data reported under the 2015 HMDA Final Rule before it is disclosed on the loan level to the public. This policy guidance describes the loan-level HMDA data that the Bureau intends to make available to the public beginning in 2019, with respect to data compiled by financial institutions in or after 2018, including modifications that the Bureau intends to apply to the data. This policy guidance is exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b) and is non-binding.

C. Loan-Level HMDA Data To Be Disclosed to the Public

The Bureau intends to publicly disclose loan-level HMDA data reported pursuant to the 2015 HMDA Final Rule as follows:

1. Except as provided in paragraphs 2 through 8 below, the Bureau intends to disclose all data as reported, without modification.

2. The Bureau intends to exclude the following from the public loan-level HMDA data:

a. Universal loan identifier, collected pursuant to 12 CFR 1003.4(a)(1)(i), or non-universal loan identifier, collected pursuant to 83 FR 45325, 45330 (Sept. 7, 2018);

b. The date the application was received or the date shown on the application form, collected pursuant to 12 CFR 1003.4(a)(1)(ii);

c. The date of action taken by the financial institution on a covered loan or application, collected pursuant to 12 CFR 1003.4(a)(8)(ii);

d. The address of the property securing the loan or, in the case of an application, proposed to secure the loan, collected pursuant to 12 CFR 1003.4(a)(9)(i);

e. The credit score or scores relied on in making the credit decision, collected pursuant to 12 CFR 1003.4(a)(15)(i);

f. The unique identifier assigned by the Nationwide Mortgage Licensing System and Registry for the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable, collected pursuant to 12 CFR 1003.4(a)(34);

g. The result generated by the automated underwriting system used by the financial institution to evaluate the application, collected pursuant to 12 CFR 1003.4(a)(35)(i); and

h. Free-form text fields used to report the following data: Applicant or borrower race, collected pursuant to 12 CFR 1003.4(a)(10)(i); applicant or borrower ethnicity, collected pursuant to 12 CFR 1003.4(a)(10)(i); name and version of the credit scoring model used to generate each credit score or credit scores relied on in making the credit decision, collected pursuant to 12 CFR 1003.4(a)(15)(i); the principal reason or reasons the financial institution denied the application, if applicable, collected pursuant to 12 CFR 1003.4(a)(16); and automated underwriting system name, collected pursuant to 12 CFR 1003.4(a)(35)(i).

3. With respect to the amount of the covered loan or the amount applied for, collected pursuant to 12 CFR 1003.4(a)(7), the Bureau intends to:

a. Disclose the midpoint for the $10,000 interval into which the reported value falls, *e.g.,* for a reported value of $117,834, disclose $115,000 as the midpoint between values equal to $110,000 and less than $120,000; and

b. Indicate where possible whether the reported value exceeds the applicable dollar amount limitation on the original principal obligation in effect at the time of application or origination as provided under 12 U.S.C. 1717(b)(2) and 12 U.S.C. 1454(a)(2).

4. With respect to the age of an applicant or borrower, collected pursuant to 12 CFR 1003.4(a)(10)(ii), the Bureau intends to:

a. Bin reported values into the following ranges, as applicable: 25 to 34; 35 to 44; 45 to 54; 55 to 64; and 65 to 74;

b. Bottom-code reported values under 25;

c. Top-code reported values over 74; and

d. Indicate whether the reported value is 62 or higher.

5. With respect to the ratio of the applicant's or borrower's total monthly debt to the total monthly income relied on in making the credit decision, collected pursuant to 12 CFR 1003.4(a)(23), the Bureau intends to:

a. Bin reported values into the following ranges, as applicable: 20 percent to less than 30 percent; 30 percent to less than 36 percent; and 50 percent to less than 60 percent;

b. Bottom-code reported values under 20 percent;

c. Top-code reported values of 60 percent or higher; and

d. Disclose, without modification, reported values greater than or equal to 36 percent and less than 50 percent.

[183] Section 304(h)(3)(A) provides that a modification under section 304(h)(1)(E) shall apply to information concerning ''(i) credit score data . . . in a manner that is consistent with the purpose described in paragraph (1)(E); and (ii) age or any other category of data described in paragraph (5) or (6) of subsection (b), as the Bureau determines to be necessary to satisfy the purpose described in paragraph (1)(E), and in a manner consistent with that purpose.'' 12 U.S.C. 2803(h)(3)(A).

[184] *See generally* Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015); *see also* Home Mortgage Disclosure (Regulation C), 80 FR 69567 (Nov. 10, 2015) (making technical corrections).

[185] Certain amendments to the definition of financial institution went into effect on January 1, 2017. *See* 12 CFR 1003.2 (effective Jan. 1, 2017); 80 FR 66128, 66308 (Oct. 28, 2015).

[186] 80 FR 66128, 66134 (Oct. 28, 2015).

6. With respect to the value of the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, collected pursuant to 12 CFR 1003.4(a)(28), the Bureau intends to disclose the midpoint for the $10,000 interval into which the reported value falls, *e.g.,* for a reported value of $117,834, disclose $115,000 as the midpoint between values equal to $110,000 and less than $120,000.

7. With respect to the number of individual dwelling units related to the property securing the covered loan or, in the case of an application, proposed to secure the covered loan, collected pursuant to 12 CFR 1003.4(a)(31), the Bureau intends to:

a. Bin reported values into the following ranges, as applicable: 5 to 24; 25 to 49; 50 to 99; and 100 to 149;

b. Top-code reported values over 149; and

c. Disclose, without modification, reported values below 5.

8. With respect to the number of individual dwelling units related to the property that are income-restricted pursuant to Federal, State, or local affordable housing programs, collected pursuant to 12 CFR 1003.4(a)(32), the Bureau intends to disclose reported values as a percentage, rounded to the nearest whole number, of the value collected pursuant to 12 CFR 1003.4(a)(31).

Dated: December 20, 2018.

Kathleen Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2018–28404 Filed 1–30–19; 8:45 am]

BILLING CODE 4810–AM–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Employers of National Service Enrollment Form and Employers of National Service Annual Survey; Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Employers of National Service Enrollment Form and Annual Survey for review and approval in accordance with the Paperwork Reduction Act.

DATES: Comments may be submitted, identified by the title of the information collection activity, by March 4, 2019.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *smar@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Sharron A. Walker-Tendai, at 202–606–6930 or by email to *Stendai@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on October 17, 2018 at Vol. 83, No. 201, Pg. 52419–52420. This comment period ended December 17, 2018. No public comments were received.

Title of Collection: Employers of National Service Enrollment Form and Employers of National Service Annual Survey.

OMB Control Number: 3045–0175. Type of Review: Renewal and addition of second instrument.

Respondents/Affected Public: Any organization that seeks to be or is an Employer of National Service program, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies.

Total Estimated Number of Annual Responses: 1180.

Total Estimated Number of Annual Burden Hours: 490.

Abstract: This is a request to renew the Employers of National Service Enrollment Form and add an additional related instrument, the Employers of National Service Annual Survey. Organizations from all sectors either seeking to become or already established Employers of National Service will be filling out these forms, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies. The key purpose of the enrollment form is to document what the organization is committing to doing as an Employer of National Service and provide contact information to CNCS. The information gathered on the enrollment form will also allow CNCS to display the organization's information accurately online as a resource for job seekers. It will also enable CNCS to speak to the diversity within the program's membership, both for internal planning and external audience use. The purpose of the survey form is to track what actions an employer has taken in the past year, gather stories of success or impact, collect quantitative hiring data relating to AmeriCorps and Peace Corps alumni, and provide organizations with an opportunity to update their contact and location data. CNCS seeks to renew the current information collection. The revisions are intended to reflect feedback from those outside CNCS. The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on March 31, 2019.

Dated: December 21, 2018.

Sharron A. Walker-Tendai,

Program Support Specialist.

[FR Doc. 2019–00440 Filed 1–30–19; 8:45 am]

BILLING CODE 6050–28–P