

Since a reverse mortgage is a refinance must it be reported for HMDA purposes? A reverse is a refinance, but the rule that HELOCs are not HMDA-reportable "trumps" the rule that refinances must be reported.

Does that mean all reverse mortgages are reportable then, or is FFIEC only referring to a HECM refinance? No. See above. The FFIEC is referring to a reverse mortgage that qualifies as open end credit (i.e., a "reverse HELOC"). Most lenders treat most reverses on the market today as open end credit. That may change in the future as some lenders may start to offer closed end reverse mortgages.

If the borrower sets up a line of credit, does the lender has to report the loan for HMDA purposes. No. Your understanding is incorrect. If a reverse has a line of credit and is treated as open end, then it is not HMDA-reportable.

Is that also the case if the borrower elects to receive fixed monthly payments, in combination with the LOC? This would be a more difficult question if the borrower elected to receive substantially equal monthly without a line of credit. But even in that latter scenario, the borrower can re-pay, re-use and even switch plans. These are all features of an open end credit plan under Reg. Z. So a combination of fixed monthly payment and a line of credit would arguably qualify as open end (a HELOC).

and what if none of the upfront monies are used for home improvements, but the borrower may fix the roof at a later point. in other words, does the lender only report such cases when upfront money is used for that purpose. This comment goes to the heart of the issue of a loan vs. a line (open end vs. closed end). With a loan, typically all proceeds are disbursed at closing (with the exception of certain construction loans, etc.). With a line, the borrower can draw on funds over the life of the plan, and re-pay and re-use. Most lenders that I am aware of disclose HECMs as open end.

I'd like to send this out to the membership. Is there a particular person at FFIEC that we should refer members for additional questions? I'm not sure, but I can check. I have spoken with staff at the Federal Reserve Board, the federal banking agency with direct authority and responsibility for administering regulations under HMDA. I spoke with John Wood about 5 or 6 years ago and he concurred with the reasoning that reverse mortgages set up as HELOCs are not HMDA reportable. Recently, I spoke with Dan Sokolov at the Fed and he again concurred that HELOCs are not HMDA-reportable. Soon after that conversation, the updated FFIEC FAQ came out and I strongly suspect that it was based on my queries. (Again, the FFIEC is an umbrella organization for the federal banking agencies, including the Fed).

To reiterate, under HMDA, a financial institution must collect data regarding applications for, and originations and purchases of, home purchase loans, home improvement loans, and refinancings for each calendar year. Collection of data is not required with respect to home equity lines of credit.

A financial institution may, but is not required to report, among other things, home equity lines of credit made in whole or in part for the purpose of home improvement or home purchase. Home-equity line of credit means an open-end credit plan secured by a dwelling as defined in Regulation Z (Truth in Lending), 12 CFR part 226. Most lenders today treat the reverse mortgage offered on the market today, including HECMs, as open end credit as that term is defined under TILA and Reg. Z.

Your question and comment regarding a loan where the lender requires that all funds be advanced at closing poses the following question. When the lender waives all closing with a 100% advance or as in the case of the fixed product, all funds must be drawn, does that require reporting? Again, this question is answered initially by determining whether the underlying transaction is open end or closed end. Just because all funds are drawn at closing does not necessarily mean a transaction is closed end. It could be a closed end transaction, but to make the determination, one must look at the underlying credit plan

documents and determine if the plan meets three (3) criteria: (i) is a finance charge imposed, (ii) does the plan allow for repeated use (re-payment of loan proceeds and re-use of credit under the plan), and (iii) does the creditor reasonably contemplate repeated use.

The third prong of this test is the most difficult. In any event, if the fixed rate plan is on standard HECM documents, it seems repeated use and even switching of plans would be allowed and therefore arguably the transaction could qualify as an open end HELOC and not be HMDA-reportable. Again, as we previously discussed, lenders have the option of reporting for HMDA non-HMDA reportable loans such as HELOCs.

What actually would be reported? A financial institution shall collect data regarding applications for, and originations and purchases of, home purchase loans, home improvement loans, and refinancings for each calendar year.

The data recorded shall include the following items:

- (1) An identifying number for the loan or loan application, and the date the application was received.
- (2) The type of loan or application.
- (3) The purpose of the loan or application.
- (4) Whether the application is a request for preapproval and whether it resulted in a denial or in an origination.
- (5) The property type to which the loan or application relates.
- (6) The owner-occupancy status of the property to which the loan or application relates.
- (7) The amount of the loan or the amount applied for.
- (8) The type of action taken, and the date.
- (9) 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.
- (10) The ethnicity, race, and sex of the applicant or borrower, and the gross annual income relied on in processing the application.
- (11) The type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year (this information need not be included in quarterly updates).
- (12) For originated loans subject to Regulation Z, 12 CFR part 226, the difference between the loan's annual percentage rate (APR) and the yield on Treasury securities having comparable periods of maturity, if that difference is equal to or greater than 3 percentage points for loans secured by a first lien on a dwelling, or equal to or greater than 5 percentage points for loans secured by a subordinate lien on a dwelling. The lender shall use the yield on Treasury securities as of the 15th day of the preceding month if the rate is set between the 1st and the 14th day of the month and as of the 15th day of the current month if the rate is set on or after the 15th day, as prescribed in appendix A to this part.

(13) Whether the loan is subject to the Home Ownership and Equity Protection Act of 1994.

(14) The lien status of the loan or application (first lien, subordinate lien, or not secured by a lien on a dwelling).

A financial institution shall collect data about the ethnicity, race, and sex of the applicant or borrower as prescribed in Appendix B of this part.

Ethnicity, race, sex, and income data may but need not be collected for loans purchased by the financial institution.