

incidental powers regulations apply only to FCUs, the final rule does not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. As such, NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

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

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act of 1999.<sup>8</sup>

**List of Subjects**

*12 CFR Part 701*

Credit unions, Reporting and recordkeeping requirements.

*12 CFR Part 721*

Credit unions, Functions, Implied powers.

By the National Credit Union Administration Board, on December 15, 2016.

**Gerard Poliquin,**

*Secretary of the Board.*

For the reasons stated above, NCUA amends 12 CFR parts 701 and 721 as follows:

**PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS**

■ 1. The authority citation for part 701 is revised to read as follows:

**Authority:** 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; Title V, Pub. L. 109–351, 120 Stat. 1966.

■ 2. Amend § 701.36 as follows:

- a. Revise the section heading.
- b. Revise paragraph (a).
- c. Amend paragraph (b) by revising the definitions of *Abandoned premises* and *Partially occupy*.
- d. Remove paragraph (c)(1).
- e. Redesignate paragraphs (c)(2) and (3) as (c)(1) and (2), respectively.
- f. Revise newly redesignated paragraph (c)(1).

The revisions read as follows:

**§ 701.36 Federal credit union occupancy and disposal of acquired and abandoned premises.**

(a) *Scope.* Section 107(4) of the Federal Credit Union Act (12 U.S.C. 1757(4)) authorizes a federal credit

union to purchase, hold, and dispose of property necessary or incidental to its operations. This section interprets and implements that provision by establishing occupancy and disposal requirements for acquired and abandoned premises, and by prohibiting certain transactions. This section applies only to federal credit unions.

(b) \* \* \*

*Abandoned premises* means premises previously used to transact credit union business but no longer used for that purpose. It also means premises originally acquired to transact future credit union business but no longer intended for that purpose.

\* \* \* \* \*

*Partially occupy* means occupation and use, on a full-time basis, of at least fifty percent of each of the premises by the federal credit union, or the federal credit union and a credit union service organization in which the federal credit union has a controlling interest in accordance with Generally Accepted Accounting Principles (GAAP).

\* \* \* \* \*

(c) *Premises not currently used to transact credit union business.* (1) If a federal credit union acquires premises, including unimproved land or unimproved real property, it must partially occupy each of them within a reasonable period, but no later than six years after the date of acquisition. NCUA may waive the partial occupation requirements. To seek a waiver, a federal credit union must submit a written request to its Regional Office and fully explain why it needs the waiver. The Regional Director will provide the federal credit union a written response, either approving or disapproving the request. The Regional Director’s decision will be based on safety and soundness considerations.

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**PART 721—INCIDENTAL POWERS**

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

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

■ 4. Amend § 721.3 by revising paragraph (e) to read as follows:

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

\* \* \* \* \*

(e) *Excess capacity.* Excess capacity is the excess use or capacity remaining in facilities, equipment, or services that you properly invested in or established, in good faith, with the intent of serving

your members or supporting your business operations. You may sell or lease the excess capacity in facilities, such as office space and other premises. You may sell or lease the excess capacity in equipment or services, such as employees and data processing, if you reasonably anticipate that the excess capacity will be taken up by the future expansion of services to your members.

\* \* \* \* \*

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**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**12 CFR Part 1003**

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

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

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

**SUMMARY:** The Bureau of Consumer Financial Protection (Bureau) is issuing a final rule amending the official commentary that interprets the requirements of the Bureau’s Regulation C (Home Mortgage Disclosure) to reflect the asset-size exemption threshold for banks, savings associations, and credit unions based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Based on the 0.8 percent increase in the average of the CPI–W for the 12-month period ending in November 2016, the exemption threshold will remain at \$44 million. Therefore, banks, savings associations, and credit unions with assets of \$44 million or less as of December 31, 2016, are exempt from collecting data in 2017.

**DATES:** This final rule is effective January 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** Jaclyn Maier, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at (202) 435–7700.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801–2810) requires most mortgage lenders located in metropolitan areas to collect data about their housing related lending activity. Annually, lenders must report their data to the appropriate Federal agencies and make the data available to

<sup>8</sup>Public Law 105–277, 112 Stat. 2681 (1998).

the public. The Bureau's Regulation C (12 CFR part 1003) implements HMDA.

Prior to 1997, HMDA exempted certain depository institutions as defined in HMDA (*i.e.*, banks, savings associations, and credit unions) with assets totaling \$10 million or less as of the preceding year-end. In 1996, HMDA was amended to expand the asset-size exemption for these depository institutions. 12 U.S.C. 2808(b). The amendment increased the dollar amount of the asset-size exemption threshold by requiring a one-time adjustment of the \$10 million figure based on the percentage by which the CPI-W for 1996 exceeded the CPI-W for 1975, and it provided for annual adjustments thereafter based on the annual percentage increase in the CPI-W, rounded to the nearest multiple of \$1 million.

The definition of "financial institution" in § 1003.2 provides that the Bureau will adjust the asset threshold based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each 12-month period ending in November, rounded to the nearest \$1 million. For 2016, the threshold was \$44 million. During the 12-month period ending in November 2016, the average of the CPI-W increased by 0.8 percent. This increase results in no change to the asset-size threshold when rounded to the nearest \$1 million. Thus, the exemption threshold will remain at \$44 million. Therefore, banks, savings associations, and credit unions with assets of \$44 million or less as of December 31, 2016, are exempt from collecting data in 2017. An institution's exemption from collecting data in 2017 does not affect its responsibility to report data it was required to collect in 2016.

**II. Procedural Requirements**

**A. Administrative Procedure Act**

Under the Administrative Procedure Act (APA), notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Pursuant to this final rule, comment 2(Financial institution)-2 in Regulation C, supplement I, is amended to update the exemption threshold. The amendment in this final rule is technical and non-discretionary, and it merely applies the formula established by Regulation C for determining any adjustments to the exemption threshold. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity

for public comment are unnecessary. Therefore, the amendment is adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule. 5 U.S.C. 553(d). At a minimum, the Bureau believes the amendments fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 1, 2017. The amendment in this final rule is technical and non-discretionary, and it applies the method previously established in the agency's regulations for determining adjustments to the threshold.

**B. Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

**C. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320), the agency reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

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

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

**Authority and Issuance**

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

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

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

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

- 2. In Supplement I to Part 1003, under *Section 1003.2—Definitions*, under the definition "*Financial institution*", paragraph 2 is revised to read as follows:

**Supplement I to Part 1003—Staff Commentary**

\* \* \* \* \*

*Section 1003.2—Definitions*

\* \* \* \* \*  
 Financial institution.  
 \* \* \* \* \*

2. *Adjustment of exemption threshold for banks, savings associations, and credit unions.* For data collection in 2017, the asset-size exemption threshold is \$44 million. Banks, savings associations, and credit unions with assets at or below \$44 million as of December 31, 2016, are exempt from collecting data for 2017.

\* \* \* \* \*

Dated: December 15, 2016.

**Richard Cordray,**  
 Director, Bureau of Consumer Financial Protection.

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**BUREAU OF CONSUMER FINANCIAL PROTECTION**

**12 CFR Part 1026**

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

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

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

**SUMMARY:** The Bureau is amending the official commentary that interprets the requirements of the Bureau's Regulation Z (Truth in Lending) to reflect a change in the asset-size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the 12-month period ending in November. The exemption threshold is adjusted to increase to \$2.069 billion from \$2.052 billion. The adjustment is based on the .8 percent increase in the average of the CPI-W for the 12-month period ending in November 2016. Therefore, creditors with assets of less than \$2.069 billion (including assets of certain affiliates) as of December 31, 2016, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2017. This asset limit will also apply during a grace period, in certain circumstances, with respect to transactions with applications received before April 1 of 2018. The adjustment to the escrows exemption asset-size threshold will also increase a similar threshold for small-creditor portfolio and balloon-payment qualified mortgages. Balloon-payment qualified