



COMPLIANCE BRIEF

July 2021



TOPICS

- Final Mortgage Servicing Rule
- HMDA Partial Exemption
- Returning Child Tax Credits
- Upcoming Training Opportunities



Final Mortgage Servicing Rule

- Effective August 31, 2021
- CFPB [Executive Summary](#)
- Final Rule in [June 30, 2021 Federal Register](#)
- Key point: “Small servicers” are EXEMPT from rule
 - Servicer & affiliates did not service more than 5,000 mortgage loans as of January 1
 - Count all closed-end, consumer loans secured by a dwelling
 - Servicer or affiliate must be creditor or assignee

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Final Mortgage Servicing Rule

- Foreclosure “procedural safeguards”
 - Replaces proposed Dec. 31, 2021 foreclosure moratorium
 - From Aug. 31 to Dec. 31, 2021, before referring loan for foreclosure, the servicer must ensure:
 - Loan is 120 days past due **AND**
 - At least **ONE** of the procedural safeguards is met;
 - **Or** an exemption exists.



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Final Mortgage Servicing Rule

- Foreclosure “procedural safeguards”
 1. The borrower was evaluated based on a complete loss mitigation application and existing foreclosure protection conditions are met.
 - Borrower remains delinquent.
 2. The property is abandoned (per state or local law).
 3. The borrower is unresponsive to servicer outreach during 90-day early intervention live contact period.
 - Servicer provided 45-day written notice according to rule timing requirements

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Final Mortgage Servicing Rule

- Exemptions
 - The foreclosure referral occurs (as permitted by applicable law) on or after Jan. 1, 2022.
 - The borrower was more than 120 days delinquent prior to March 1, 2020.
 - The applicable statute of limitations will expire before Jan. 1, 2022.



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Small Servicers

- Existing pre-foreclosure review period still applies
 - Servicer may not make first filing of notice of foreclosure unless
 - Mortgage loan is more than 120 days delinquent,
 - Foreclosure is based on borrower's violation of due-on-sale clause, or
 - Servicer is joining foreclosure action of a superior or subordinate lienholder.

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Other Provisions of Servicing Rule

- COVID-19 related streamlined loan modification exception
- Temporary early intervention communication requirements
- Due Diligence requirements for borrowers in forbearance;
- COVID-19 related hardship definition.
- CFPB updated [Small Entity Compliance Guide](#) to reflect this final rule



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HMDA Filer Partial Exemption

DO YOU STILL QUALIFY?

- Permits “low volume” HMDA reporters to collect, record and report only 22 of the total 48 data points
 - “Low Volume” reporter
 - FI that originated less than 500 reportable transactions in **EACH** of the two preceding calendar years
 - AND as of preceding Dec. 31, did NOT receive a “needs to improve” rating during each of its 2 most recent CRA exams

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HMDA Filer Partial Exemption

- Count reportable originations for each year
 - Separate counts for closed-end vs open-end
 - Can rely on 2019 and 2020 LARs
- Must be **under** 500 for **both** 2019 & 2020 to qualify for partial exemption for 2021
 - If not under 500 in 2021, exemption is lost for 2022 and 2023
 - Thresholds must be reviewed annually
- See [CFPB FAQ](#) on the partial exemption

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Returning Child Tax Credits

- IRS sending advance monthly payments July – December for Advance Child Tax Credit
 - Nacha Rules allow consumers to refuse / return credits
 - 2/60 day return timeframes do **NOT** apply
 - Bank must complete consumer request w/in 24 hours
 - Use R23 – Credit Entry Refused return code
 - Nacha does not require customer's written request but bank may
- Consumers can unenroll & stop future Advance Child Tax Credit Payments at [IRS Child Tax Credit Update Portal](#)

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Upcoming Training Opportunities

- Tips for Escrow Success webinar
 - IBA compliance staff
 - August 18, 10 am
 - Register [here](#)
- IBA Compliance Conference
 - IN PERSON EVENT!
 - Nov. 16 & 17
 - Prairie Meadows Event & Conference Center
 - Register [here](#)

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Thank you for listening!



- Compliance Hotline
 - compliance@iowabankers.com
 - 844-REGS411 (or 844-734-7411)