

Growing Pains: Increased Regulatory Compliance Expectations

Saltmarsh BankChat 2024

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FAST FACTS

Saltmarsh, Cleaveland & Gund

At Saltmarsh, we believe the way to achieve success is by contributing to the success of others, which is why we thrive in ***genuine relationships***. Our passion for people and ***excellence*** is more than a shared value; it's the foundation of our work.

SIZE OF FIRM



OFFICE LOCATIONS

5

FLORIDA
Destin
Orlando
Pensacola
Tampa

TENNESSEE
Nashville

AFFILIATIONS

SALTMARSH FINANCIAL ADVISORS, LLC



THE BDO ALLIANCE USA



WHAT WE DO

Audit & Assurance | Business Valuation | Employee Benefits Consulting | Financial Planning | Litigation Support & Dispute Advisory | Outsourced Accounting Solutions | Retirement Plan Administration | Tax Compliance & Consulting | Technology & Managed IT Consulting | Wealth Management

WHO WE SERVE

Financial Institutions | Construction & Real Estate Development | Governments, Municipalities & Pension Plans | High Net Worth Individuals | Manufacturing & Distribution | Non-Profit | Post-Acute Healthcare | Professional Employer Organizations (PEOs)



Agenda

1. Home Mortgage Disclosure Act – HMDA
2. Community Reinvestment Act – CRA
3. Flood Escrow Requirements
4. High Price Mortgage - HPML
5. Portfolio QM

NOTE: The summarized requirements are only provided to give context around the GROWTH related threshold, and does NOT provide all pertinent details of the requirements.

1. HMDA

HMDA-Institutional Coverage Test - as of January 1, 2024

- Asset Test – your bank’s size exceeds the annual asset threshold (\$56 million); and
- Metropolitan Statistical Area (MSA) Test – your bank has either a home office or branch office located in MSA; and
- In the preceding calendar year, your institution originated at least one home purchase or refinancing of a home purchase loan secured by a first lien on a one-to-four unit dwelling; and
- Your institution is federally insured or regulated; the mortgage loan referred to above was insured, guaranteed, or supplemented by a Federal agency; or was intended for sale to Fannie Mae or Freddie Mac; and

HMDA Institutional Coverage Test (continued)

- Originated at least:
 - ✓ 25 closed-end mortgage loans (“loan) in each of the two preceding calendar years; or
 - ✓ 200 open-end lines of credit (“line”) in each of the two preceding calendar years.

Make sure you look at your business loans for loans secured by SFR 1-4 (if they are for home purchase, refinance or home improvement)

Small Filer “Partial” HMDA Exemption

- Insured Financial Institution
- Originate fewer than 500 closed-end mortgage loans in each of the two preceding calendar years
- Or fewer than 500 open-ended lines of credit in each of the two preceding calendar years
- And received a "Satisfactory" or "Outstanding" rating on each of your two most recent CRA (Community Reinvestment Act) evaluations
 - *If your institution received a "Substantial Non-Compliance" or a "Needs to Improve" on both of your most recent CRA exams, you will not qualify for the partial exemption.*

HMDA Small Filer Data Points Exempted

The following data fields are exempt from reporting for all applications reported:

- Universal Loan Identifier (ULI)
- Property Address
- Rate Spread
- Credit Score
- Reasons for Denial
- Total Loan Costs or Total Points and Fees
- Origination Charges
- Discount Points
- Lender Credits
- Interest Rate
- Prepayment Penalty Term
- Debt-to-Income Ratio
- Combined Loan-to-Value Ratio
- Loan Term
- Introductory Rate Period
- Non-Amortizing Features
- Property Value
- Manufactured Home Secured Property Type
- Manufactured Home Loan Property Interest
- Multifamily Affordable Units
- Application Channel
- Mortgage Loan Originator Identifier
- Automated Underwriting System
- Reverse Mortgage Flag
- Open-End Line of Credit Flag
- Business or Commercial Purpose Flag

2. CRA

CRA Asset Size Thresholds

Small Bank	Intermediate Small Bank (ISB)	Large Bank
<p>Effective January 2024</p> <p>Assets <\$391 million as of December 31 in <u>either</u> of the prior 2 calendar years</p> <p>Effective January 2026</p> <p>Assets less than \$600 million in <u>either</u> of the prior 2 calendar years</p>	<p>Effective January 2024</p> <p>Assets of at least \$391 million as of December 31 in <u>both</u> of the prior 2 calendar years <u>and</u> <\$1.564 billion as of December 31 in <u>either</u> of the prior 2 calendar years.</p> <p>Effective January 2026</p> <p>Assets \$600 million to \$2 billion in <u>both</u> of the prior 2 calendar years</p> <p>(Will then be referred to as “Intermediate” – no longer “Intermediate Small”)</p>	<p>Effective January 2024</p> <p>Assets of at least \$1.564 billion as of December 31 in <u>both</u> of the prior 2 calendar years.</p> <p>Effective January 2026</p> <p>Over \$2 billion in <u>both</u> of the prior 2 calendar years</p>

Applicability of Performance Tests

Small Banks	Intermediate Small Banks (ISB)	Large Banks	Limited Purpose/Wholesale Banks
<ul style="list-style-type: none"> Lending Test 	<ul style="list-style-type: none"> Lending Test Community Development Test 	<ul style="list-style-type: none"> Lending Test Investments Test Qualified Services Test 	Community Development Test
<p>Effective January 2026</p> <ul style="list-style-type: none"> Current Small Bank Lending Test <i>Optional:</i> New Retail Lending Test 	<p>Effective January 2026</p> <ul style="list-style-type: none"> New Retail Lending Test (50%) Current Intermediate Small Bank Community Development Test (50%) <i>Optional:</i> New Community Development Financing Test 	<p>Effective January 2026</p> <ul style="list-style-type: none"> New Retail Lending Test (40%) New Retail Services and Products Test (10%) New Community Development Financing Test (40%) New Community Development Services Test (10%) 	<p>Effective January 2026</p> New Community Development Financing Test for Limited Purpose/Wholesale Banks

3. Flood Escrow Requirements

Biggert–Waters Flood Insurance Reform Act and the Homeowner Flood Insurance Affordability Act

RULE: Lenders are required to escrow all premiums and fees for flood insurance for loans secured by residential real estate or mobile homes in a special flood hazard area that are made, increased, extended, or renewed on or after January 1, 2016, subject to certain exceptions, including an **exception for small lenders.**

Small Lender Exception – 12 CFR 339.5

The final rule excepts from the flood insurance escrow requirement any financial institution with **total assets of less than \$1 billion** (as of December 31 of either of the two prior calendar years):

And, on or before July 6, 2012:

- Was not required under federal or state law to deposit taxes, insurance premiums, fees, or any other charges in an escrow account for the entire term of any loan secured by residential improved real estate or a mobile home; and
- Did not have a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for loans secured by residential improved real estate or a mobile home.

4. High Price Mortgage Loans

TILA Escrow Rules for Property Taxes and Insurance

- For 1st lien HPML, creditors must maintain an Escrow Account for five years.
 - APR is 1.5 percentage points or more than the APOR, or 2.5 percentage points or more higher than the APOR for Jumbo loans.
- Creditor or servicer may cancel a required escrow account only upon the earlier of:
 - Termination of underlying debt obligation;
 - Receipt no earlier than five years after consummation of a consumer's request to cancel the escrow account.
 - The unpaid balance is <80% of the original value of the property securing the debt and the consumer is currently not in default or delinquent on the debt.

Exemptions for Small Rural Creditor, and Certain Insured Institutions

12 CFR 1026.35(b)(2)(iii) and 12 CFR § 1026.35(b)(2)(vi)

Time period for all is prior calendar year end, unless app is received prior to April 1st then its prior 2 calendar year-ends.

- Assets of < \$2.640 billion and does not otherwise choose to maintain escrow accounts
- Extended a covered transaction secured by a 1st lien on a property in a “rural” or “underserved” area; AND
- Together with affiliates, extended no more than 2,000 covered transactions secured by a 1st lien on a dwelling that were sold, assigned, or otherwise transferred to another person (or were subject to a commitment for same at time of consummation)

OR

- Assets of <=\$11.835 billion
- Together with affiliates extended no more than 1,000 covered transactions secured by a first lien on a principal dwelling (whether or not held in portfolio).

5. Portfolio QM

Ability to Repay/Qualified Mortgage Rule

- Creditors must make a reasonable, good faith determination of a consumer's ability to repay (ATR) a loan secured by a dwelling based on specified underwriting criteria
- The rule applies to most closed end, consumer credit transactions but excludes home equity lines of credit (HELOC), timeshare loans, reverse mortgages, and short-term bridge and construction loans of 12 months or less.
- There are several categories of QMs, which generally limit points and fees charged to the borrower, prohibit certain risky loan features, such as negative amortization, and have other specific underwriting requirements.

Exemption for Small Rural Creditor Portfolio QM, and Balloon QM

12 CFR 1026.43(e)(5) and 1026.43(f)

- Total assets less than \$2.640 billion as of December 31, 2023
- Together with affiliates, extended $\leq 2,000$ covered transactions secured by a 1st lien on a dwelling that were sold, assigned, or otherwise transferred to another person (or were subject to a commitment for same at time of consummation)

For balloon payment QM, same as above, plus

- Operate in a rural or underserved area in the preceding calendar year (or for applications received before April 1, for either of the two preceding calendar years)

(Same as HPML escrow)

For both QM types, loan loses status if sold within 3 years.