

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Docket No. R-1532; RIN 7100 AE-46]

Regulation C

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is proposing to repeal its Regulation C, 12 CFR part 203, which was issued to implement the Home Mortgage Disclosure Act (HMDA). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws, including HMDA, from the Board to the Bureau of Consumer Financial Protection (Bureau). In December 2011, the Bureau published an interim final rule establishing its own Regulation C to implement HMDA, which substantially duplicated the Board's Regulation C. In October 2015, the Bureau finalized the interim final rule and expanded and revised its Regulation C, pursuant to the Dodd-Frank Act.

HMDA requires covered financial institutions to collect and report loan data in connection with residential mortgage applications and loans. Although the Board retains authority to issue some consumer financial protection rules, all rulemaking authority under HMDA concerning mortgage loan transactions was transferred to the Bureau. Accordingly, the Board is proposing to repeal its Regulation C and the Official Staff Commentary that accompanies the regulation.

DATES: Comments must be received on or before **April 22, 2016**.

ADDRESSES: You may submit comments, identified by Docket No. R-1532 and RIN 7100

AE-46, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include the docket number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP-500 of the Board's Martin Building (20th and C Streets, N.W.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Nikita M. Pastor, Counsel, Division of Consumer and Community Affairs, at (202) 452-3667, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

SUPPLEMENTARY INFORMATION:**I. Background**

The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.*, historically was implemented by the Board's Regulation C, published at 12 CFR part 203. The purpose of the act and regulation is to provide the public with sufficient information about mortgage loans to determine whether financial institutions are serving the housing credit needs of their communities; encourage private investments to areas in need; and collect and report applicant and borrower characteristic data to identify potential lending discrimination. Accordingly, HMDA requires covered financial institutions to report loan data in connection with mortgage loan applications.

Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011, with some exceptions. In connection with the transfer of the Board's rulemaking authority for HMDA, the Bureau published an interim final rule to establish its own Regulation C, 12 CFR part 1003, to implement HMDA (Bureau Interim Final Rule).¹ In October 2015, the Bureau finalized its own Regulation C, including rules that expand and revise the data collection and reporting regime required under HMDA, as amended by the Dodd-Frank Act.²

Under Section 1029(a) of the Dodd-Frank Act, the Board generally retains authority to issue rules for certain motor vehicle dealers that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. For purposes of Section 1029, a "motor vehicle" is defined to include, among other things, motor homes,

¹ 76 FR 78465 (Dec. 19, 2011).

² See Home Mortgage Disclosure (Regulation C), 80 FR 66128 (Oct. 28, 2015).

recreational vehicle trailers (RVs) and recreational boats.³ The Dodd-Frank Act also provided several exceptions to the Board's rulemaking authority over motor vehicle dealers. Specifically, Section 1029(b)(1) of the Dodd-Frank Act provides that the Board's rulemaking authority does not apply to any motor vehicle dealer to the extent that the motor vehicle dealer "provides consumers with any services related to residential or commercial mortgages or self-financing transactions involving real property."⁴ Accordingly, all rulemaking authority under HMDA concerning mortgage loan transactions was transferred to the Bureau.

II. Discussion

HMDA and Regulation C apply to covered financial institutions. For this purpose, financial institutions include depository institutions, such as a bank, savings institution, or credit union that meet certain coverage tests. Financial institutions also include non-depository, mortgage lending institutions that have an office in a metropolitan statistical area and meet certain asset and home lending thresholds. See 12 U.S.C. 2802; 12 CFR 203.2 and 12 CFR 1003.2. Entities that are subject to HMDA must collect and report loan data to the appropriate federal agency on its housing-related loan activities (i.e., mortgage loan applications). HMDA's requirements concerning mortgage loans were implemented in Regulation C to apply to home purchase loans secured by a dwelling (or refinancings) and home improvement loans.⁵

As noted above, the Dodd-Frank Act transferred the Board's rulemaking authority under HMDA and other enumerated consumer protection laws to the Bureau, but Section 1029 of the

³ Dodd-Frank Act, Pub. L. 111-2033, Section 1029(f)(1).

⁴ Dodd-Frank Act, Pub. L. 111-2033, Section 1029(b)(1).

⁵ Regulation C covers loans secured by a "dwelling," which is defined as any residential structure, whether or not it is attached to real property, which would include mobile homes or manufactured homes. 12 CFR 1003.2. Under the Bureau's 2015 final rule, however, recreational vehicles used as a residence are not covered as dwellings for purposes of HMDA. See 80 FR 66128, 66145 (Oct. 28, 2015).

Dodd-Frank Act also preserved the Board's rulemaking authority over certain motor vehicle dealers, with some exceptions. The rulemaking authority retained by the Board under Section 1029 does not extend to residential or commercial mortgages or self-financing transactions involving real property.⁶ Thus, all rulemaking authority under HMDA, which pertains only to mortgage loan transactions, was transferred to the Bureau. Consequently, the Board is publishing a proposal to repeal the Board's Regulation C, 12 CFR part 203.

The Board requests comment on any technical issues raised by the proposed repeal of the Board's Regulation C.

III. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

1. Statement of the need for, and objectives of, the proposed rule. Title X of the Dodd-Frank Act transferred rulemaking authority for HMDA and other enumerated consumer financial protection laws from the Board to the Bureau, effective July 21, 2011. In December 2011, the Bureau issued an Interim Final Rule to implement HMDA pursuant to the transfer of rulemaking authority. Although the Board retains authority to issue some consumer financial protection rules, all rulemaking authority under HMDA concerning mortgage loan transactions

⁶ Section 1029(b)(1) of the Dodd-Frank Act states: Subsection (a) shall not apply to any person, to the extent such person (1) provides consumers with any services related to residential or commercial mortgages or self-financing transaction involving real property. . . ." 12 U.S.C. 5519(b).

was transferred to the Bureau. Consequently, the Board is proposing to repeal the Board's Regulation C, 12 CFR part 203.

2. Small entities affected by the proposed rule. Any entity that is currently covered by HMDA is subject to the rules issued by the Bureau, located in 12 CFR part 1003. Therefore the Board's repeal of its Regulation C would not affect any entity, including small entities.

3. Recordkeeping, reporting, and compliance requirements. The proposed rule would repeal the Board's Regulation C, 12 CFR part 203, and would therefore not impose any recordkeeping, reporting, or compliance requirements on any entities.

4. Other federal rules. The Board has not identified any federal rules that duplicate, overlap, or conflict with the proposed repeal of the Board's Regulation C, 12 CFR part 203.

5. Significant alternatives to the proposed revisions. The Board is not aware of any significant alternatives that would further minimize the impact on small entities of the proposed repeal, but solicits comment on this approach.

IV. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget (OMB). The proposed rule contains no collections of information under the PRA. See 44 U.S.C. 3502(3). Accordingly, there is no paperwork burden associated with the proposed rule.

List of Subjects in 12 CFR Part 203

Banks, Banking, Federal Reserve System, Mortgages, and Reporting and Recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board proposes to amend Regulation C, 12 CFR part 203, and the Official Staff Commentary, as set forth below:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. Part 203 is removed and reserved.

By order of the Board of Governors of the Federal Reserve System, February 11, 2016.

Robert deV. Frierson (signed)

Robert deV. Frierson
Secretary of the Board