

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0951]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing final revisions to Regulation C (Home Mortgage Disclosure). The revisions implement the amendments to the Home Mortgage Disclosure Act included in the Economic Growth and Regulatory Paperwork Reduction Act of 1996. The action makes final an interim rule adopted in January, which set the asset-exemption threshold for depository institutions at \$28 million. The final rule also establishes an alternative way for institutions to provide disclosure statements in metropolitan areas where they have branch offices, which they may begin using immediately. In addition, the Board is extending its information collection authority under the Paperwork Reduction Act for another three years, and making technical amendments to the transmittal sheet accompanying the loan/application register.

DATES: Effective date. This rule is effective July 1, 1997.

Applicability date. This rule applies to all data collection in 1997.

Compliance date. Voluntary compliance with the disclosure provisions in § 203.5 and paragraphs III. D., E., and F. of Appendix A to Part 203 can begin June 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Senior Attorney, or Manley Williams, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667; for the hearing impaired only, Diane Jenkins, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801 et seq.) requires most mortgage lenders located in metropolitan statistical areas (MSAs) to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR Part 203) carries out the provisions of HMDA. Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (the 1996 Act) (Pub. L. 104-208, 110 Stat. 3009) amended HMDA to expand the exemption for small depository institutions and modify the disclosure requirements.

To implement the amendments to HMDA, in December 1996 the Board published a proposal for public comment. (61 FR 68168, Dec. 27, 1996.) The Board received about 30 comment letters. The comments came from community groups, financial institutions and their

representatives, and financial services firms. Overall, the commenters supported the proposed amendments, although views were mixed on some issues. Based on a review of the comment letters and upon further analysis, the Board has made some changes to the proposal, as discussed below. The revised exemption for depository institutions is applicable to all data collection in 1997. Compliance with the revised disclosure provisions is optional until July 1, 1997, the effective date for mandatory compliance.

II. Revisions

A. Increasing the Exemption Based on Asset Size

The 1996 Act increased the asset-size exemption for depository institutions. Previously, depository institutions with assets of \$10 million or less were exempt from HMDA. The 1996 Act adjusts the \$10 million figure by the change since 1975 in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW) -- rounded to the nearest million -- and provides for annual adjustments thereafter in accordance with CPIW changes. In January, the Board published an interim rule to implement the first threshold change. This change reflects the change in the CPIW (not seasonally adjusted) from 1975 through 1996. On an annual average basis, the ratio of the CPIW for 1996 to the CPIW for 1975 was 2.848. Thus, the new threshold, rounded to the nearest million, is \$28 million. Depository institutions with assets of \$28 million or less as of December 31, 1996 are not required to collect HMDA data in 1997. (62 FR 3603, Jan. 24, 1997.) The Board is now publishing final revisions to § 203.3(a)(1)(ii) of Regulation C and making conforming amendments to Appendix A--Form and Instructions for Completion of HMDA Loan/Application Register, and to Supplement I--Staff Commentary.

Under the proposal, the annual adjustments to the asset-size exemption threshold were to be based on the change in the CPIW data for the month of December as compared to the previous December, and published in the Federal Register as soon as those data became available in January. The proposal requested comment, however, on whether the Board should base the annual adjustments on the data for the month of November instead, which would allow the Board to announce the new threshold by year-end. Many of the commenters on this issue recommended that the Board use the November data, suggesting that this could reduce burden by providing certainty and predictability of coverage for the initial weeks of the reporting year. Other commenters recommended using the December data because of the potential for a higher threshold. A few commenters recommended that the Board publish an initial threshold based on the November data and revise it upward, if appropriate, based on the December data.

A related issue is whether the annual adjustments should be based on the CPIW data for December of the current year as compared to the CPIW data for December of the previous year, or on the annual average of the CPIW for the current year compared to the annual average of the CPIW for the previous year. Under the proposal, the annual adjustments to the asset-size exemption threshold were to be based on comparing the data for December with the data for the previous December. Some commenters asserted that this would produce undesirable volatility in the annual adjustments, especially because the Board would not be using seasonally adjusted numbers.

Based on the comments and upon further analysis, the Board has decided to base the threshold change on the annual average of the CPIW data for the 12-month period ending in November. Because the 1996 Act provides that the increase should be based on the “annual percentage increase,” the Board believes that comparing the average of 12 months of data with the average of the prior 12 months of data, would be more appropriate than comparing the data for a single month with the data for that month in the prior year. The Board also believes that basing the threshold change on a 12-month period ending in November rather than on a 12-month period ending in December would be less burdensome. This will allow the Board to revise the regulation and publish the new threshold in the Federal Register in December, for compliance beginning January 1. Although in some cases this could result in a lower threshold than if the Board used a 12-month average ending in December, a review of the CPIW data suggests that such instances would be rare.

B. Alternative Disclosure Statement Requirements

The 1996 Act amends section 304 of HMDA (12 U.S.C. 2803) to provide that an institution must make its disclosure statement available at the institution’s home office and either (1) in at least one branch office in each additional MSA where the institution has offices; or (2) provide notice that the disclosure statement is available from the home office upon written request, and mail or deliver a copy within 15 calendar days of receiving a written request.

The proposal did not require institutions to receive requests at their home office, but permitted them to specify the address where requests should be sent, for more efficient distribution of the data. The proposal also did not require an institution to post a notice identifying the address where a written request should be sent. A number of community group commenters expressed concern that eliminating the requirement that the disclosure be available at certain branches would result in the diminished availability of the HMDA data in many cases, and a reduction in timely access to the data in almost all cases. They believed that these problems would be exacerbated if institutions did not post the address to which requests for disclosures should be sent.

The statute requires that institutions which opt for the alternative branch disclosure approach must provide a notice at branch offices stating that the information is available from the home office upon request. This provision could be read to require that requests go to institutions’ home offices, but the Board does not believe that such a strict interpretation is necessary. The intent of the provision is to reduce burden while preserving the public availability of the data. The Board believes that if an institution chooses to specify a service center or a central location for requests relating to all banks in a multibank holding company, for example, that is permissible. After consideration of the comments and upon further analysis, however, the Board has determined that to preserve the public availability of the data, it is reasonable and appropriate to require banks to post the address to which a request should be sent. Accordingly, the final rule permits institutions that elect to provide the information upon request instead of at one branch per MSA, to select the address to which requests should be sent, but requires them to post that address in each branch office in an MSA. The Board believes that this approach will best satisfy the amendment’s goals of reducing compliance burden while preserving the prompt public

availability of the data. The Board has revised § 203.5 and Appendix A--Form and Instructions for Completion of HMDA Loan/Application Register accordingly.

Because the requirements for public disclosure of the disclosure statement differ from the requirements for the modified loan application register, the Board has also reorganized several paragraphs in Appendix A, Section III. Submission of HMDA-LAR and Public Release of Data to clarify the requirements. A cross reference in Supplement I -- Staff Commentary has been revised accordingly. As part of this reorganization, the Board has clarified some requirements that may have been ambiguous. For example, the revised section makes clear that an institution need not prepare a modified loan application register in advance of receiving a request for it.

C. Revisions to the HMDA Loan/Application Register

The Board proposed to make three minor revisions to the HMDA loan/application register, and has adopted the changes generally as proposed. First, the Board deleted the requirement to list the name and address of the respondent's supervisory agency. Because respondents must report the agency code, this additional requirement was unnecessary. Second, to facilitate prompt communication, the Board added a blank for the respondent's facsimile number. Third, the Board added a notice required under the Paperwork Reduction Act, but shifted the location of that notice from the transmittal form to the Paperwork Reduction Act Notice section of the Instructions for Completion of the HMDA Loan/Application Register.

III. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604), the Board's Office of the Secretary has reviewed the amendments to Regulation C. Overall, the amendments reduce the burden on small entities. The regulatory revisions implement the 1996 Act which, in part, increases the exemption threshold for depository institutions. The 1996 Act also creates an alternative means for making branch disclosures available. The Board certifies that the regulatory revisions will not have an adverse effect on a substantial number of small entities.

V. Paperwork Reduction Act

A. Paperwork Burden

The revisions to the information collection requirements are found in 12 CFR 203.3, 203.5, and Appendix A to Part 203 and implement the data collection and reporting requirements established by the Home Mortgage Disclosure Act. The respondents are mortgage lenders in metropolitan areas. Under the act, each respondent must make its loan/application register available to the public for three years; and must provide for five years the disclosure statement that the Federal Financial Institutions Examination Council prepares from the data submitted by the respondent. The data provide the public and government officials with information to enable them to determine whether mortgage lenders are fulfilling the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments.

The amendments decrease the number of respondents and ease compliance with the public disclosure requirements of the regulation. The amendments directly affect small businesses: many are no longer required to collect, report, or disclose the information.

Regulation C applies to all types of financial institutions and other mortgage-lending institutions that meet the coverage tests. Under the Paperwork Reduction Act, however, the Board accounts for the paperwork burden associated with Regulation C only for state member banks, their subsidiaries, subsidiaries of bank holding companies, and other entities regulated by the Federal Reserve. Any estimates of paperwork burden for other respondents are provided by the federal agency or agencies that supervise them.

The Board estimates that the effect of the amendments on the burden per response is negligible. The estimated burden per response varies from 10 to 10,000 hours, depending on individual circumstances, with estimated averages of 202 hours for state member banks and 160 hours for mortgage banking subsidiaries.

It is estimated that of the 565 state member banks that were covered in 1996 because their assets exceeded the \$10 million threshold, 39 will be exempt as a result of the higher threshold. The 93 mortgage banking subsidiaries reporting HMDA data to the Federal Reserve remain covered. The total amount of annual burden is estimated to decrease from 129,168 hours to 121,368 because of these exemptions. The Board estimates that there would be no capital or start-up cost associated with these amendments, and that there is no annual cost burden beyond the estimated burden hours.

The Board did not receive any comments specifically addressing the burden estimate.

B. OMB Control Number

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The Federal Reserve's OMB control number applicable to the HMDA-LAR data collection is 7100-0247.

C. Confidentiality

The Board has previously determined that the HMDA loan/application register is required by law (12 U.S.C. 2801-2810; 12 CFR Part 203) and completion of the register, submission to the appropriate federal supervisory agency, and disclosure to the public on request are mandatory. The data, as modified according to Appendix A of the regulation (paragraph III.E.), are made publicly available and are not considered confidential. Information that might identify individual borrowers or applicants is given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)).

D. Extension of Authority

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board has reviewed Regulation C under the authority delegated to the Board by the Office of Management and Budget. The Board is extending the authority to collect the HMDA loan/application register for three years through May 31, 2000.

E. Request for comments

The Board has a continuing interest in the public's opinions of Federal Reserve collections of information. Comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent at any time to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0247), Washington, DC 20503.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

PART 203--HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801-2810.

2. Section 203.3 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 203.3 Exempt institutions.

(a) Exemption based on location, asset size, or number of home purchase loans.

(1) * * *

(ii) The institution's total assets were at or below the asset threshold established by the Board. For data collection in 1997, the asset threshold is \$28 million as of December 31, 1996. For subsequent years, the Board will adjust the threshold based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million. The Board will publish any adjustment in the asset figure in December.

* * * * *

3. Section 203.5 is amended as follows:

- a. Paragraph (b) is revised;
- b. Under paragraph (c), the last sentence is revised; and
- c. Paragraph (e) is revised.

The revisions read as follows:

§ 203.5 Disclosure and reporting.

* * * * *

(b) Public disclosure of statement. (1) A financial institution shall make its mortgage loan disclosure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public at its home office no later than three business days after receiving it from the Examination Council.

(2) In addition, a financial institution shall either:

(i) Make its disclosure statement available to the public (within ten business days of receiving it) in at least one branch office in each additional MSA where the institution has offices (the disclosure statement need only contain data relating to the MSA where the branch is located); or

(ii) Post the address for sending written requests for the disclosure statement in the lobby of each branch office in an MSA where the institution has offices, and mail or deliver a copy of the disclosure statement, within fifteen calendar days of receiving a written request (the disclosure statement need only contain data relating to the MSA for which the request is made). Including the address in the general notice required under paragraph (e) of this section satisfies this requirement.

(c) Public disclosure of loan application register. * * * The modified register need only contain data relating to the MSA for which the request is made.

* * * * *

(e) Notice of availability. A financial institution shall post a general notice about the availability of its HMDA data in the lobby of its home office and of each branch office located in an MSA. It shall promptly upon request provide the location of the institution's offices where the statement is available for inspection and copying, or it may include the location in the notice.

4. In Appendix A to Part 203 under the heading PAPERWORK REDUCTION ACT NOTICE, the undesignated paragraph is revised to read as follows:

PAPERWORK REDUCTION ACT NOTICE

Public reporting burden for collection of this information is estimated to vary from 10 to 10,000 hours per response, with an average of 202 hours per response for state member banks

and 160 hours per response for mortgage banking subsidiaries, including time to gather and maintain the data needed and to review instructions and complete the information collection. This report is required by law (12 USC 2801-2810 and 12 CFR 203). An agency may not conduct or sponsor, and an organization is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control number for this information collection is 7100-0247. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

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5. Paragraph I of Appendix A to Part 203 is amended as follows:
- a. Paragraph A. is amended by redesignating the introductory text, paragraph 1., and paragraph 2., as paragraph 1., paragraph 1.a., and paragraph 1.b., respectively;
 - b. Newly designated paragraph 1.a. is revised;
 - c. A new paragraph 2. is added; and
 - d. The undesignated paragraph EXAMPLE, is designated as paragraph 3. and revised.
- The addition and revisions read as follows:

APPENDIX A TO PART 203 -- FORM AND INSTRUCTIONS FOR COMPLETION OF HMDA LOAN/APPLICATION REGISTER

* * * * *

I. WHO MUST FILE A REPORT

A. Depository Institutions.

1. * * *

a. Had assets of more than the asset threshold for coverage as published by the Board each year in December, and

b. * * *

2. For data collection in 1997, the asset threshold is \$28 million in total assets as of December 31, 1996.

3. Example. If on December 31 you had a home or branch office in an MSA and your assets exceeded the asset threshold, you must complete a register that lists the home-purchase and home-improvement loans that you originate or purchase (and also lists applications that did not result in an origination) beginning January 1.

* * * * *

6. Paragraph III. of Appendix A to Part 203 is amended as follows:

- a. Paragraph D. is revised;
- b. Under paragraph E., paragraph 2. is revised and a new paragraph 3. is added;
- c. Paragraph F. is deleted; and
- d. Paragraph G. is redesignated as paragraph F., and in the newly redesignated paragraph, the first paragraph following the heading is designated as paragraph 1. and a new heading is added to the newly designated paragraph 1., and paragraph 2. is added after the Home Mortgage Disclosure Act Notice.

The revisions and additions read as follows:

III. SUBMISSION OF HMDA-LAR AND PUBLIC RELEASE OF DATA

* * * * *

D. Availability of disclosure statement. 1. The Federal Financial Institutions Examination Council (FFIEC) will prepare a disclosure statement from the data you submit. Your disclosure statement will be returned to the name and address indicated on the transmittal sheet. Within three business days of receiving the disclosure statement, you must make a copy available at your home office for inspection by the public. For these purposes a business day is any calendar day other than a Saturday, Sunday, or legal public holiday. You also must either:

a. Make your disclosure statement available to the public, within ten business days of receiving it from the FFIEC, in at least one branch office in each additional MSA where you have offices (the disclosure statement need only contain data relating to properties in the MSA where the branch office is located); or

b. Post in the lobby of each branch office in an MSA the address where a written request for the disclosure statement may be sent, and mail or deliver a copy of the statement to any person requesting it, within fifteen calendar days of receiving a written request. The disclosure statement need only contain data relating to the MSA for which the request is made.

2. You may make the disclosure statement available in paper form or, if the person requesting the data agrees, in automated form (such as by PC diskette or computer tape).

E. Availability of modified loan application register.

1. * * *

2. You may make the modified register available in paper or automated form (such as by PC diskette or computer tape). Although you are not required to make the modified loan application register available in census-tract order, you are strongly encouraged to do so in order to enhance its utility to users.

3. You must make your modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. You are not required to prepare a modified loan application register in advance of receiving a request from the public for this information, but must be able to respond to a request within 30 days. A modified register need only reflect data relating to the MSA for which the request is made.

F. Posters.

1. Suggested language. * * *

2. Additional language for institutions making the disclosure statement available upon request. For an institution that makes its disclosure statement available upon request instead of at branch offices must post a notice informing the public of the address to which a request should be sent. For example, the institution could include the following sentence in its general notice: "To receive a copy of these data send a written request to [address]."

* * * * *

7. In Appendix A, the LOAN/APPLICATION REGISTER Transmittal Sheet is revised to read as follows:

LOAN/APPLICATION REGISTER

Form FR HMDA-LAR.
OMB No. 7100-0247. Approval expires May 31, 2000.

TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
_____	_____	_____	_____

The Loan/Application Register that is attached covers activity during the year _____ and contains a total of ____ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

Name of Institution

Address

City, State, ZIP

Enter the name, telephone number, and facsimile number of a person who may be contacted about questions regarding your register:

Name

(____) _____
Telephone Number

(____) _____
Facsimile Number (if applicable)

If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

Name

Address

City, State, ZIP

An officer of your institution must complete the following section.

I certify to the accuracy of the data contained in this register.

Name of Officer

Signature

Date

8. Supplement I to Part 203, is amended as follows:

a. Under Section 203.3--Exempt Institutions, under 3(a) Exemption based on location, asset size, or number of home-purchase loans, the second sentence of Paragraph 1. General is revised; and

b. Under Section 203.5--Disclosure and Reporting, under 5(e) Notice of Availability, the parenthetical at the end of Paragraph 1. Poster--suggested text is revised.

The revisions read as follows:

SUPPLEMENT I TO PART 203--STAFF COMMENTARY

* * * * *

Section 203.3--Exempt Institutions

3(a) Exemption based on location, asset size, or number of home-purchase loans.

1. General. * * * For example, a bank whose assets are at or below the threshold on December 31 of a given year reports data for that full calendar year, in which it was covered, but does not report data for the succeeding calendar year. * * *

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Section 203.5--Disclosure and Reporting

5(e) Notice of Availability.

1. Poster--suggested text. * * * (Appendix A of this part, paragraph III.F.)

By order of the Board of Governors of the Federal Reserve System, May 19, 1997.

(signed)
William W. Wiles,
Secretary of the Board.