

Published Feb. 25, 1998

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0999]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for public comment proposed amendments to Regulation C (Home Mortgage Disclosure). The proposed amendments: modify the Loan Application Register to prepare for "year 2000" data systems conversion; delete the requirement to enter the reporting institution's parent company on the Transmittal Sheet; and make certain other technical changes to the regulation and reporting forms.

DATES: Comments must be received on or before April 27, 1998.

ADDRESSES: Comments should refer to Docket No. R-0999, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Pamela C. Blumenthal, Staff Attorney, or John C. Wood, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412 or (202) 452-3667; for users of Telecommunications Device for the Deaf (TDD) only, contact Diane Jenkins at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Board's Regulation C (12 CFR Part 203) implements the Home Mortgage Disclosure Act (HMDA) (12 U.S.C. 2801 et seq.). The regulation requires most mortgage lenders located in metropolitan statistical areas (MSAs) to report annually to federal supervisory agencies, and disclose to the public, information about their home mortgage and home improvement lending activity.

II. Discussion of Amendments

A. Year 2000 Changes

Among items reported on the HMDA Loan Application Register (HMDA-LAR), institutions are required to enter the date of application and the date action was taken. Currently, these dates are to be entered using two digits for the year, in the form MM/DD/YY. As part of the interagency Year 2000 - Century Date Change program, the Board, on behalf of the agencies responsible for HMDA compliance, has begun modifying software to avoid the confusion of a date in the 21st century with a date in the 20th century -- by adding two digits to represent the century. For example, January 15, 2002, would be reflected as 01/15/2002 rather than 01/15/02. Accordingly, the Board proposes to revise the HMDA-LAR form and the instructions (Appendix A to Regulation C) to require the date of application and date of action taken to be entered in the form MM/DD/CCYY.

The paper version of the HMDA-LAR model form in Appendix A shows sample transactions, the first an originated loan and the second a denied application. In both examples, the "date application received" and "date action taken" fields contain dates from 1992. Similarly, the instructions relating to these two fields contain references to 1992 dates. To update these examples and instructions, as well as to remind reporting institutions of the change to a four-character year in the date fields, the proposed amendments replace "92" with "1999" in the examples and instructions.

B. Deletion of Parent Company Information

The Transmittal Sheet (TS) that accompanies the HMDA-LAR currently calls for the name and address of the parent company, if any, of the institution submitting HMDA data. The Board proposes to amend the TS by deleting the requirement to enter the name and address of the submitting institution's parent company, given that in most cases this information is available from the bank structure information already collected by the agencies. C. Reassignment of Functions of Farmers Home Administration

One of the items of information reported on the HMDA-LAR about a loan or application is the type of loan. Similarly, for loans sold, the lender reports the type of purchaser of the loan. The code sheet lists the Farmers Home Administration (FmHA) as one of the categories (as an insurer or purchaser of loans).

Reorganization within the Department of Agriculture has resulted in the functions of the FmHA being reassigned to two new units, the Farm Service Agency and the Rural Housing Service. For "type of loan," the Board proposes to replace the references to the Farmers Home Administration or FmHA (in the code sheet for the HMDA-LAR form and in the instructions regarding type of loan) with a reference to "Farm Service Agency or Rural Housing Service" (or

"FSA/RHS"). With regard to "type of purchaser," the successor agencies to FmHA do not purchase loans. A secondary market entity that does purchase loans, the Federal Agricultural Mortgage Corporation, is not currently included in the list. Accordingly, the Board proposes to revise the references to FmHA, as a purchaser of loans, to refer instead to the Federal Agricultural Mortgage Corporation or FAMC.

In the collection and reporting of 1998 data, institutions should use the existing codes for FmHA to refer to loans guaranteed by FSA or RHS, or to loans that have been sold to FAMC, as applicable.

D. Paperwork Reduction Act Requirements

Regulations issued by the Office of Management and Budget (OMB) to implement the Paperwork Reduction Act (5 CFR Part 1320) contemplate that regulations imposing data collection requirements include control numbers assigned by OMB. Currently, Regulation C, the instructions for the HMDA-LAR and TS, and the TS form itself contain an OMB control number (7100-0247) assigned to the Federal Reserve in connection with HMDA reporting requirements. The Board is making a technical amendment to the regulation, the instructions, and the TS form -- adding the control numbers assigned to the Office of the Comptroller of the Currency (1557-0159), the Federal Deposit Insurance Corporation (3064-0046), and the Office of Thrift Supervision (1550-0021). The National Credit Union Administration and the Department of Housing and Urban Development are in the process of obtaining OMB control numbers; these numbers will be added at a later time. The amendment also includes a number of other minor technical changes in the instructions and the TS form.

E. Clarification Regarding Coverage of Nondepository Lending Institutions

The Board proposes a technical amendment to clarify the coverage of nondepository institutions. The definition of "financial institution" under Regulation C includes nondepository lending institutions that, in the preceding calendar year, originated home purchase loans or refinancings of home purchase loans in an amount of 10 percent or more of the institution's total loan origination volume, measured in dollars. The definition is stated in §203.2(e)(2) and in paragraph I.D. of Appendix A to the regulation. Even if a nondepository institution meets the definition of "financial institution," however, it is not covered by Regulation C unless the institution either had assets over \$10 million or originated 100 or more home purchase loans, including refinancings of home purchase loans, during the preceding calendar year. The instructions (see paragraph I.C. of Appendix A) refer expressly to refinancings, but §203.3(a)(2)(ii) does not. Some institutions have suggested to the Board that including a reference to refinancings in § 203.3 would be useful.

The Board's notice at the time the 100-loan test was added to Regulation C made clear that refinancings of home purchase loans are included in calculating whether the coverage threshold was reached. (See 57 FR 56963, December 2, 1992.) Accordingly, the Board proposes adding a reference to refinancings of home purchase loans to § 203.3(a)(2)(ii), to conform to paragraph I.C. of Appendix A.

F. Adjustment in Exemption Threshold for Depository Institutions

The Board is required to adjust the exemption threshold for depository institutions annually based on the annual percentage change in the Consumer Price Index. In December 1997, the Board amended the Regulation C staff commentary, adjusting the exemption threshold for depository institutions for 1998 data collection to \$29 million (62 FR 66259, December 18,

1997). (The figure for 1997 data collection was \$28 million.) Thus, depository institutions with assets of \$29 million or less as of December 31, 1997, are exempt from data collection in 1998.

The Board is amending the regulation and the instructions for the HMDA-LAR to conform.

G. Effective Date of Amendments

The Board proposes to make the final amendments effective for data collected in calendar year 1998, which will be submitted to supervisory agencies by March 1, 1999. The personal computer data entry software available from the supervisory agencies for 1998 data collection already reflects the amendments relating to four-digit year and the deletion of parent company information. The Board believes that private sector software vendors (and institutions that have developed their own software) have modified their HMDA data entry software in a similar manner, or are in the process of doing so. Accordingly, the Board believes that making these amendments effective for 1998 data will not be burdensome to reporting institutions. However, the Board requests comment from any institutions that may have a problem in complying.

Other amendments in this proposal make changes to Regulation C that are technical or that merely clarify existing rules; the Board does not believe any of these changes would impose compliance burdens on reporting institutions.

These proposed amendments do not affect the reporting of calendar year 1997 data, which are due no later than March 1, 1998; the requirements for data collected in 1997 remain unchanged.

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 proposed amendments to Regulation C. Overall, the amendments are not expected to have a significant impact on small entities. A final regulatory

flexibility analysis will be conducted after consideration of comments received during the public comment period.

IV. Paperwork Reduction Act

A. Paperwork Burden

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), the Board has reviewed the proposed rule under authority delegated to the Board by the Office of Management and Budget. 5 CFR 1320 Appendix A.1.

The proposed revisions to the information collection requirements are found in 12 CFR 203.1, 203.3, and Appendix A to Part 203 and implement the data collection and reporting requirements established by the Home Mortgage Disclosure Act. The proposed amendments would make several technical changes in the reporting requirements of Regulation C; these changes are expected to have no impact on reporting burden. The proposed amendments would also clarify existing requirements of the regulation; these amendments would have no impact on reporting burden.

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. The Board expects to receive HMDA-LARs covering 1997 data from 515 state member banks and 106 mortgage banking subsidiaries. Therefore, the total hour burden for institutions the Federal Reserve supervises is 120,990. Since asset data for December 31, 1997 is not yet available, the Board cannot yet estimate the number of respondents who will submit 1998 data or the total annual burden for 1998.

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 OMB control numbers applicable to the HMDA-LAR data collection are as follows: Office of the Comptroller of the Currency, 1557-0159 (approval expires September 30, 1998); Federal Deposit Insurance Corporation, 3064-0046 (approval expires July 31, 2000); Office of Thrift Supervision, 1550-0021 (approval expires December 31, 1999); and Federal Reserve System, 7100-0247 (approval expires May 31, 2000). OMB control numbers and expiration dates for the National Credit Union Administration and the Department of Housing and Urban Development are pending.

List of Subjects in 12 CFR Part 203

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

Text of Proposed Revisions

Certain conventions have been used to highlight the proposed changes to Regulation C. New language is shown inside bold-faced arrows, while language that would be removed is set off with brackets.

Pursuant to the authority granted in section 305(a) of the Home Mortgage Disclosure Act, 12 USC 2804(a), and for the reasons set forth in the preamble, the Board proposes to amend 12 CFR Part 203 as set forth below:

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. § 203.1 would be amended by revising the last sentence of paragraph (a) to read as follows:

§ 203.1 Authority, Purpose, and Scope.

(a) Authority. * * * The information-collection requirements have been approved by the U.S. Office of Management and Budget under 44 U.S.C. 3501 et seq. and have been assigned OMB [No.] <Numbers 1557-0159, 3064-0046, 1550-0021, and= 7100-0247 <for institutions reporting data to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Federal Reserve System, respectively; numbers for the National Credit Union Administration and the Department of Housing and Urban Development are pending=.

3. § 203.3 would be amended as follows:

- a. Paragraphs (a)(1) and (a)(2) introductory text are republished;
- b. Paragraph (a)(1)(ii) would be revised; and
- c. Paragraph (a)(2)(ii) would be revised.

The proposed revisions read as follows:

§ 203.3 Exempt institutions.

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

(1) A bank, savings association, or credit union is exempt from the requirements of this regulation for a given calendar year if on the preceding December 31:

(i) * * *

(ii) The institution's total assets were at or below the asset threshold established by the Board. For data collection in [1997]<1998=, the asset threshold is [\$28]<\$29= million as of December 31, [1996]<1997=. * * *

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) is exempt from the requirements of this regulation for a given calendar year if:

(i) * * *

(ii) The institution's total assets combined with those of any parent corporation were \$10 million or less on the preceding December 31, and the institution originated fewer than 100 home purchase loans <(including refinancings of home purchase loans)= in the preceding calendar year.

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

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

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] <Numbers= for this information collection [is] <are 1557-0159, 3064-0046, 1550-0021, and= 7100-0247 < for institutions reporting data to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Federal Reserve System, respectively; numbers for the National Credit Union Administration and the Department of Housing and Urban Development are pending=. 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;] <the respective agencies= and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

5. Appendix A to Part 203 would be amended as follows:

- a. Paragraph I.A.2. would be revised;
- b. The first sentence of paragraph V.A.2. and paragraph V.A.3. would be revised;
- c. Paragraph V.B.3. introductory text would be revised; and
- d. Paragraph V.E.1. introductory text is republished and paragraph V.E.1.4 would be

revised.

The proposed revisions read as follows:

I. WHO MUST FILE A REPORT

A. Depository institutions

1. * * *

2. For data collection in [1997]<1998=, the asset threshold is [\$28]<\$29= million in total assets as of December 31, [1996]<1997=.

* * * * *

V. INSTRUCTIONS FOR COMPLETION OF LOAN/APPLICATION REGISTER

A. Application or loan information

1. * * *

2. Date application received. Enter the date the loan application was received by your institution by month, day, and year, using numerals in the form MM/DD/<CC=YY (for example, 01/15/[92]<1999=). * * *

3. Type. Indicate the type of loan or application by entering the applicable code from the following:

1 -- Conventional (any loan other than FHA, VA [or FmHA] <, FSA, or RHS= loans)

2 -- FHA-insured (Federal Housing Administration)

3 -- VA-guaranteed (Veterans Administration)

4 -- [FmHA-insured (Farmers Home Administration)] <FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)=

* * * * *

B. Action taken

* * * * *

3. Date of action. Enter the date by month, day, and year, using numerals in the form MM/DD/<CC=YY (for example, 02/22/[92]<1999=).

* * * * *

E. Type of purchaser

1. Enter the applicable code to indicate whether a loan that your institution originated or purchased was then sold to a secondary market entity within the same calendar year:

* * * * *

4 -- [FmHA (Farmers Home Administration)]<FAMC (Federal Agricultural Mortgage Corporation)=

* * * * *

6. In Appendix A, the LOAN/APPLICATION REGISTER Transmittal Sheet would be revised to read as follows:

7. In Appendix A, the LOAN/APPLICATION REGISTER would be revised to read as follows:

8. In Appendix A, the LOAN/APPLICATION REGISTER CODE SHEET would be revised to read as follows:

LOAN/APPLICATION REGISTER CODE SHEET

Use the following codes to complete the Loan/Application Register. The instructions to the HMDA-LAR explain the proper use of each code.

Application or Loan Information

Type:

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—[FmHA-insured (Farmers Home Administration)] <FSA/RHS-guaranteed (Farm Service Agency or Rural Housing Service)=

Purpose:

- 1—Home purchase (one-to-four family)
- 2—Home improvement (one-to-four family)
- 3—Refinancing (home purchase or home improvement, one-to-four family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

Owner-Occupancy:

- 1—Owner-occupied as a principal dwelling
- 2—Not owner-occupied
- 3—Not applicable

Action Taken:

- 1–Loan originated
- 2–Application approved but not accepted
- 3–Application denied by financial institution
- 4–Application withdrawn by applicant
- 5–File closed for incompleteness
- 6–Loan purchased by your institution

Applicant Information

Race or National Origin:

- 1–American Indian or Alaskan Native
- 2–Asian or Pacific Islander
- 3–Black
- 4–Hispanic
- 5–White
- 6–Other
- 7–Information not provided by applicant in mail or telephone application
- 8–Not applicable

Sex:

- 1–Male
- 2–Female
- 3–Information not provided by applicant in mail or telephone application
- 4–Not applicable

Type of Purchaser

- 0–Loan was not originated or was not sold in calendar year covered by register
- 1–FNMA (Federal National Mortgage Association)
- 2–GNMA (Government National Mortgage Association)
- 3–FHLMC (Federal Home Loan Mortgage Corporation)
- 4–[FmHA (Farmers Home Administration)] <FAMC (Federal Agricultural Mortgage Corporation)=
- 5–Commercial bank
- 6–Savings bank or savings association
- 7–Life insurance company
- 8–Affiliate institution
- 9–Other type of purchaser

Reasons for Denial (optional)

- 1–Debt-to-income ratio
- 2–Employment history
- 3–Credit history
- 4–Collateral
- 5–Insufficient cash (downpayment, closing costs)
- 6–Unverifiable information
- 7–Credit application incomplete
- 8–Mortgage insurance denied
- 9–Other

[THIS SIGNATURE PAGE RELATES TO REGULATION C; DOCKET NO. R-0999; HOME MORTGAGE DISCLOSURE]

By order of the Board of Governors of the Federal Reserve System, February 18, 1998.

/signed/

William W. Wiles,
Secretary of the Board.
BILLING CODE 6210-01-P