

**Supporting Statement for the
HMDA Loan/Application Register
(FR HMDA-LAR; OMB No. 7100-0247)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Home Mortgage Disclosure Act (HMDA) Loan/Application Register (LAR), which is prescribed by the Federal Reserve as part of its Regulation C implementing HMDA.¹ The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an information collection.² The PRA requires the Federal Reserve to renew authority for information collections every three years.

The information reported and disclosed pursuant to this collection is used to further the purposes of HMDA. These include: (1) to help determine whether financial institutions are serving the housing needs of their communities, (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed, and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes. The information collection is mandatory.

The Federal Reserve's Regulation C, including the information collection, applies both to depository and for-profit nondepository institutions and is enforced by six agencies, including the Federal Reserve.³ Federal Reserve staff collects and processes information obtained through the data collection for all of the agencies. However, each agency accounts separately for the paperwork burden that Regulation C imposes on the institutions that the agency regulates. Thus, the Federal Reserve accounts only for state member banks, their subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a; 611-631). The respondent burden for Federal Reserve regulated entities is estimated to be 151,134 hours.

Background

HMDA was enacted in 1975 and amended extensively in 1989, when Congress extended the Act to independent mortgage companies and added requirements to report data on denials of mortgage applications and to identify the ethnicity, race, sex, and income of applicants and borrowers. In 1998, the Federal Reserve initiated a major review of its rules implementing HMDA. After issuing two proposals and receiving extensive comments, the Board adopted final rules in 2002, which took effect on January 1, 2004.

¹ HMDA is codified at 12 U.S.C. § 2801-2810; Regulation C is codified at 12 C.F.R. Part 203.

² 44 U.S.C. § 3501 *et seq.* The collection of information under Regulation C is assigned OMB No. 7100-0247 for purposes of the PRA.

³ The five other agencies are the Department of Housing and Urban Development (HUD), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). Except for HUD, these agencies, like the Federal Reserve, are members of the Federal Financial Institutions Examination Council.

Under the new rules, Regulation C was amended to improve the quality, consistency, and utility of data reported under HMDA. The revisions expanded coverage of nondepository lenders; streamlined the definitions of “refinancing” and “home improvement loan”; revised the definition of “application” to include requests for preapproval; mandated the collection of additional items of information, including the spread between the annual percentage rate on a loan and the rate on the comparable Treasury security (for APRs above certain thresholds); and required lenders to request race, ethnicity, and sex data from telephone applicants.

On October 24, 2008, the Board published a final rule (73 FR 63329) that amended Regulation C by revising the rules for reporting price information on higher-priced loans. The rules were amended to conform to the definition of “higher-priced mortgage loan” adopted by the Board under Regulation Z (Truth in Lending).⁴ Before the amendments, Regulation C required lenders to collect and report the spread between the annual percentage rate (APR) on a loan and the yield on Treasury securities of comparable maturity if the spread is equal to or greater than 3.0 percentage points for a first-lien loan (or 5.0 percentage points for a subordinate-lien loan). Under the final rule, a lender reports the spread between the loan’s APR and a survey-based estimate of APRs currently offered on prime mortgage loans of a comparable type if the spread is equal to or greater than 1.5 percentage points for a first-lien loan (or 3.5 percentage points for a subordinate lien loan). The final rule became effective October 1, 2009. Compliance became mandatory for loan applications taken on and after the effective date and for loans that close on and after January 1, 2010 (regardless of their application dates).

Justification

The Federal Reserve, on behalf of the Federal Financial Institutions Examination Council (FFIEC), prepares a disclosure statement for each institution based on that institution’s LAR. Also on behalf of the FFIEC, the Federal Reserve combines the data submitted by all reporting institutions and produces aggregate data for each Metropolitan Statistical Area (MSA). The disclosure statements and aggregate data are publicly available.

Supervisory agencies, state and local public officials, and members of the public use data from the disclosure statements produced by the FFIEC to aid in the enforcement of the Community Reinvestment Act, the Equal Credit Opportunity Act, and the Fair Housing Act; to aid in identifying areas for residential redevelopment and rehabilitation; and to evaluate the extent to which mortgage lenders are serving local housing needs.

From January 2004 to date, the Federal Reserve, on behalf of the FFIEC, has received approximately 2,776 orders for the purchase of products presenting data resulting from this information collection. Most orders came from financial institutions; others came from government agencies, members of the media, and the general public. Much of the mortgage loan information published by the FFIEC is not available to the public from any other source.

⁴ 73 FR 44522 (July 30, 2008).

Description of Information Collection

The Board's Regulation C applies to depository and for-profit nondepository institutions that meet certain criteria relating to asset size, presence in an MSA, activity in the home mortgage lending market, and, in the case of depository institutions, FDIC membership or other relationships with the Federal government or government-sponsored enterprises. Regulation C generally requires that lenders report data about:

- Each application or loan, including the application date; the action taken and the date of that action; the loan amount; the loan type (for example, government guaranteed or not) and purpose (for example, home purchase); and, if the loan is sold, the type of purchaser;
- Each applicant or borrower, including ethnicity, race, sex, and income; and
- Each property, including location and occupancy status.

In March 2009, 652 Federal Reserve-regulated institutions submitted LARs identifying approximately 2.2 million loans and applications for 2008. A total of 8,417 institutions reported approximately 17.5 million loans and applications. The number of respondents changes annually – for example, as institutions merge, or as their assets rise above or fall below the applicable threshold for coverage.

The Federal Reserve and the FFIEC have taken many steps to minimize the burden of compliance with the information collection and assist in accurate and timely reporting. These steps include providing free HMDA-LAR data entry software; maintaining the FFIEC HMDA web site, which includes a free “geocoding” utility that returns census tract information for a specified property address;⁵ and publishing the FFIEC handbook, A Guide to HMDA Reporting: Getting It Right!.⁶

Time Schedule for Information Collection

An institution generally must record data on each application and loan within 30 days after the end of the calendar quarter during which the institution took final action. To comply with statutory requirements, each covered lender must submit the completed LAR to the applicable supervisory agency by March 1 of the year following the year covered by the LAR. Institutions that submit incorrect information may be required to correct and resubmit the information.

After all the institutions' data have been edited, the FFIEC sends each institution a disclosure statement. Within three business days of receiving its statement, an institution must make a copy available at its home office. In addition, within 10 business days of receiving its

⁵ According to the Federal Reserve staff, the geocoding utility web page (www.ffiec.gov/geocode) was accessed (opened or downloaded) approximately 34.9 million times between January 2004 and December 2007. Due to interference with real time data processing this information is no longer tracked.

⁶ According to the Federal Reserve staff, there were approximately 9.95 million visitors to the FFIEC HMDA web site between January 2004 and December 2009. During that time the HMDA Guide (2004 or 2006 version) (<http://www.ffiec.gov/hmda/guide.htm>) was accessed (opened or downloaded) approximately 4.6 million times.

statement, the institution must either: (1) make the statement available in at least one branch office per MSA where it has an office or (2) post a notice stating that the statement is available upon written request (including the mailing address). The institution must mail or deliver a copy within 15 calendar days of receiving a written request. The disclosure statement need only contain the portion of data relating to the MSA for which the request is made. Each institution must make its disclosure statement available to the public for five years.

Each institution must retain its completed LAR for three years. It must also make its LAR available to the public after redacting certain information to protect the privacy of its applicants and borrowers. The redacted LAR must also remain available, on request, for three years. If the institution receives a request for the prior year's LAR on or before March 1, the institution must make the LAR available within 30 calendar days. Institutions must post notices about the availability of their HMDA data in the lobbies of their home and branch offices. Institutions may impose reasonable fees for any costs incurred in providing or reproducing LAR data in response to requests for such data.

Legal Status

The Board's Legal Division has determined that HMDA data collection and reporting are required by law (12 U.S.C. 2803(j)); completion of the LAR, submission to the Federal Reserve, and disclosure to the public upon request are mandatory. After the data are redacted as required by the statute and regulation, they are made publicly available and are not considered confidential. Data that the statute requires to be redacted (loan number, date application received, and date action taken) are given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)) and section 304 (j)(2)(B) of HMDA (12 U.S.C. 2803(j)(2)(B)).

Consultation Outside the Agency

The Board consults regularly with HUD and with the other member agencies of the FFIEC about matters concerning this data collection. All of the Board's rulemaking activities under HMDA are subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. 551 *et seq.* On June 15, 2010, the Federal Reserve published a notice in the *Federal Register* (75 FR 33806) requesting public comment for 60 days on the extension, without revision, of FR HMDA/LAR. The comment period for this notice expires on August 16, 2010.

Estimate of Respondent Burden

The reporting, recordkeeping, and disclosure burden for this information collection is estimated to vary from 12 to 12,000 hours per respondent per year, with an average of 242 hours for state member banks and an average of 192 hours for mortgage banking subsidiaries and other respondents. This estimated burden includes time to: gather and maintain the data needed, review the instructions, and complete the register. The current total annual burden for entities regulated by the Federal Reserve is estimated to be 151,134 hours. The reporting,

recordkeeping, and disclosure requirements represent 1.90 percent of total Federal Reserve System paperwork burden.

	<i>Number of respondents⁷</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
State member banks	519	1	242	125,598
Mortgage subsidiaries of state member banks	133	1	192	<u>25,536</u>
<i>Total</i>				151,134

The total annual cost to Federal Reserve respondents is estimated to be \$6,362,741.⁸

Estimate of Cost to the Federal Reserve System

The total annual cost to the federal agencies responsible for this data collection is estimated to be \$3.59 million. The estimate includes, among other things, processing the information generated by the collection, producing a disclosure statement for each institution, and producing aggregate data for each MSA. This cost is allocated among the member agencies of the FFIEC and HUD based on the time spent by Federal Reserve analysts and computers working on the data relating to the respective agencies' regulated institutions.

Sensitive Questions

Institutions must generally request applicants for covered loans to provide information about their sex, race, and ethnicity. For applications taken in person, the institution must generally infer the information based on visual observation and surname if an applicant declines to provide the information. The purpose of these features of the information collection is to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

⁷ Respondents with less than \$175 million in total assets: 188 SMBs and 15 mortgage subsidiaries. Small entities as defined by the Small Business Administration: www.sba.gov/contractingopportunities/officials/size/table/index.html

⁸ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$16, 45% Financial Managers @ \$48, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$76). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2008, www.bls.gov/news.release/ocwage.nr0.htm Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/