



FEDERAL RESERVE BANK
OF DALLAS

WILLIAM H. WALLACE
FIRST VICE PRESIDENT
AND CHIEF OPERATING OFFICER

December 28, 1989

DALLAS, TEXAS 75222

Circular 89-84

TO: The Chief Executive Officer of all
member banks, bank holding companies
and others concerned in the
Eleventh Federal Reserve District

SUBJECT

Final rule to Regulation C -- Home Mortgage Disclosure

DETAILS

The Board of Governors of the Federal Reserve System has revised its Regulation C (Home Mortgage Disclosure) to implement amendments that were contained in the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA). The amendments are effective January 1, 1990.

The amendments to the regulation:

expand the coverage to include mortgage lenders that are not affiliated with depository institutions or holding companies;

require institutions to report data regarding applications for mortgage and home improvement loans, in addition to data about loan originations and purchases; and

require most institutions to report the race, sex, and income of loan applicants.

The Board has also adopted a new register format for Home Mortgage Disclosure Act reporting. The new loan/application register form, that institutions are required to fill out, will log loan applications, loans actually made, and loans purchased. The first set of reports in this new format will be due March 1, 1991.

ATTACHMENTS

The material as published in the Federal Register is attached.

MORE INFORMATION

For further information, please contact Eugene Coy at (214) 744-7480.

Sincerely yours,

For additional copies of any circular please contact the Public Affairs Department at (214) 651-6289. Banks and others are encouraged to use the following incoming WATS numbers in contacting this Bank (800) 442-7140 (intrastate) and (800) 527-9200 (interstate).

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0674]

RIN 7100-AB04

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a revised Regulation C (Home Mortgage Disclosure). The regulation implements amendments to the Home Mortgage Disclosure Act (HMDA), contained in the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), which are effective on January 1, 1990. The FIRREA amendments expand the coverage of HMDA to include mortgage lenders that are not affiliated with depository institutions or holding companies. They require covered institutions to report data regarding applications for mortgage and home improvement loans, in addition to data regarding loan originations and purchases. Most institutions will now also report the race, sex, and income of loan applicants.

The Board has adopted a loan/application register form for HMDA reporting on which institutions will record the required information for loan applications, loans actually made, and loans purchased.

The first set of reports in the new register format will be due in early 1991. The reports covering loan data for calendar year 1989, which are due on March 31, 1990, remain subject to the existing provisions of the regulation; institutions must use the current Form HMDA-1 or HMDA-2, as appropriate, for those reports.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT:

For information regarding the revisions to Regulation C and the reporting requirements, contact Thomas J. Noto or W. Kurt Schumacher, Staff Attorneys, 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 the hearing impaired only, contact Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf, at 202-452-3544. For information regarding the Board's approval of the reporting form under the Paperwork Reduction Act only, contact Frederick J. Schroeder, Federal Reserve Board Clearing Officer, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, at 202-452-3829, or Gary Waxman, OMB Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, at 202-395-7340.

SUPPLEMENTARY INFORMATION:

(1) Background

The Board's Regulation C (12 CFR part 203) implements the Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801 *et seq.*). The regulation currently requires depository institutions, mortgage banking subsidiaries of holding companies, and savings and loan service corporations that have over \$10 million in assets and have offices in metropolitan statistical areas or primary metropolitan statistical areas, to disclose annually their originations and purchases of mortgage and home improvement loans. Data must be itemized by census tract (or by county, in some instances) and also by type of loan. A disclosure statement covering the data on a calendar-year basis currently must be made available to the public and sent to the institution's federal supervisory agency by March 31 following the calendar year for which

the data are compiled. The Federal Financial Institutions Examination Council (FFIEC) produces tables showing aggregate lending patterns in each MSA and provides facsimiles of the individual institutions' reports to central data depositories.

The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), which was signed into law on August 9, 1989, made major revisions to HMDA. (FIRREA, Pub. L. No. 101-73, section 1211, 103 Stat. 183, 524-526 (1989).) First, the coverage of HMDA was expanded to include other mortgage lenders besides those affiliated with depository institutions or holding companies. Second, the FIRREA amendments require reporting of data regarding loan applications; currently, institutions report only data regarding loans originated or purchased. Third, the FIRREA amendments require most covered lenders to report the race, sex, and income of mortgage applicants and borrowers; depository institutions with assets under \$30 million are exempt from this particular requirement. Fourth, the FIRREA amendments require that lenders identify the class of purchaser for mortgage loans that they sell. Finally, the amendments permit lenders to explain the basis for lending decisions to their supervisory agency. Proposed revisions to Regulation C to implement the FIRREA amendments were published for public comment on October 6, 1989 (54 FR 41255), and the Board is now adopting a final rule.

The new requirements apply beginning with calendar year 1990. They do not affect the reports covering loans made or purchased in calendar year 1989 which are due by March 31, 1990. The current provisions of Regulation C govern these reports; institutions should use Form HMDA-1 or HMDA-2 as appropriate. The FFIEC's *Guide to HMDA Reporting: Getting It Right!* (published in January 1989) provides guidance for preparing reports covering the 1989 data.

Register format. The revised Regulation C provides for a "register" form of reporting. Lenders will record data for each application (whether granted, denied, or withdrawn) that they receive, and will submit the registers to their supervisory agency at the close of the calendar year. Institutions will have to maintain detailed loan data, which is unavoidable given the FIRREA requirements. But since institutions will not have to cross-tabulate the data as is now the case, the register format should minimize the burden of the new reporting requirements.

The Board is publishing the entire text of the regulation for the public's

convenience. However, the major changes (aside from the expanded coverage of lenders) relate to the data to be collected and the form in which the data will be reported, as prescribed in § 203.4 and in Appendix A. The revisions to the reporting form have been reviewed and approved under authority delegated to the Board by the Office of Management and Budget.

The format for data submission was developed by the Board in consultation with the other agencies responsible for enforcing HMDA—the Federal Deposit Insurance Corporation (FDIC), the Department of Housing and Urban Development (HUD), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). Several of these agencies currently require the lenders subject to their jurisdiction to keep an application register of some sort. Steps are under way to eliminate duplicate requirements. Institutions will be advised of any changes by their respective supervisory agencies.

(2) Section-by-Section Summary

The changes to each section of the regulation are discussed below.

Section 203.1—Authority, Purpose, and Scope

Section 203.1(b)(1)(iii) reflects the purpose of the new reporting requirements—stated in the FIRREA amendments—of identifying possible discriminatory lending patterns. Sections 203.1 (c) and (d) address the coverage and scope of the regulation and the FFIEC's role in producing disclosure statements and other reports from data submitted by financial institutions.

Section 203.2—Definitions

Section 203.3 defines terms used in the regulation. Revisions are noted below.

Act. The definition of "act" in § 203.2(a) is unchanged.

Application. Under section 1211(c) of the FIRREA amendments, institutions are required to report data for "completed" loan applications, in addition to reporting data for loans originated or purchased. A definition of "application" has been added as § 203.2(b); succeeding provisions have been renumbered accordingly.

The Board originally proposed to define "application" in a way slightly different from the definition contained in Regulation B (Equal Credit Opportunity) (12 CFR 202.2(f)). A number of commenters suggested that the Board use the Regulation B definition since it is

familiar to lending institutions. Based on the comments and further analysis, the Board has defined "application" in keeping with the Regulation B definition. Thus, for purposes of HMDA coverage, an application results when an institution receives an oral or written request for a mortgage or home improvement loan that is made in accordance with procedures established by the financial institution.

The FIRREA amendments refer to "completed applications," and the legislative history suggests that an application would be deemed complete for purposes of reporting under HMDA even if the institution had not yet received reports or approvals by secondary market entities, government entities, or private mortgage insurers. Under Regulation B, such an application would not be considered complete for purposes of the timing rules and required notices. Given the manner in which the Board has implemented the reporting requirements in Regulation C, however, the concept of a "completed" application is not relevant. The revised Regulation C requires that institutions report loan originations in the year of origination and loan purchases in the year of purchase; this is the rule currently applicable. In the case of loans not granted, institutions will report the application for the year in which disposition takes place (approved, denied, withdrawn).

Section 202.9(c) of Regulation B provides that if additional information from the applicant is needed for a credit decision, the creditor shall send a written notice of incompleteness. That notice must specify the information to be provided and the date by which it must be received. No further action is required on the part of the creditor if the applicant fails to respond.

The Board solicited comment on whether, in cases involving the applicant's failure to respond, an application should be reported as withdrawn or whether a new category ("file closed for incompleteness") should be added. The commenters were divided in their views. Some indicated that an additional category might cause confusion. Others, however, suggested that the additional code would provide a more accurate representation of the disposition of the application. The Board has decided to provide a separate code in the interest of more accurate data.

Branch office. The definition of branch office has several implications. First, institutions that do not have a home or branch office in an MSA are totally exempt from HMDA. Second, institutions must identify the census tract for loans on property located in

any MSA in which the institution has a home or branch office. Third, loan data must be made available to the public at one branch office (or at the home office) in each MSA where the institution has a home or branch office. Finally, the institution must post notices in branch offices located in MSAs to inform the public of the availability of the HMDA data.

Section 203.2(c)(1) retains, for depository institutions, the definition currently set forth in § 203.2(b)(1)(i) without substantive change. A branch office for banks, savings and loan associations, and credit unions is an office approved as a branch by a federal or state supervisory agency.

The definition of branch office is different for other mortgage lenders. Just last year, the Congress expanded HMDA coverage to institutions other than depository institutions, namely, to mortgage banking subsidiaries of bank and thrift holding companies and to savings and loan service corporations. The FIRREA amendments of 1989 have further expanded coverage to "other lending institutions." For all of these entities, designated "mortgage lending institutions" in § 203.2(c)(2) of the revised regulation, a branch office refers to any physical location at which the institution takes applications from the public for home purchase or home improvement loans. Previously this definition appeared in § 203.2(b)(1)(ii).

For mortgage lending institutions, moreover, the definition of branch office extends beyond a physical presence. Under section 1211(f) of the FIRREA amendments, "other lending institutions" are deemed to have a branch office in any MSA where they receive applications for, originate, or purchase five or more home purchase or home improvement loans. Section 203.2(c)(2) incorporates this rule. This five-or-more-loan rule applies in determining, for purposes of coverage, whether an institution has an office within an MSA, and also whether an institution must itemize data by census tract within a given MSA.

Dwelling. In the current regulation, parenthetical material in the definitions of home purchase and home improvement loans indicates that the term "dwelling" includes condominiums, cooperatives, mobile homes, and manufactured homes. Section 203.2(d) adds a definition of "dwelling" that incorporates these references as well as the definition of "state" previously contained in § 203.2(i).

FHA, FmHA, and VA loans. The definition of these loans, previously contained in § 203.2(c), has been deleted from the regulatory text. The

instructions for completing the register (Appendix A to the regulation) set forth the categories of loans that must be identified on the register.

Financial institution. Revised § 203.2(e) defines "financial institution" to include all institutions covered by the regulation: banks, savings and loan associations, credit unions, and other "mortgage lending institutions."

Under the current regulation, depository institutions such as banks and savings associations are covered by HMDA if they originate "federally related mortgage loans," as defined in § 203.2(d). An institution meets this test if it originates home purchase loans and the institution either (1) is federally insured or regulated or (2) writes home purchase loans that are federally insured or guaranteed or are to be sold to FNMA, GNMA, or FHLMC. The Board has consolidated the "federally related mortgage loan" criteria into the definition of "financial institution." The reference to GNMA has been removed, since GNMA no longer purchases mortgages. The Board solicited comment on whether coverage of depository institutions could be defined in terms of those that are federally insured and make home purchase loans. Based on further analysis, however, the Board believes that some institutions presently covered by the regulation would be exempted by this change, and has therefore not adopted it.

Section 1211(d) of the FIRREA amendments expanded the coverage of HMDA to include "other lending institutions." An "other lending institution" is defined in section 1211(e)(2) of the act as "any person engaged for profit in the business of mortgage lending." The regulation refers to these entities as "mortgage lending institutions" in § 203.2(e)(2). The regulatory definition also covers mortgage banking subsidiaries of bank and savings and loan holding companies and savings and loan service corporations, and the mortgage banking subsidiaries of depository institutions.

The Board believes that, by using the qualifying words "in the business of mortgage lending," the Congress evidenced an intent to exclude from coverage institutions that make a relatively small volume of mortgage loans. Accordingly, the Board has established an activity test in the regulation to determine whether a given lender is a "mortgage lending institution." Under this test, an entity is a "mortgage lending institution" if, in the preceding calendar year, 10 percent or more of its loan volume (measured in dollars) consisted of home purchase

loan originations. This threshold mirrors the rule currently used in § 203.2(e)(1)(ii) to define whether a holding company subsidiary is a "mortgage banking" subsidiary.

Under current § 203.2(e)(2), majority-owned subsidiaries of banks and savings associations are treated as part of their parent institution. Accordingly, the report submitted by the parent institution now includes data of the subsidiary; the data for loans made or purchased by the subsidiary are itemized by census tract only for MSAs where the parent has a home or branch office. In light of the definition of and treatment accorded to "other lending institution" in the FIRREA amendments (through the five-or-more-loan rule mentioned above, for example), the Board has changed the rules applicable to subsidiaries of depository institutions. A continuation of the current arrangement would only serve to magnify existing differences in reporting that are based on corporate structure alone. For example, a holding company subsidiary would itemize information by census tract for loans in MSAs where it took applications for, originated, or purchased five or more mortgage loans. Bank and thrift subsidiaries, on the other hand, would report itemized information only for MSAs in which the parent institution has a physical branch.

The Board believes that such markedly different results are inappropriate given the FIRREA amendments. Consequently, the revised regulation, under § 203.2(e)(2), treats mortgage lending subsidiaries of depository institutions as independent entities. As such, they will comply with HMDA in their own right if they meet the 10 percent threshold of that section.

Several commenters maintained that this treatment of subsidiaries would result in parent institutions not receiving credit for the lending activity of their subsidiaries. To avoid such a result, institutions are free to make available, with their disclosure statements, information that explains their relationship to other entities. In addition, the Board has revised the reporting form so that subsidiaries may note the identity of their parent institutions. Finally, the Board plans to explore, with the FFIEC, the possibility of preparing a consolidated disclosure statement that would reflect the activity of both entities.

Home improvement and home purchase loans. Institutions are required to report data regarding home improvement and home purchase loans. These terms are defined in § 203.2(f) and 203.2(g). With the added definition of "dwelling" in § 203.2(d), the

parenthetical references to condominiums, cooperatives, and mobile and manufactured homes have been deleted.

Metropolitan statistical area. Institutions must specify the location of the property to which a loan relates if the property is located in a metropolitan statistical area (MSA) in which the institution has a home or a branch office. The definition of MSA in § 203.2(j) is unchanged.

State. The definition of "state," currently contained in § 203.2(i), is incorporated within the new definition of "dwelling."

Section 203.3—Exempt Institutions

Section 203.3(a) and (b) exclude from coverage institutions with under \$10 million in assets, institutions that do not have offices in MSAs, and institutions that have been granted an exemption because they are subject to a similar state law.

A number of commenters raised questions regarding the proposed application of the \$10 million asset test, derived from section 309 of HMDA. They observed that mortgage companies' assets tend to be low relative to the volume of loans that they originate. Moreover, applying the \$10 million test directly to mortgage subsidiaries of depository institutions could exclude entities that are now covered by virtue of the relationship to their parent institution. If lending activities were concentrated in smaller subsidiaries, valuable loan data might not be reported. The same result could occur in the case of mortgage lenders with relatively low assets that are the subsidiaries of large non-bank companies. The Board believes that the Congress intended, in the FIRREA amendments, to cover a wide range of lenders in order to capture the fullest possible information regarding mortgage lending patterns. Applying the \$10 million test to a mortgage company alone, notwithstanding its affiliation with a larger entity, could thwart this intent in many instances. The Board believes it appropriate, in these circumstances, that the assets of any parent institution be combined with those of the subsidiary for purposes of applying the \$10 million test. Section 203.3(a) has been revised accordingly. Thus, a mortgage lending subsidiary of a bank, savings institution, holding company, or other corporation will be covered by the regulation so long as the assets of the subsidiary, combined with those of its parent, exceed \$10 million.

Some commenters expressed concern about the proposed application of the \$10 million test to the independent

mortgage companies that will report to HUD. They suggested that doing so would exclude a large number of these companies from coverage. As indicated above, this concern is understandable. Because these entities have no parent institution, however, the asset test necessarily applies directly to them, and they are therefore exempt if their assets are under \$10 million. The Board understands, however, that the bulk of mortgage lending by independent mortgage companies may be done by companies that exceed the \$10 million threshold.

The \$10 million test also applies directly to banks, savings institutions, and credit unions. Thus, for example, a bank with \$10 million or less in assets is exempt notwithstanding its relationship to a holding company. The Board believes that the \$10 million test reflects a decision by the Congress that the lending activity of financial institutions at this asset level is not high enough to warrant coverage by HMDA. The Board sees no intent, in the FIRREA amendments, to disturb this treatment.

Section 203.4—Compilation of loan data

Section 203.4 has been revised extensively. The FIRREA amendments require institutions to report data on all loan applications, and not just on originations and purchases of loans as is currently the case. The FIRREA amendments also call for the reporting of data on the race, sex, and income of applicants and borrowers, in addition to the geographic itemization of loans that is currently required. Given the expanded data collection, the Board has determined that to require cross-tabulation of data in the manner of the HMDA-1 and HMDA-2 forms would be both confusing and extremely burdensome for covered institutions. The Conference Report to the FIRREA amendments indicates that the Congress intended for the Board to have flexibility in establishing a report format that would enhance the utility of the data while minimizing, to the extent possible, the reporting burden for covered institutions. (H.R. Rep. No. 101-222, 101st Cong., 1st Sess. 459). Accordingly, the Board has provided in § 203.4 that institutions submit a register using the format set forth in Appendix A of the regulation. Under this arrangement, institutions will record data on an application-by-application basis and will submit the completed register at the end of the year to their supervisory agency for processing by the FFIEC. The FFIEC will produce individual disclosure statements for each reporting institution

(plus aggregate tables for each MSA) using the data from the registers.

Virtually all commenters that addressed the issue expressed support for this arrangement. They indicated that the register approach would be considerably easier and less costly for reporting institutions since they would not have to undertake the further step of preparing cross-tabulations of the data. Regulatory agencies indicated that the arrangement would enhance their ability to monitor compliance with fair lending and community reinvestment requirements.

The Board believes that the register approach offers these and other advantages and has adopted it in the final regulation. (The specific requirements for the register are discussed below in the section on Appendix A.)

A number of commenters urged the Board to encourage other regulatory agencies to review their requirements for loan registers in light of the revisions to Regulation C. These agencies are in the process of reviewing current requirements to determine the extent to which the HMDA register can replace their separate logs.

Section 203.4(a) requires, among other things, that institutions collect data on the race or national origin, sex, and income level of applicants for all home improvement and home purchase loans. Section 203.4(b)(1) tells how race or national origin and sex information is to be collected. The Board has prescribed a form and instructions for collecting these data in Appendix B to Regulation C. The language varies slightly from the form prescribed under Regulation B (Equal Credit Opportunity). Use of either form meets the requirements of Regulation C; creditors need not maintain a separate stock of forms.

The FIRREA requirement for reporting data on race or national origin, sex, and income does not apply to purchased loans. In addition, depository institutions with assets of \$30 million or less are not required to report this information at all. However, § 203.4(b)(2) allows for optional reporting of these data in both instances. (Under the FIRREA amendments, mortgage lending institutions do not qualify for the \$30 million exception; therefore, they must include data on race or national origin, sex, and income for all applications and loan originations, though not for purchased loans.)

Regulation B, § 202.5(d), generally prohibits lenders from requesting data about race or national origin and sex. There is an exception in § 202.5(b)(2): Lenders do not violate Regulation B by

collecting this applicant information when required to do so by some other state or federal regulation. The proposed update to the official staff commentary to Regulation B contains a reference to the new HMDA requirement, to make clear that lenders may collect data about race or national origin and sex in mortgage and home improvement transactions without violating the ECOA (54 FR 50514, December 7, 1989). The commentary makes clear also that this exception applies even in the case of lenders whose asset size makes their reporting of such data optional.

Section 1211(b) of the FIRREA amendments permits institutions, at their option, to report reasons for their loan decisions. Several commenters urged the Board to require this information. In view of the statutory language, however, § 203.4(c) authorizes, but does not require, reporting of such data.

Section 203.4(d), which previously was designated § 203.4(c), relates to data that is not to be reported. Two changes have been made. First, the Board has eliminated the rule that mortgage banking subsidiaries of bank and savings and loan holding companies are not to report FHA loans. Data on FHA loans by these institutions was originally collected by HUD outside of Regulation C, whereas now HUD is a direct participant in the implementation of HMDA. Dropping the current provision will produce a uniform rule for reporting of these loans by all institutions covered by HMDA, avoiding confusion and also producing more complete data.

The exclusion for certain refinancings, currently set forth in § 203.4(c)(1)(iii), has been deleted. Refinancings of home purchase loans are to be reported even when they involve the original borrower and original lender. While refinancings between original parties may not technically result in new money being disbursed into the community, the Board believes that these transactions do provide an indication of an institution's willingness to meet credit needs. A separate code has been added to the register to indicate entries that involve a refinancing, and the reporting rules for refinancings have been clarified in the instructions to the register.

Section 203.5—Disclosure and Reporting

Section 203.5 sets the rules for making loan data available at offices of an institution and for reporting the data to supervisory agencies. The Board had proposed that institutions submit registers for a given calendar year by the following February 15. In response to the comments, the Board has extended

this period to March 1. Some commenters asked that the March 31 reporting date be retained. The Board has opted not to do so in light of the need to ensure that data are processed and disclosure statements produced by the FFIEC in a timely fashion.

The Board believes that March 1 is reasonable given that minimal processing on the part of institutions is required. Institutions will have to assemble the registers from their different branches into one package, but there is no need to copy the data onto a master document. They also will not have to wait until year-end to prepare the HMDA submission; while there is still a requirement to geocode loans (and applications), there is no longer a need to cross-tabulate data loan and application information by census tract. Currently institutions must defer report preparation because of having to list data for all loans in a given census tract on a single line of the report.

Section 203.5(b) of the proposal would have required institutions to make disclosure statements available within 15 business days after receiving them from the FFIEC. A number of commenters suggested that it would be impossible to arrange for copying and distribution of the disclosure statements to multiple branch offices within that time frame. Others believed that institutions should have a reasonable opportunity to review the disclosure statements for accuracy before making them publicly available. Based on these comments, the Board has extended this period to 30 calendar days. Use of calendar days avoids differences of interpretation for counting business days.

Several commenters asked whether the disclosure statements must be made available in MSAs where they have no physical office but where they are deemed to have a branch office by virtue of the five-or-more-loan rule. Sections 203.5 (c) and (d) have been revised to make clear that the disclosure statements need only be made available in MSAs where the institution has a physical branch office.

Under the proposal, reporting institutions would not be required to make the actual registers available to the public. Some commenters supported this position, but others indicated that meaningful analyses could not be undertaken without the raw application and loan data. The Board has decided against requiring that the institutions make the registers public. The Board continues to believe that certain items on the register raise legitimate privacy concerns. But the Board plans to work

with member agencies of the FFIEC in exploring approaches by which the raw data could be made available in some form, at cost, to the public. (See the discussion below in the section "Disclosure statements and availability of data".)

Section 203.6—Enforcement

Section 203.6 sets forth rules relating to administrative enforcement and bona fide errors. The provisions of this section are essentially unchanged.

Appendix A—Form and Instructions for Loan/Application Register

Appendix A contains the loan/application register and instructions for its completion as well as a transmittal sheet to accompany the registers when they are submitted. The register form that is reproduced below has been reduced in size for printing in the *Federal Register*; the actual register forms, which are available from the supervisory agencies, are 8½ by 14 inches. Institutions must use the prescribed format but are not required to use the forms themselves. An institution may, for example, produce a computer printout of its register instead.

Due to the volume of data being submitted, the Board encourages covered institutions to develop computer programs that will enable them to submit the data in machine-readable format. Technical specifications and filing procedures will be made available through the supervisory agencies in the near future.

The following is a summary of the information that will be provided on the register and the number of characters to be allotted for each data item. The instructions contained in Appendix A provide guidance on the requirements for the register and answer more detailed questions.

Application or loan number. A unique number identifying the application or transaction. It can be any number of the institution's choosing. Based on the comments and consultation with HUD, the FHA case number will not be required. (25 characters)

Date application received. For applications, the date the application was received by the financial institution by month, day, and year. (8 characters)

Other application or loan information. Codes indicating the type of loan, the purpose of the loan, and whether the property is owner-occupied, plus the amount of the loan (or the amount applied for) in thousands of dollars. (1 character each for type, purpose, and occupancy status; 5 characters for amount)

Action taken and date. Codes indicating the type of action taken by the institution or, in some cases, by the applicant. In addition to loan purchase or loan origination, the institution will indicate whether a loan was approved but not accepted by the applicant (this code was added in response to the comments), was denied, or was withdrawn. In addition, a code was added for instances in which the application file is closed due to incompleteness following the sending of a written notice under § 202.9(c) of Regulation B. Also, the date the action occurred. (1 character for action taken; 8 characters for month, day, and year)

Location of the property. For loans written on property in MSAs where the institution has a home or branch office, the location of the property. (4 characters for MSA, 2 for state, 3 for county, and 7 for census tract including a decimal point, where needed)

Applicant characteristics. A code indicating the race and sex of the applicant and any co-applicant, and the income relied upon by the lender, in thousands of dollars. This section need not be completed (by any institution) for loan purchases; and it need not be completed by any bank, savings and loan, or credit union with \$30 million or less in assets. (1 character each for race and sex of applicant and of co-applicant; 4 characters for income)

Type of purchaser. For loans that are sold, a code indicating the class of purchaser. (1 character)

Reason for denial. Up to three codes indicating the reasons for denial. This information is optional. (3 characters)

The Board requested comment on whether the number of reasons for denial should be expanded to be more specific. A number of commenters suggested that the reasons should correspond to the reasons listed on the model checklist for adverse action provided in Regulation B. The Board has kept the number of reasons to a minimum in order to allow up to three reasons to be indicated, and has provided a listing that "translates" the Regulation B reasons into the codes.

Appendix B—Form and Instructions for Data Collection on Race or National Origin and Sex

Appendix B of the current regulation lists the supervisory agencies to which covered institutions must submit their reports. In the revised regulations, this material has been incorporated into the instructions to the reporting form, in Appendix A. Independent mortgage lending institutions will submit their registers to HUD while subsidiaries of depository institutions or their holding

companies will submit the registers to the OCC, FDIC, Federal Reserve, or OTS

Appendix B contains a form that can be used to collect data on race or national origin and sex, and instructions for its use. It is identical in substance to the form prescribed in Regulation B for data collection (related to applications for home purchase loans), except for the added reference to HMDA. Institutions may use the Regulation B and Regulation C forms interchangeably; they need not maintain a special stock of each.

(3) Disclosure Statements and Availability of Data

The FFIEC (with support from each of the federal regulators with HMDA responsibilities) aggregates the loan data received from all reporting institutions in each MSA. The FFIEC also produces tables for each MSA showing lending patterns according to demographic characteristics such as income level and age of housing stock. These tables, together with disclosure statements of the individual institutions, are sent to central data depositories in each MSA, where they are available to the public.

The FFIEC will generate disclosure statements from the register data submitted by institutions to show lending activity in each MSA for which the institution reports data. These statements (in the form of summary tables) will be provided to the institutions, which will in turn make them available to the public. The FFIEC expects that these statements will be provided to institutions by October following submission of the register data on March 1. This timetable is dictated by the large volume of data to be processed. The supervisory agencies and the FFIEC will take appropriate steps to ensure that both the individual disclosure statements and the aggregate tables become available to the public as early as possible.

In addition, the FFIEC will produce aggregate tables based on loan data from all covered institutions for each MSA, and make them available at the central data depositories.

Considerable comment was received on the proposed output that the FFIEC would produce from the data submitted. Because of the need to publish a final regulation as quickly as possible given the effective date of January 1, 1990, FFIEC consideration of issues related to the output tables has been deferred and will be taken up early next year. Among the issues that will be considered is whether the raw data compiled from the registers can be made available to the

public in some form once the FFIEC has completed processing the reports. The Board plans to search for ways of making the raw data available in a form that will not compromise the privacy of applicants and borrowers (perhaps by eliminating the application numbers and dates), and will work with member agencies of the FFIEC to explore possible options.

(4) Effective Dates

The revised regulation is effective on January 1, 1990. The Board believes that this effective date, which coincides with the effective date of the FIRREA amendments, is necessary to ensure that institutions are provided with the guidance necessary to comply with the new requirements.

The revised regulation applies to applications received, and loans originated or purchased, on or after January 1, 1990. Institutions will be required to report data for calendar year 1990 in the revised format by March 1, 1991. In the case of applications received before January 1, 1990, institutions need only report the data on race or national origin and sex if they have the information; they are not required to contact applicants again in order to obtain it.

The current requirements of Regulation C apply to reports of data for calendar year 1989; accordingly, institutions will use the existing forms HMDA-1 or HMDA-2, as appropriate, for the reports that are due on March 31, 1990.

(5) Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35, and 5 CFR 1320.13, the revisions to Regulation C that relate to reporting requirements were approved under authority delegated to the Board by the Office of Management and Budget.

The following information relates only to the effect of the revised reporting requirements on institutions supervised by the Board. As indicated earlier, other types of institutions are also covered by the regulation.

Approval Under OMB Delegated Authority for the Following Information Collection

Report title: HMDA Loan/Application Register.

Agency form number: FR HMDA-LAR. *OMB docket number:* 7100-0247.

Reporters: State member banks and mortgage banking subsidiaries of bank holding companies.

Reporters:

	Number of respondents	Frequency	Average hours per response
State member banks.	478	Annually	30
Mortgage banking subsidiaries.	723	Annually	160

Annual reporting hours: 130,020.

Small businesses are not affected.

General description of report.—This information collection is mandatory (12 U.S.C. 2801-2810, 12 CFR part 203). The report will collect information on applications for, and originations and purchases of, home purchase and home improvement loans. State member banks and mortgage banking subsidiaries of bank holding companies will be required to keep the HMDA Loan/Application Register as a running log throughout the calendar year and to send it to the Federal Reserve System by March 1 of the following calendar year.

(6) Regulatory Flexibility Analysis

The Board's Division of Research and Statistics has prepared a Regulatory Flexibility Analysis of the revisions to Regulation C. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, DC 20551, at 202-452-3245.

List of Subjects in 12 CFR Part 203

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

(7) Regulatory text

For the reasons set forth in this notice and pursuant to the Board's authority under section 305(a) of the Home Mortgage Disclosure Act (12 U.S.C. 2804(a)), 12 CFR part 203 is revised as follows:

PART 203—HOME MORTGAGE DISCLOSURE

Sec.

- 203.1 Authority, purpose, and scope
- 203.2 Definitions
- 203.3 Exempt institutions
- 203.4 Compilation of loan data
- 203.5 Disclosure and reporting
- 203.6 Enforcement

Appendix A—Form and instructions for loan/application register.

Appendix B—Form and instructions for data collection on race or national origin and sex.

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

§ 203.1 Authority, purpose, and scope.

(a) *Authority.* This regulation is issued by the Board of Governors of the Federal Reserve System ("Board") pursuant to the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), as amended. The information-collection requirements have been approved by the U.S. Office of Management and Budget under 44 USC 3501 *et seq.* and have been assigned OMB No. 7100-0247.

(b) *Purpose.* (1) This regulation implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data that can be used:

- (i) To help determine whether financial institutions are serving the housing needs of their communities;
- (ii) To assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and
- (iii) To assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

(2) Neither the act nor this regulation is intended to encourage unsound lending practices or the allocation of credit.

(c) *Scope.* This regulation applies to certain financial institutions, including banks, saving associations, credit unions, and other mortgage lending institutions, as defined in section 203.2(e). It requires an institution to report data to its supervisory agency about home purchase and home improvement loans it originates or purchases, or for which it receives applications; and to disclose certain data to the public.

(d) *Loan aggregation and central data depositories.* Using the loan data made available by financial institutions, the Federal Financial Institutions Examination Council will prepare disclosure statements and will produce various reports for individual institutions for each metropolitan statistical area (MSA), showing lending patterns by location, age of housing stock, income level, sex, and racial characteristics. The disclosure statements and reports will be available to the public at central data depositories located in each MSA. A listing of central data depositories can be obtained from the Federal Financial Institutions Examination Council, Washington, DC 20006.

§ 203.2 Definitions.

In this regulation:

(a) *Act* means the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), as amended.

(b) *Application* means an oral or written request for a home purchase or home improvement loan that is made in accordance with procedures established by a financial institution for the type of credit requested.

(c) *Branch office* means: (1) Any office of a bank, savings association, or credit union that is approved as a branch by a federal or state supervisory agency, but excludes free-standing electronic terminals such as automated teller machines;

(2) Any office of a mortgage lending institution (other than a bank, savings association, or credit union) that takes applications from the public for home purchases or home improvement loans. A mortgage lending institution is also deemed to have a branch office in an MSA if, in the preceding calendar year, it received applications for, originated, or purchased five or more home purchase or home improvement loans on property located in that MSA.

(d) *Dwelling* means a residential structure (whether or not it is attached to real property) located in a state of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico. The term includes an individual condominium unit, cooperative unit, or mobile or manufactured home.

(e) *Financial institution* means: (1) A bank, savings association, or credit union that originated in the preceding calendar year a home purchase loan (other than temporary financing such as a construction loan) secured by a first lien on a one-to-four family dwelling if:

(i) The institution is federally insured or regulated; or
(ii) The loan is insured, guaranteed, or supplemented by any federal agency; or
(iii) The institution intended to sell the loan to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation;

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) whose home purchase loan originations equaled or exceeded ten percent of its loan volume, measured in dollars, in the preceding calendar year.

(f) *Home improvement loan* means any loan that: (1) Is stated by the borrower (at the time of the loan application) to be for the purpose of repairing, rehabilitating, or remodeling a dwelling; and

(2) Is classified by the financial institution as a home improvement loan.

(g) *Home purchase loan* means any loan secured by and made for the purpose of purchasing a dwelling.

(h) *Metropolitan statistical area or MSA* means a metropolitan statistical

area or a primary metropolitan statistical area, as defined by the U.S. Office of Management and Budget.

§ 203.3 Exempt institutions.

(a) *Exemption based on asset size or location.* A financial institution is exempt from the requirements of this regulation for a given calendar year if on the preceding December 31:

(1) The institution had neither a home office nor a branch office in an MSA; or

(2) In the case of a bank, savings association, or credit union, the institution's total assets were \$10 million or less; or

(3) In the case of a for-profit mortgage lending institution (other than a bank, savings association, or credit union), the total assets of the institution combined with those of any parent corporation were \$10 million or less.

(b) *Exemption based on state law.* (1) A state-chartered or state-licensed financial institution is exempt from the requirements of this regulation if the Board determines that the institution is subject to a state disclosure law that contains requirements substantially similar to those imposed by this regulation and contains adequate provisions for enforcement.

(2) Any state, state-chartered or state-licensed financial institution, or association of such institutions may apply to the Board for an exemption under this paragraph.

(3) An institution that is exempt under this paragraph shall submit the data required by the state disclosure law to its state supervisory agency for purposes of aggregation.

(c) *Loss of exemption.* (1) An institution losing an exemption that was based on asset size or location under paragraph (a) of this section shall comply with this regulation beginning with the calendar year following the year in which it lost its exemption.

(2) An institution losing an exemption that was based on state law under paragraph (b) of this section shall comply with this regulation beginning with the calendar year following the year for which it last reported loan data under the state disclosure law.

§ 203.4 Compilation of loan data.

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for, and originations and purchases of, home purchase loans (including refinancings) and home improvement loans for each calendar year. These data shall be presented on a register in the format prescribed in Appendix A and shall include the following items:

(1) A number for the loan or loan application, and the date the application was received.

(2) The type and purpose of the loan.

(3) The owner-occupancy status of the property to which the loan relates.

(4) The amount of the loan or application.

(5) The type of action taken, and the date.

(6) The location of the property to which the loan relates, by MSA, state, county, and census tract, if the institution has a home or a branch office in that MSA.

(7) The race or national origin and sex of the applicant or borrower, and the income relied upon in processing the loan application.

(8) The type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year.

(b) *Collection of data on race or national origin, sex, and income.* (1) A financial institution shall collect data about the race or national origin and sex of the applicant or borrower as prescribed in Appendix B. If the applicant or borrower chooses not to provide the information, the lender shall note the data on the basis of visual observation or surname, to the extent possible.

(2) Race or national origin, sex, and income data may but need not be collected for:

(i) Loans purchased by the financial institution; or

(ii) Applications received or loans originated by a bank, savings association, or credit union with assets on the preceding December 31 of \$30 million or less.

(c) *Optional data.* A financial institution may report the reasons it denied a loan application.

(d) *Excluded data.* A financial institution shall not report:

(1) Loans originated or purchased by the financial institution acting in a fiduciary capacity (such as trustee);

(2) Loans on unimproved land;

(3) Temporary financing (such as bridge or construction loans);

(4) The purchase of an interest in a pool of loans such as mortgage-participation certificates); or

(5) The purchase solely of the right to service loans.

§ 203.5 Disclosure and reporting.

(a) *Reporting requirements.* By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send two copies of its complete register to the agency office specified in Appendix A of this

regulation, and shall retain a copy for its records for a period of not less than two years.

(b) *Disclosure to the public.* A financial institution shall make its mortgage loan disclosure statement (to be prepared by the Federal Financial Institutions Examination Council) available to the public no later than 30 calendar days after the institution receives it from its supervisory agency. The financial institution shall make the statement available to the public for a period of five years.

(c) *Availability of disclosure statement.* A financial institution shall make the disclosure statement available at its home office. If it has a physical branch office in other MSAs, it shall also make a statement available in at least one branch office in each of those MSAs; the statement at a branch office need only contain data relating to property in the MSA where that branch office is located. An institution shall make the disclosure statement available for inspection and copying during the hours the office is normally open to the public for business. It may impose a reasonable charge for photocopying services.

(d) *Notice of availability.* A financial institution shall post a general notice about the availability of its disclosure statement in the lobbies of its home office and any physical branch offices located in an MSA. Upon request, it shall promptly provide the location of the institution's offices where the statement is available. At its option, an institution may include the location in its notice.

§ 203.6 Enforcement.

(a) *Administrative enforcement.* A violation of the act or this regulation is subject to administrative sanctions as provided in section 305 of the act. Compliance is enforced by the agencies listed in Appendix A of this regulation.

(b) *Bona fide errors.* An error in compiling or recording loan data is not a violation of the act or this regulation if it was unintentional and occurred despite the maintenance of procedures reasonably adapted to avoid such errors.

Appendix A—Form and Instructions for Loan/Application Register

Loan/Application Register Form

Public reporting burden for this collection of information is estimated to vary from 10 to 750 hours per response, with an average of 120 hours per response, including time to gather and maintain the data needed and to review instructions and complete the information collection. 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, DC 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Instructions to Lending Institutions

I. General

A. Who Must File a Report

1. Subject to some exceptions that are discussed below, banks, savings associations, credit unions, and other mortgage lending institutions must complete a register listing data about loan applications received, loans originated, and loans purchased if on the preceding December 31 the institution:

- Had assets of more than \$10 million, and
- Had a home or branch office in a "metropolitan statistical area" or a "primary metropolitan statistical area" (both are referred to in these instructions by the term "MSA").

Example: If on December 31, 1989, you had a home or a branch office in an MSA and your assets exceeded \$10 million, you must complete a register that lists the home purchase and home improvement loans that you originate or purchase during calendar year 1990, and also lists applications that did not result in an origination.

2. You need not complete a register—even if the tests for asset size and location are met—if your institution is a bank, savings association, or credit union and it made no first-lien home purchase loans on one-to-four family dwellings in the preceding calendar year.

3. You need not complete a register—even if the tests for asset size and location are met—if your institution is a for-profit mortgage lender (other than a bank, savings association, or credit union) and the home purchase loans that you originated in the preceding year came to less than 10 percent of your total loan volume, measured in dollars.

4. If you are a for-profit mortgage lender (other than a bank, savings association, or credit union) the asset test is based on the combined assets of your institution and any parent corporation.

5. If you are the subsidiary of a bank or savings association you must complete a separate register for your institution and submit it, directly or through your parent, to the agency that supervises your parent.

B. Institutions Exempted From HMDA

Institutions that are specifically exempted by the Federal Reserve Board from complying with federal law because they are covered by a similar state law on mortgage loan disclosures must use the disclosure form required by their state law.

C. Format

1. You must use the format of this loan/application register, but you are not required to use the form itself. For example, you may produce a computer printout instead. The layout must conform exactly, however, to that of this register, including the order of columns, column headings, etc. Or you may submit the data in machine-readable form (see paragraph D.2. below).

2. The required data are to be entered in the register for each loan origination, each application acted upon during the calendar year, and each loan purchased. Your institution will have to decide on the procedure it wants to follow—whether to begin entering the required data when an application is received, or to enter the data when final action is taken (such as when a loan goes to closing or an application is denied). Keep in mind that an application is to be reported in the calendar year when final action is taken. Loan originations are to be reported in the year they go to closing; do not report applications for loans that have been approved but that have not yet gone to closing at year-end.

3. Your institution may use separate registers at different branches, or separate registers for different loan types (such as for home purchase or home improvement loans, or for loans on multifamily dwellings). But you must submit the registers to your supervisory agency in one package, with the prescribed transmittal sheet; and an officer of your institution must certify to the accuracy of the data.

4. Entries need not be grouped by MSA, or chronologically, or by census tract numbers, or in any other particular order. But make sure the application or loan numbers (discussed under paragraph II.C.1.a. below) are unique. If separate registers are being maintained in various branches, your institution could add a letter code to identify different branches, or assign series of numbers to each branch, to avoid duplicate numbers.

5. Number each page of your report, indicating the total number of pages (for example, "Page 1 of 24").

D. Submission of Report; Release of Disclosure Statements

1. You must submit the register to the office specified by your federal supervisory agency no later than March 1 following the calendar year for which the data are compiled. A list of the agencies appears at the end of these instructions.

2. Institutions are encouraged to submit data in machine-readable form. Contact your federal supervisory agency for information regarding electronic submission.

3. If you submit your register in hard copy, you must send two copies.

4. The FFIEC (Federal Financial Institutions Examination Council) will prepare a disclosure statement from the data that you submit. Your disclosure statement will be returned to you at the address that you indicate on the transmittal sheet. When you receive that disclosure statement you must make a copy available for inspection by the public within 30 calendar days. You must make it available at your home office and, if you have physical branch offices in other MSAs, at one branch office in each of those MSAs. (Your agency can provide you with HMDA posters that you can use to inform the public of the availability of your disclosure statement.)

II. Completion of Register**A. Data to be shown**

1. Show the data on home purchase and home improvement loans that you originated (or that were originated in your name) and loans that you purchased during the calendar year covered by the report. Report these data even if the loans were subsequently sold. Include refinancings of home purchase loans.

2. For these same types of loans, show the data for applications that did not result in originations—for example, applications that your institution denied or that the applicant withdrew during the calendar year covered by the report. Include applications that were received in the previous calendar year but not acted upon until the calendar year covered by the register.

B. Data to be excluded

Do not report the following loans or applications for loans:

1. Loans that, although secured by real estate, are made for purposes other than home purchase, home improvement, or refinancing (for example, do not report a loan secured by residential real property for purposes of financing college tuition, a vacation, or business operations);
2. Loans received in a fiduciary capacity (for example, by your trust department);
3. Loans on unimproved land;
4. Construction or bridge loans and other temporary financing;
5. The purchase of an interest in a pool of loans (such as mortgage-participation certificates); or
6. The purchase solely of the right to service loans.

C. Itemization of Data

Your loan/application register must include the following:

1. *Application or loan information.* a. *Application or loan number.* Enter an identifying number or code that can be used later to retrieve the loan or application file. It can be any number of your choosing (not exceeding 25 characters). You may use letters, numerals, or a combination of both. But make sure that all numbers are unique within your institution. If your register contains data for branch offices, for example, you could use codes to identify the loans or applications of particular branches, or could assign certain series of numbers to particular branches to avoid duplicate numbers.

b. *Date application received.* Enter the date the loan application was received by your institution by month, day, and year, using numerals (for example, 02/28/90). Or if your institution normally records the date shown on the application form, you may use that date. Enter "NA" for loans purchased by your institution.

c. *Type.* Indicate the type of loan (or loan application) by entering the applicable code from the following:

- 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)

d. *Purpose.* Indicate the purpose of the loan or application by entering the applicable code from the following:

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

e. *Explanation of purpose codes.* Code 1: Home purchase

i. This code applies to loans made, and to applications for loans, for the purpose of purchasing a residential dwelling for one to four families, if the loan is secured by a lien.

ii. At your option, you may use code 1 for loans that are made for home improvement purposes but are secured by a first lien, if you normally classify such first-lien loans as home purchase loans.

Code 2: Home improvement. i. Code 2 applies to loans and applications for loans that (1) the borrowers have said will be used for repairing, rehabilitating, or remodeling one-to-four family residential dwellings, and (2) are recorded on your books as home improvement loans.

ii. Report both secured and unsecured loans.

iii. At your option, you may record a home equity line of credit as a home improvement loan if the borrower or applicant indicates at the time of application or when the account is opened that some portion of the proceeds will be used for home improvement. (For such credit lines, under "Amount" in paragraph g. below, enter only that portion of the line which the borrower or applicant indicates will be for home improvement purposes.) Report only in the year the line is established.

Code 3: Refinancings. i. Use this code only for refinancings of home purchase loans on one-to-four family residential dwellings.

ii. Use this code whether or not you were the original creditor on the loan being refinanced, and whether or not the refinancing results in an increase in the outstanding principal.

iii. Report the full amount of a refinancing if more than 50 percent of the loan proceeds is for home purchase or home improvement. You may treat the amount that is equivalent to the unpaid principal of the original loan as being for home purchase.

Code 4: Multifamily dwelling. i. Use this code for loans and loan applications on dwellings for five or more families, including home purchase loans, refinancings, and loans for repairing, rehabilitation, and remodeling purposes.

ii. Do not use this code for loans on individual condominium or cooperative units; use codes 1, 2, or 3 for such loans, as applicable.

f. *Occupancy.* Use the applicable code to indicate whether the property to which the loan or loan application relates is to be owner-occupied as a principal dwelling.

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

i. Use code 2 for loans on second homes or vacation homes, as well as on rental properties.

ii. Use code 2 only for nonoccupant loans or applications related to one-to-four family

dwellings (including individual condominium or cooperative units).

iii. Use code 3 if the property to which the loan relates is a multifamily dwelling; is not located in an MSA; or is located in an MSA in which your institution has neither a home nor a branch office.

iv. For purchased loans, you may assume that the property will be owner-occupied as a principal dwelling unless the loan documents or application contain information to the contrary.

g. *Amount.* Enter the amount of the loan or application. Round to the nearest thousand (\$500 should be rounded up to \$1,000). Show in terms of thousands; for example, a loan for \$167,300 should be entered as 167.

i. For home purchase loans that you originate, "amount" means the original principal amount of the loan. For home purchase loans that you purchase, "amount" means the unpaid principal balance of the loan at the time of purchase.

ii. For home improvement loans (both originations and purchases), you may include unpaid finance charges in the amount if that is how you record such loans on your books.

iii. For lines of credit secured by home equity, include only that portion of the line indicated by the applicant or borrower at the time the application is made or when the account is opened as being for the purpose of home improvement. Report only in the year the line is established.

iv. For a loan application that was denied or withdrawn, enter the amount applied for.

v. If you offered to lend less than the applicant applied for, enter the amount of the loan if the offer was accepted, enter the amount initially applied for.

2. *Action taken.* Indicate the type of action taken on the application or loan by using the following codes:

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

a. *Type of action taken.* Do not report any loan application still pending at the end of the calendar year. You will report that application in your register for the year final action is taken.

i. Use code 2 where an application has been approved by you, but where the applicant fails to respond to your notification of approval or your commitment letter within the specified time.

ii. Use code 4 only when an application has been expressly withdrawn by the applicant.

iii. Use code 5 if you sent a written notice of incompleteness under § 202.9(c) of Regulation B (Equal Credit Opportunity) and if the applicant failed to respond to your request for additional information within the period of time specified in your notice.

b. *Date.* Enter the date by month, day, and year, using numerals (for example, 02/28/90).

i. For loans originated, enter the settlement or closing date.

ii. For applications denied, applications approved but not accepted by the applicant, and files closed for incompleteness, enter the

date that the action was taken by your institution or the date the notice was sent to the applicant.

iii. For applications withdrawn, enter the date that you received the applicant's express withdrawal; or you may enter the date shown on the notification from the applicant, in the case of a written withdrawal.

3. *Property location.* In these columns you will enter the applicable codes for the MSA, state, county, and census tract locations for the property to which a loan relates. (See paragraph e. below for treatment of loans on property outside the MSAs in which you have offices.)

a. *MSA.* For each loan or loan application, indicate the location of the property by the MSA number. Enter only the MSA number, not the MSA name. MSA boundaries are defined by the U.S. Office of Management and Budget; use the boundaries that were in effect on January 1 of the calendar year for which you are reporting.

b. *State and county.* Use the two-digit numerical code for state and the three-digit numerical code for county available from your regional supervisory agency. Use only these established codes. Do not use the abbreviations used by the U.S. Postal Service.

c. *Census tract.* Indicate the census tract in which the property is located.

i. Enter the code "NA" if the property is located in an area not divided into census tracts on the U.S. Census Bureau's census-tract outline maps (see paragraph d. below).

ii. If the property is located in a county with a population of 30,000 or less in the 1980 census, enter "NA" or enter the census tract number. To determine population, use the Census Bureau's PC80-1-A population series even if the population has increased above 30,000 since 1980.

d. *Census tract number.* To determine the census tract number, consult the U.S. Census Bureau's census tract outline maps. You must use the maps from the Census Bureau's PHC80-2 series for the 1980 census, or equivalent 1980 census data from the Census Bureau (such as GBF/DIME files) or from a private publisher. You will continue to use the maps in the 1980 series until you are advised differently by your supervisory agency, even if more current maps are available.

e. *Outside-MSA.* For loans on property located outside the MSAs in which you have a home or branch office (or outside any MSA), you may either enter the code "NA" in the MSA, state, county, and census tract columns or enter the data. Keep in mind that if you are a for-profit mortgage lending institution (other than a bank, savings association, or credit union) and (1) you received five or more loan applications or (2) originated or purchased five or more home purchase or home improvement loans in an MSA in the preceding year, you *must* complete these columns because you are considered to have a branch office in that MSA, whether or not you have a physical office there.

4. *Race or national origin, sex, and income.* Appendix B of Regulation C contains instructions for the collection of data on race or national origin and sex, and also contains a sample form for data collection. You may

also use the form that you use to obtain data on race or national origin and sex under § 202.13 of Regulation B.

a. *Applicability.* You must report this information concerning applicants for loans that you originate and applications that you receive.

i. You need not collect or report this information for loans purchased; if you choose not to, enter the appropriate code specified in the lists under paragraphs c., d., and e. below for "not applicable."

ii. If your institution is a bank, savings association, or credit union that had assets of \$30 million or less on the preceding December 31, you may—but need not—collect and report these data. If you choose not to, enter the appropriate codes specified in the lists under paragraphs c., d., and e. below for "not applicable."

iii. If the borrower or applicant is not a natural person (a corporation or partnership, for example), use the appropriate code under paragraphs c., d., and e. below for "not applicable."

b. *Telephone and mail applications.* Any application forms mailed to all applicants must contain a collection form similar to that shown in Appendix B, and you must record the data on race or national origin and sex if the applicant provides it. If the applicant chooses not to provide the data, enter the applicable code number for "information not provided by applicant in mail or telephone application" under paragraphs c. and d. below.

c. *Race or national origin of borrower or applicant.*

Use the following codes to indicate the race or national origin of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form.

- 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

d. *Sex of borrower or applicant.* Use the following codes to indicate the sex of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form:

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

e. *Income.* Enter the income that your institution relied upon in making credit decision.

i. Round all dollar amounts to the nearest thousand (round \$500 up to the next \$1,000), and show in terms of thousands. For example, \$35,550 should be reported as 36.

ii. For loans on multifamily dwellings, enter "NA."

iii. If no income is asked for or relied on in the credit decision (such as in "no income verification" type loans), enter "NA."

5. *Type of purchaser.* For loans originated or purchased and then sold within the same calendar year, enter the applicable code to indicate the secondary market entity:

- 0—Loan 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)
- 5—Commercial bank
- 6—Savings bank or savings association
- 7—Life insurance company
- 8—Affiliate institution
- 9—Other type of purchaser

a. If you originated or purchased a loan and did not sell the loan that same calendar year, enter code 0.

b. If you sell a loan in a succeeding year, you need not report the sale.

c. If you conditionally assign a loan to GNMA in connection with a mortgage-backed security transaction, use code 2.

d. Loans "swapped" for mortgage-backed securities are to be treated as sales; enter the type of entity receiving the loans that are swapped as the purchaser.

e. Use code 8 for loans sold in the same year to an institution affiliated with you, such as a subsidiary or a parent corporation.

6. *Reasons for denial.* You need not enter the reasons for the denial of an application. But if you wish to do so, you may indicate up to three reasons by using the following codes:

- 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

If your institution uses the model form for adverse action supplied in the appendix to Regulation B (Form C-1 in Appendix C, Sample Notification Form, which offers some 20 reasons for denial), the following list shows which codes to use.

a. *Use code 1 for:* Income insufficient for amount of credit requested, and Excessive obligations in relation to income.

b. *Use code 2 for:* Temporary or irregular employment, and Length of employment

c. *Use code 3 for:* Insufficient number of credit references provided; Unacceptable type of credit references provided; No credit file; Limited credit experience; Poor credit performance with us; Delinquent past or present credit obligations with others; Garnishment, attachment, foreclosure, repossession, collection action, or judgment; and Bankruptcy.

d. *Use code 4 for:* Value or type of collateral not sufficient.

e. *Use code 6 for:* Unable to verify credit references, Unable to verify employment,

Unable to verify income, and Unable to verify residence.

f. Use code 7 for: Credit application incomplete.

g. Use code 9 for: Length of residence, Temporary residence, and Other.

III. Federal supervisory agencies

Send your loan/application register and direct any questions to the office of your federal supervisory agency specified below. If you are the subsidiary of a bank, savings association, or credit union, send the register to the supervisory agency for your parent institution.

National banks and their subsidiaries. District office of the Office of the Comptroller of the Currency serving the district in which the national bank or subsidiary is located.

State member banks of the Federal Reserve System, their subsidiaries, and subsidiaries of bank holding companies. Federal Reserve Bank serving the district in which the state member bank or subsidiary is located.

Nonmember insured banks (except for federal savings banks) and their subsidiaries. Regional Director of the Federal Deposit Insurance Corporation for the region in which the bank or subsidiary is located.

Savings institutions insured under the Savings Association Insurance Fund of the FDIC; federally-chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund), their subsidiaries, and

subsidiaries of savings institution holding companies. To the District or other office specified by the Office of Thrift Supervision.

Credit unions. National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW., Washington, DC 20456.

Other depository institutions. Regional Director of the Federal Deposit Insurance Corporation for the region in which the institution is located.

Other mortgage lending institutions. Assistant Secretary for Housing, HMDA Reporting—Room 9233, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410.

BILLING CODE 6210-01-M