



FEDERAL RESERVE BANK  
OF DALLAS

ROBERT D. McTEER, JR.  
PRESIDENT  
AND CHIEF EXECUTIVE OFFICER

September 7, 1992

DALLAS, TEXAS 75222

Notice 92-80

**TO:** The Chief Executive Officer of each member bank and others concerned in the Eleventh Federal Reserve District

**SUBJECT**

**Comments on Proposed Amendments to Regulation C (Home Mortgage Disclosure)**

**DETAILS**

The Federal Reserve Board has issued for public comment a proposal to amend its Regulation C (Home Mortgage Disclosure) to expand coverage of the provisions of this regulation to include independent mortgage companies. The proposed rule would require a mortgage company with an office in a metropolitan area to disclose data about home lending activity if its assets exceeded \$10 million or if the company made 100 or more home purchase loans in the preceding calendar year.

The new rule would carry out a provision in the FDIC Improvement Act authorizing the Board to set a small-institution exemption standard for mortgage companies comparable to the exemption for depository institutions. The Board also proposes to revise the instructions for reporting loan applications received through a broker or loan correspondent to conform the rule for reporting loan approvals to the existing rule for reporting loan denials. This revision would apply to all lenders covered by HMDA, not just mortgage companies.

The Board must receive comments by October 8, 1992. Comments should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. All comments should refer to Docket No. R-0771.

**ATTACHMENT**

Attached is a copy of the Board's notice as it appears on pages 36024-27, Vol. 57, No. 156, of the Federal Register dated August 12, 1992.

**MORE INFORMATION**

For more information, please contact Marion White (214) 922-6155.  
For additional copies of this Bank's notice, please contact the Public Affairs  
Department at (214) 922-5254.

Sincerely yours,

*Robert D. McTeer, Jr.*

**FEDERAL RESERVE SYSTEM****12 CFR Part 203**

[Docket No. R-0771; Regulation C]

**Home Mortgage Disclosure; Proposed Regulatory Amendments****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Proposed rule.

**SUMMARY:** The Board is publishing for comment a proposal to amend Regulation C, which implements the Home Mortgage Disclosure Act. The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) authorizes the Board, in consultation with the Department of Housing and Urban Development (HUD), to develop a new small institution exemption standard for mortgage companies that is comparable to the exemption for depository institutions. Under the Board's proposed standard, a mortgage company with an office in a metropolitan area would be covered if it met either of two tests: the existing asset-size test or lending activity test.

A mortgage company would be covered if its assets exceed \$10 million. But regardless of asset size, a mortgage company would also be covered if it originated 100 or more home purchase loans in the preceding calendar year. This dual standard would maintain coverage for all mortgage companies that currently report under HMDA, and would extend coverage to firms that are active home lenders despite their lower asset size.

The Board also proposes to revise the instructions for reporting loan applications received through a broker

or loan correspondent to conform the rule for reporting loan approvals to the existing rule for reporting loan denials. If an institution makes the credit decision to approve or deny a loan, that institution must report the loan as an origination or as a loan denial, respectively, whether or not the loan closes or would have closed in that institution's name. This revision would apply to all lenders covered by HMDA, not just mortgage companies.

**DATES:** Comments must be received on or before October 8, 1992. The revised instructions would apply to loan and application data collected by financial institutions beginning January 1, 1993.

**ADDRESSES:** Comments should refer to Docket No. R-0771 and be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may also be delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. weekdays. Except as provided in § 261.8 of the Board's rules regarding the availability of information (12 CFR 261.8), comments received will be available for inspection and copying by any member of the public in the Freedom of Information Office, room B-1122 of the Eccles Building between 9 a.m. and 5 p.m. weekdays.

**FOR FURTHER INFORMATION CONTACT:** Jane Ahrens, Jane Jensen Gell, 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 Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544.

**SUPPLEMENTARY INFORMATION:****(1) Background**

The Home Mortgage Disclosure Act (HMDA) requires lenders that have over \$10 million in assets and have offices in metropolitan areas to disclose their housing-related lending activity each year. In 1989, amendments to HMDA extended its scope to include independent mortgage companies—lenders that are unaffiliated with depository institutions or holding companies. As a result of this change, HMDA covered many mortgage companies that make loans in metropolitan areas, but only if their assets exceed \$10 million.

Most mortgage companies originate loans and then sell them within a short

period of time, however, and their assets levels often can be relatively low (well under \$10 million). These firms' asset size may bear little relation to their residential lending volume. It is estimated that more than 80 percent of mortgage companies—including many active mortgage lenders—are currently exempt from HMDA. Because the 1989 amendments failed to cover as many of these lenders as Congress had intended, Congress amended HMDA again in 1991 to revise the exemption standard.

The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) authorizes the Board, in consultation with the Department of Housing and Urban Development (HUD), to establish a new small institution exemption standard for mortgage companies that are "comparable within their respective industries" to depository institutions that are currently exempt. The Board proposed that the new HMDA exemption standard for mortgage companies include an explicit measure of housing-related lending activity together with the existing asset size test. Since asset size may not be related to lending volume, an asset size test alone does not seem appropriate for determining coverage for mortgage companies.

Mortgage companies whose assets (including those of any parent company) exceed \$10 million would be covered regardless of lending volume; application of this test would ensure that lenders presently covered would remain subject to HMDA. In addition, firms that have assets of \$10 million or less would be covered if they originated 100 or more home purchase loans in the previous calendar year. The Board believes that his proposed dual standard would establish a small-institution exemption for mortgage companies comparable to the exemption for depository institutions.

Mortgage companies specialize in home loans, unlike most small depository institutions which typically may engage primarily in other types of retail lending. Data reported by small depository institutions currently covered by HMDA indicate that small savings and loan associations (the type of depository institution most like mortgage companies in types of lending) extended an average of 50 home loans in 1990. Since mortgage companies focus on home purchase loans, it seems appropriate in defining a small-institution cutoff to set a higher loan volume test for mortgage companies than for depository institutions. The Board solicits comment on whether 100

home purchase loans is the appropriate level for the small-institution exemption applicable to mortgage companies.

In addition, the Board proposes to revise the instructions for reporting loan applications received through broker or loan correspondent. (This change affects all lenders covered by HMDA, not just mortgage companies.) The instructions require institutions to report data for all applications they deny, whether or not the loan would have closed in their name. The Board proposes to conform the rule for reporting loan approvals to the rule for reporting loan denials. If an institution makes the credit decision to approve or deny the loan, that institution must report the loan as a origination or as a loan denial, respectively, whether or not the loan closes or would have closed in the institution's name. This reporting procedure will more accurately reflect an institution's overall home lending activity.

#### (2) Form of Comment Letters

Comment letters should refer to Docket No. R-0771. The Board requests that, when possible, comments be prepared using a standard typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text into machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may also be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format.

#### (3) Explanation of Proposed Regulatory Amendments

The following discussion reviews the proposed amendments to Regulation C section by section.

#### Section 203.2 Definitions

##### 203.2(g) Home Purchase Loan

The regulation defines a home purchase loan as any loan secured by and made for the purpose of purchasing a dwelling. The Board proposes to specify that—for purposes of the definition of a financial institution under § 203.2(e) or the determination of an exemption under § 203.3(a)—the term "home purchase loan" does not include refinancings. The intention is to implement the small-institution exemption for nondepository lenders in a manner that will cover lenders that originate home purchase loans, and not lenders that may refinance these loans but that are not primarily in the business of making purchase-money mortgage loans. The regulation would continue to require all lenders covered by HMDA to

report refinancings as called for by § 203.4(a).

#### Section 203.3 Exempt Institutions

##### (a) Exemption Based on Asset Size or Location

The proposed exemption standard for nondepository mortgage lending institutions is based on asset size and number of home purchase loan originations. To better differentiate between the exemption criteria that apply to depository institutions and those that apply to other lenders covered by HMDA, proposed § 203.3(a) sets forth the criteria for exemption in separate subparagraphs.

First, a mortgage company, like a depository institution, would remain covered if its assets exceeded \$10 million. Second, regardless of asset size, a mortgage company would now be covered if it made 100 or more home purchase loans in the prior calendar year. The Board solicits public comment on whether this level of loan activity will provide a small-institution exemption standard for mortgage companies that is comparable to the standard for depository institutions.

#### Appendix A to Part 203

##### I. Who Must File a Report

The Board proposes to amend Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register—to reflect the proposed exemption standard. The criteria for nondepository institutions have been set forth in a separate paragraph to clearly distinguish this standard from the exemption criteria for depository institutions.

##### IV. Types of Loans and Applications Covered and Excluded by HMDA

The Board proposes to revise the instructions in paragraph A.3 for reporting loan applications that are received through a broker or loan correspondent. The instructions currently require institutions to report data for all such applications they deny, whether or not the loan would have closed in their name. For applications that they approve, institutions currently report a loan as an origination only if the loan closes in their name. Loans approved by an institution, but closed in the broker's or loan correspondent's name, are reported as loan purchases. Lenders believe this method of reporting does not accurately reflect their lending activity.

The Board proposes to conform the rule for reporting loan approvals to the rule for reporting loan denials. Under



the proposed rule, if an institution makes the credit decision (to approve or deny the application), that institution will report the loan as an origination or as a loan denial, respectively, whether or not the loan closes or would have closed in the institution's name. Institutions that purchase loans from another institution at closing, after having made the credit decision, will report the loans as loan originations, not as loan purchases. (If an institution approves an application for a loan, but does not purchase the loan because the loan is sold to another investor, the institution will report the loan as approved but not accepted.) Paragraph A.1 of this section would also be amended to conform to this standard by deleting the reference to originations as "loans that were closed in your name."

#### List of Subjects in 12 CFR Part 203

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

For the reasons set forth in this proposed rule and pursuant to the Board's authority under section 305(a) of the Home Mortgage Disclosure Act (12 U.S.C. 2804(a)), the Board proposes to amend Regulation C, Home Mortgage Disclosure (12 CFR part 203) as set forth below.

Certain conventions have been used to highlight the proposed changes to the regulation and the instructions. Language to be added is shown inside bold-face arrows, while language that would be removed appears within brackets. The Board is publishing only those sections of the regulation and instructions that would be affected by the changes.

#### PART 203—HOME MORTGAGE DISCLOSURE

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

**Authority:** 12 U.S.C. 2801–2810.

2. Section 203.2 would be amended by revising paragraph (g) and by republishing the introductory text of the section to read as follows:

#### § 203.2 Definitions.

In this regulation:

(g) *Home purchase loan* means any loan secured by and made for the purpose of purchasing a dwelling. ► For the purposes of §§ 203.2(e) (definition of a financial institution) and 203.3(a) (determination of an exemption), "home purchase loan" does not include the refinancing of a home purchase loan. ◀

3. Section 203.3 would be amended by revising paragraph (a) and by revising paragraph (c)(1) to read as follows:

#### § 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.]

► (a) *Exemption based on location, asset size, or number of home purchase loan originations.* (1) A bank, savings association, or credit union is exempt from the requirements of this regulation for a given calendar year if on the preceding December 31—

(i) The institution had neither a home office nor a branch office in an MSA; or  
(ii) The institution's total assets were \$10 million or less.

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

(i) The institution had neither a home office nor a branch office in an MSA on the preceding December 31; or

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

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

4. Appendix A to part 203 would be amended by revising paragraphs I.A. through I.F., by adding a new paragraph I.G., and by revising paragraph IV.A.1. and the first sentence of paragraph IV.A.3. to read as follows:

**Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register**

#### I. Who Must File a Report

A. ► Depository institutions. ◀ Subject to the exceptions discussed below, banks, savings association ► and ◀ 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 an institution:

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

*Example:* If on December 31 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 purchases and home improvement loans that you originate or purchase (and also lists applications that did not result in an origination) beginning January 1.

► B. Other lending institutions. Subject to the exceptions discussed below, for-profit lending institutions (other than banks, savings associations, and credit unions) must complete a register listing data about loan applications received, loans originated, and loans purchased if the institution had a home or branch office in an MSA on the preceding December 31, and

1. Had assets of more than \$10 million on the preceding December 31, or  
2. Originated 100 or more home purchase loans (not including refinancings) during the preceding calendar year, regardless of asset size. ◀

[B.] ► C. ◀ You need not complete a register—even if you meet the tests for asset size and location—if your institution is a bank, savings association, or credit union that made no first-lien home purchase loans ► (for this purpose, a refinancing does not count as a home purchase loan) ◀ on one-to-four-family dwellings in the preceding calendar year. This exception does not apply in the case of nondepository institutions.

[C.] ► D. ◀ You need not complete a register—even if you meet the tests for [asset size and] location ► and asset size or number of home purchase loans ◀—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 calendar year ► (not including refinancings) ◀ came to less than 10 percent of your total loan origination volume, measured in dollars.

[D.] ► E. ◀ 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.

[E.] ► F. ◀ If you are the subsidiary of a bank or savings association, you must complete a separate register for your institution. You will submit the register, directly or through your parent, to the agency that supervises your parent. (See paragraph VI.)

[F.] ► G. ◀ Institutions that are specifically exempted by the Federal Reserve Board from complying with the Federal Home Mortgage Disclosure Act because they are covered by a

similar state law on mortgage loan disclosures must use the disclosure form required by their state law and submit the data to their state supervisory agency.

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#### IV. Types of Loans and Applications Covered and Excluded by HMDA

##### A. Types of Loans and Applications To Be Reported

1. Report the data on home purchase and home improvement loans that you originated [(that is, loans that were closed in your name)] and loans that you purchased during the calendar year covered by the report. Report the data even if the loans were subsequently sold by you institution. Include refinancings of home purchase and home improvement loans.

\* \* \* \* \*

3. In the case of brokered loan applications or applications forwarded to you through a correspondent, show the data for all applications ► approved or ◄ denied by your institution (whether or not the ► closed or ◄ would have closed in your institution's name). \* \* \*

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By order of the Board of Governors of the Federal Reserve System, August 7, 1992.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 92-19177 Filed 8-11-92; 8:45 am]

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