



FEDERAL RESERVE BANK  
OF DALLAS

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

July 7, 1994

DALLAS, TEXAS  
75265-5906

Notice 94-67

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

**SUBJECT**

**Request for Public Comment on  
Proposed Changes to Regulation C  
(Home Mortgage Disclosure Act)**

**DETAILS**

The Board of Governors of the Federal Reserve System has requested public comment on proposed changes to Regulation C (Home Mortgage Disclosure Act) and to the instructions and reporting forms that financial institutions must use in complying with the annual reporting requirements.

The proposed amendments would:

- Set an earlier deadline for reporting Home Mortgage Disclosure Act (HMDA) data to supervisory agencies;
- Require data submission in machine-readable form;
- Require institutions to keep their loan application registers current during the year as data are being collected; and
- Make a number of other changes.

The principal reasons for the amendments are to respond to statutory provisions regarding earlier availability of the HMDA disclosure statements to the public and to improve the quality of the HMDA data. The document also provides clarification on various matters, such as the treatment of counteroffers and prequalification programs.

The Board must receive comments by August 10, 1994. 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-0839.

**ATTACHMENT**

A copy of the Board's notice as it appears on pages 30310-16, Vol. 59, No. 112, of the Federal Register dated June 13, 1994, is attached.

**MORE INFORMATION**

For more information, please contact Eugene Coy at (214) 922-6201. For additional copies of this Bank's notice, please contact the Public Affairs Department at (214) 922-5254.

Sincerely yours,

*Robert D. McTeer, Jr.*

**REQUEST FOR PUBLIC COMMENT ON  
PROPOSED CHANGES TO REGULATION C  
(HOME MORTGAGE DISCLOSURE ACT)  
(DOCKET NO. R-0839)**

**SUMMARY:** The Board is publishing for public comment proposed changes to Regulation C (Home Mortgage Disclosure) and to the instructions and reporting forms that financial institutions must use in complying with the annual reporting requirements under the regulation. The principal reasons for the proposed amendments are to respond to the statutory provisions regarding earlier availability of the HMDA disclosure statements to the public; help improve the quality of the HMDA data; and provide clarifications requested by financial institutions that report under HMDA. The amendments would set an earlier deadline for reporting HMDA data to supervisory agencies; require reporting in machine-readable format; require institutions to keep their loan application registers current during the year as data are being collected; and make a number of other changes.

**DATES:** Comments must be received on or before August 10, 1994.

**ADDRESSES:** Comments should refer to Docket No. R-0839 and be sent 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 on 20th Street NW (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. weekdays. 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 Jensen Gell or W. Kurt Schumacher, Staff Attorneys, or John C. Wood, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at 202/452-2412; for the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf, at 202/452-3544.

**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 requires most mortgage lenders located in metropolitan statistical areas (MSAs) to report annually to federal supervisory agencies, and disclose to the public, information about their home mortgage

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 203**

[Regulation C; Docket No. R-0839]

**Home Mortgage Disclosure**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

and home improvement lending activity. The reports and disclosures cover loan originations, applications that do not result in originations (for example, applications that are denied or withdrawn), and purchases of loans. Information reported includes the location of the property to which the loan or application relates; the race or national origin, gender, and income of the applicant; and the type of purchaser for loans sold in the secondary market. For denied applications, lenders are also permitted to report the reasons for denial.

Lenders are required to report originations, applications, and purchased loans for each calendar year to their supervisory agency by March 1 of the following year. The reports are made on a HMDA Loan/Application Register (HMDA-LAR) in a transaction-by-transaction format; for reports containing more than 100 entries, lenders currently are expected to submit the data in automated form (magnetic tape or diskette). The lender's supervisory agency submits the data to the Federal Reserve Board, which processes the data on behalf of member agencies of the Federal Financial Institutions Examination Council (FFIEC) and the Department of Housing and Urban Development. The Board then prepares public disclosure statements for each reporting lender and aggregate reports covering the data for all lenders in a metropolitan area. The statements are sent to lenders, generally by July or August, and the lenders are required to make the statements available to the public at their home office and at certain branch offices.

Although lenders must make the disclosure statements available within three business days, they have a thirty-day period within which to review the statements prepared by the Board and to report any discrepancies to the agencies. After necessary revisions have been made, the Board prepares and sends disclosure statements for all reporting lenders in each MSA, along with aggregate disclosure tables covering all such lenders, to a central data depository in each MSA. The central depositories are usually public libraries, regional planning agencies, or other public offices; the disclosures are generally sent to the depositories by October.

## (2) Explanation of Proposed Amendments

One of the principal reasons the Board is proposing to amend Regulation C is the need to make HMDA data available to the public earlier than has been the case in the past. Statutory

amendments to HMDA enacted in 1992 provide that starting with the HMDA reports for calendar year 1994, disclosure statements for individual lenders should be available to the public by July 1 of the following year, and that aggregate tables should be available at the central depositories by September 1.

To meet this timetable, it will be necessary for the agencies to begin processing the raw data earlier than March 1. Therefore, the proposed amendments include a change in the deadline for data submission, requiring lenders to submit their data by February 1 instead of March 1. Some of the other proposed amendments also are intended, in part, to facilitate earlier availability of the data (see discussion concerning the proposed change to § 203.5(a), below).

Another important reason the Board is proposing amendments to Regulation C relates to the accuracy of the HMDA data. The accuracy of the HMDA reports produced under the new data collection system that was instituted in 1990 (following an expansion of the data collected under HMDA) has improved in each succeeding year, but concerns continue to exist about data quality. A major part of what is involved in ensuring data accuracy relates to matters that are in the control of reporting institutions; for example, lending institutions must devote adequate resources to the task of accurately compiling and checking data before reporting it. However, to the extent that any requirements of the regulation are unclear or complicated, consistent and accurate reporting is more difficult. Accordingly, some of the proposed amendments now being published are intended in whole or in part to make the reporting requirements clearer or simpler. In addition, another proposed amendment calls for reporting in machine-readable format; this change also should help improve data quality, as discussed below.

The Board solicits comment generally on other ways in which Regulation C might be changed to better address problems of accuracy of the HMDA data. For example, would allowing or requiring all home equity lines to be reported—rather than only the portion of a line the borrower intends to use for home improvement or home purchase—simplify reporting and bring about greater consistency? Would the same be true for other categories of loans? (On a similar point, refer to the discussion of possible changes in the types of refinancings that should be reported, in section (3), "Other Matters on Which the Board Solicits Comment," below.) Are there areas in which explanations

could be made simpler or clearer, thereby facilitating more accurate reporting?

The Board notes its intention to publish within the next several months a proposed staff commentary to Regulation C. The commentary will provide a vehicle for interpretations that would help lenders better understand and comply with the regulation's requirements. The commentary will supplement the detailed instructions provided in appendix A to Regulation C for completion of the HMDA-LAR and in the Guide to HMDA Reporting: Getting It Right, the brochure published by the FFIEC and distributed by the individual agencies. The Board is in the process of drafting the commentary, and solicits comment from lenders identifying specific areas that the commentary should address.

Set forth below is a section-by-section discussion of the proposed amendments to the regulation.

### Section 203.2—Definitions

#### Paragraph (f)—Home Improvement Loan

The proposal would revise the regulation's definition of "home improvement loan" to facilitate compliance. The existing definition sets two conditions: first, that the loan applicant state, at the time of the application, that the loan is for the purpose of repairing, rehabilitating, or remodeling a dwelling; and second, that the loan be classified in the records of the financial institution as a home improvement loan.

One change proposed by the Board relates to the first part of the definition—that the loan be for the purpose of repairing, rehabilitating, or remodeling a dwelling. Questions have arisen about situations in which a loan is made for the purpose of making improvements to the borrower's residential property, but not, strictly speaking, to the "dwelling" as defined under Regulation C. The regulation defines dwelling as a residential structure, whether or not attached to real property. Thus, for example, a dwelling under Regulation C includes a house, apartment building, or mobile home, but not necessarily the land upon which the house or other structure is located. Some institutions have asked whether a loan for building or repairing things such as a detached garage, a driveway, a fence, or landscaping should qualify as a home improvement loan for HMDA purposes.

To avoid technical distinctions based on whether a loan relates to the structure or to the land on which it is situated, the Board proposes to change

the home improvement loan definition to focus primarily on the applicant's statement of purpose for the loan. Thus, a loan would qualify as a home improvement loan for HMDA purposes if the applicant states, at the time of the loan application, that the loan is for "home improvement purposes."

The Board also proposes to eliminate the second part of the definition, which would make the manner in which an institution classifies a loan irrelevant to its treatment for HMDA purposes. This part of the definition was originally intended to minimize the regulatory burden on financial institutions, by not requiring an institution to report a loan as a home improvement loan on its HMDA-LAR if the institution did not record the loan as a home improvement loan for other purposes. Many institutions now indicate that they would like to report loans that in fact are for home improvement purposes, but they find it difficult to do so because the loans may not be "classified" in the institution's records as home improvement loans. Removing the classification test would resolve this problem. However, the Board solicits comment on the extent to which this proposed change would create significant compliance burdens for institutions that do not currently record such loans on the HMDA-LAR but now would be required to do so. Comment is also requested generally on the overall advantages and disadvantages of making this change.

#### Section 203.4—Compilation of Loan Data

##### Paragraph (a)—Data Format and Itemization

*Maintenance of LARs on current basis.* The regulation currently requires covered institutions to report HMDA data for a given calendar year to supervisory agencies by March 1 of the following year, but does not specify when the data must be recorded on the HMDA-LAR. The Board proposes to require institutions to fully record transactions within one month after final action is taken (such as origination of a loan, or denial or withdrawal of an application). The Board believes this approach would help in improving the accuracy and timeliness of the HMDA data. Current-year registers would be available to examiners so that, if problems were occurring, the supervisory agency could work with the institution to ensure that errors were corrected well before the relatively brief period between the end of the year and the reporting deadline. Another advantage of the proposed change

would be that examiners and the institution itself would have ready access to current data that could be helpful in assessing its fair lending and community reinvestment performance.

The Board recognizes that some institutions may compile and geocode transactions (assign MSA, state, county, and census tract codes) on a batch basis, from time to time during the year or at year-end. The Board solicits comment on how burdensome institutions that currently follow this procedure would find it to record all the LAR information, including the geographic codes, on the HMDA-LAR within one month after final action. In addition, comment is requested on the extent to which any burden might be reduced if the requirement were to keep the HMDA-LAR up to date on a quarterly basis, rather than monthly. The Federal Deposit Insurance Corporation imposes a thirty-day requirement on the HMDA-covered institutions it supervises; the Office of the Comptroller of the Currency proposed a similar requirement, and recently adopted a quarterly update requirement instead (see 59 FR 26411, May 20, 1994).

The Board believes that a requirement to update the HMDA-LAR within one month after each transaction would be an important step toward improving the accuracy and timeliness of HMDA data reporting; if the compliance burden appeared to outweigh the advantages, however, the Board would consider alternatives such as quarterly updating.

*Reporting income.* The Board proposes to revise the regulation to clarify how institutions report applicants' income and eliminate an internal inconsistency that now exists. Currently, § 203.4(a)(7) of Regulation C provides that financial institutions shall collect data on "income relied upon in processing the loan application." The instructions for completing the HMDA-LAR state that if no income is asked for or relied on in the credit decision, the lender may enter NA (not applicable) in this field (appendix A, paragraph V.D.5.c.).

The Board proposes that lenders must report all income reflected on the application, including income of coapplicants, whether or not the lender relies on a particular source of income. If the lender determined, in the course of verifying information, that some portion of the income reported by the applicant was overstated, the lender would enter the verified amount rather than the amount originally reported.

Currently lenders need not report income for streamlined refinancings in which they neither ask for nor rely on income information. In addition, for

privacy reasons, an institution need not record applicants' income on the HMDA-LAR for loans made to the institution's own employees. These rules will remain in place.

#### Section 203.5—Disclosure and Reporting

##### Paragraph (a)—Reporting to Agency

*Change in reporting deadline.* Currently, institutions are required to file their HMDA data with supervisory agencies by March 1 following the year to which the data relate. The Board proposes to change the due date to February 1.

Statutory amendments contained in the Housing and Community Development Act of 1992, 106 Stat. 3889, provide that starting with loan and application data for calendar year 1994, the FFIEC shall make "every effort" to ensure that individual lenders' public disclosure statements are available at the lenders' offices before July 1 of the following year. Similarly, the amendments call for the FFIEC to make both the individual disclosures and the aggregate tables available at the central depositories before September 1.

In 1993, the individual lenders' disclosure statements for 1992 lending activity became available to the public the first week of August, and the disclosure statements and aggregate reports became available at central depositories the first week of November. This year, the processing schedule calls for disclosures to be available at institutions in July and at central depositories in October. Thus, progress is being made toward meeting the statutory targets for earlier availability of HMDA data. But given the high volume of data being processed, the Board believes it is necessary to move up the date for submitting the raw data to supervisory agencies.

*Reporting in Machine-Readable Format.* In processing the HMDA data, the Board and the other agencies use various means to identify and correct data errors. For example, the data are run through computerized edit checks designed to detect errors and omissions in the data fields. Where these are found, the agencies send the reports back to the institution for correction.

Lenders whose HMDA-LAR contains more than 100 line entries are generally expected by the agencies to submit their data in machine-readable format, such as PC diskette or magnetic tape. The Board and the other agencies have encouraged lenders to submit their HMDA-LARs in automated form, and all but one of the agencies provide PC software that can be used to compile

data on diskettes. This software has built-in edit checks for accuracy and is furnished free of charge. Software packages that are widely available from private vendors also contain the computerized edits used by the Board. Nonetheless, many lending institutions still submit their HMDA data in paper form, and the agencies have found that these paper submissions tend to contain a substantially higher number of errors than submissions in machine-readable form.

The Board proposes to require that all institutions report HMDA data in machine-readable form and that they edit their data before submitting it, either using the agency-supplied HMDA software or using the same edits in private vendors' software.

The proposed change would help lenders to ensure submission of accurate data.

The overall accuracy of the data has improved each year since 1990, the first year of expanded reporting under the amendments in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, in part because institutions have increasingly submitted data by diskette, magnetic tape, or Fedline. However, further improvements in data quality are needed, and the pre-edited reporting of data in machine-readable form would help in bringing about such improvements. Machine-readable reporting would also assist the agencies in meeting the new public disclosure deadlines, by reducing the time needed to enter the data from each reporting institution into the HMDA processing database.

The Board recognizes that some financial institutions subject to HMDA might not have the computer capability to compile and report their data in machine-readable form. The Board solicits comment, therefore, on whether requiring machine-readable data submission from all institutions would create a hardship for some, and if so, whether supervisory agencies should have discretion to grant waivers from this requirement on a case-by-case basis. For example, a waiver might be granted in a case where an institution does not itself own or have ready access to a personal computer nor have access through a service provider.

#### Paragraph (e)—Notice of Availability

The Board proposes to make a technical change to § 203.5(e) concerning the notice of availability that institutions are required to post. Pursuant to amendments contained in the Housing and Community Development Act of 1992, lending

institutions must now make available to the public not only their disclosure statements but also their loan/application registers (after deleting certain data fields). These statutory amendments were incorporated into Regulation C in March 1993 (see 58 FR 13403, March 11, 1993).

The proposed change will revise the notice language to reflect that HMDA data in addition to disclosure statements are available from institutions.

#### Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register

##### II. Required Format and Reporting Procedures

*Paragraph A.* The Board proposes to require that all HMDA-covered institutions submit data in machine-readable form, except that supervisory agencies may have discretion to grant relief from this requirement in cases of hardship. See the discussion of this proposed change under § 203.5(a), above.

*Paragraph E.* A new paragraph II. E. would be added to the HMDA-LAR instructions to reflect the proposed requirement that the HMDA-LAR be kept current within one month of final action during the year as transactions occur. See the discussion under § 203.4(a), above.

##### III. Submission of HMDA-LAR and Public Release of Data

*Paragraph A.* The proposal includes a change in the reporting deadline from March 1 to February 1; paragraph III. A. in the instructions would be revised accordingly. See the discussion on this proposed change under § 203.5(a), above.

*Paragraphs B and C.*— Requirement to report total HMDA-LAR entries on transmittal sheet. The regulation requires that a transmittal sheet accompany an institution's HMDA-LAR data submission, containing general information such as the name, address, and identifying numbers of the institution. Currently, the transmittal sheet does not ask for the total number of transaction line entries contained in the HMDA submission, although the instructions encourage institutions to provide this record count in a cover letter.

The Board proposes to amend Regulation C to require financial institutions to report on the transmittal sheet (in both the paper-copy and machine-readable versions) the total number of line entries included in the data submission. Respondents also will be asked to send a transmittal sheet with

any subsequent submission of data, rather than only with the initial submission. An institution will sometimes send HMDA data to its supervisory agency in more than one submission when revisions to the initial submission are necessary, for example, or because transactions were found to have been inadvertently omitted. The count on the transmittal sheet for each submission will help the agencies verify the number of line entries submitted by the institution at that time. This change would help reduce the likelihood of any data being lost during the collection process.

*Paragraph G. Posters.* The Board is providing suggested language for the notice of availability that lenders are required to post in their home and branch offices in metropolitan areas. The revised notice reflects the fact that HMDA data besides disclosure statements are now available from financial institutions. See the discussion of proposed changes to § 203.5(e), above.

##### V. Instructions for Completion of Loan/Application Register

*A. Application or loan information.* 5. Explanation of purpose codes. Code 2: Home improvement. The proposal includes changes in the definition of home improvement loans for HMDA reporting purposes. The HMDA-LAR instructions would be revised to reflect the proposed changes. See the discussion of home improvement loan issues under § 203.2(f), above.

8. Loan amount. f. Reporting counteroffers. The proposal clarifies that counteroffers are to be reported as loan denials if the applicant does not accept the counteroffer, not as applications withdrawn or approved but not accepted. This clarification conforms with the treatment of counteroffers in Regulation B (Equal Credit Opportunity).

*C. Property location.* 5. Outside MSA. Financial institutions are encouraged but not required to enter geographic information for loans on property located outside the MSAs in which they have a home or branch office (or outside any MSA). The proposed rule clarifies that, if a lender enters data in the property location fields of the HMDA-LAR for these loans, the data must accurately reflect the location of the property in question.

(3) Other Matters on Which the Board Solicits Comment. In addition to seeking comment on the proposed amendments, the Board solicits comment on other matters related to HMDA reporting: prequalification programs, refinancing transactions, and

the collection of racial or ethnic information, as discussed below.

**Prequalification programs.** Regulation C requires lenders to compile and report data on applications for loans as well as on loan originations. The Board has received questions about mortgage lenders' prequalification programs, asking whether and when a request for prequalification must be treated as a credit application for purposes of HMDA reporting. The answer depends on the outcome of the prequalification decision.

The definition of application under HMDA is virtually identical to the definition established by the Board's Regulation B (Equal Credit Opportunity). Accordingly, lenders are directed to the guidance provided in the Official Staff Commentary to Regulation B, comments 2(f)-1 through -4, on differentiating between applications and inquiries. The commentary states that if a lender—in giving information to a consumer—evaluates information about the consumer, decides to decline a credit request, and communicates this to the consumer, the creditor has treated (by virtue of having made a credit decision). In the case of Regulation B, the creditor must then comply with the notification rules on adverse action.

In regard to HMDA reporting, the same rule applies, and a lender that turns down a prequalification request (because of the homebuyer's poor credit history, for example) must report it as a loan denial on its HMDA-LAR.

Prequalification requests that are approved, on the other hand, will be reported on the HMDA-LAR at a later stage in the process, after homebuyers have found the property they want to purchase and the lender has evaluated a formal loan application, not at the time of the prequalification approval. Thus, the lender will report when: (1) the lender originates a loan; (2) the lender has made a firm loan offer that the applicant does not accept; (3) the applicant expressly withdraws the mortgage application; (4) the lender closes the file for incompleteness; or (5) the lender denies the mortgage loan application.

In some cases, lender decisions on prequalifications that are approved may ultimately not be reported on the HMDA-LAR; if a homebuyer who has been prequalified for credit does not later pursue a formal application for a mortgage loan, the lender has no reporting obligations under HMDA (and no notification requirements under Regulation B).

For denials of prequalification requests that are reportable under

HMDA, there are questions about how a lender can comply with the reporting requirements with regard to the loan amount, loan type, and property location data fields on the HMDA-LAR. Generally speaking, a property location will not "exist" at the prequalification stage if the prospective homebuyer does not yet have a purchase contract on, or has not requested financing for, a specific property. Thus, the lender should enter NA (not applicable) in each of the location fields in such instances. For loan amount, if the prospective homebuyer has not requested a particular amount of credit, the regulation currently does not provide any alternative code. The Board requests comment on whether a code such as NA (not applicable) will suffice, or whether a special code—indicating that the transaction is a prequalification—would be more appropriate and useful. Similar issues arise with respect to loan type in cases where prospective borrowers have not specified during the prequalification process the type of loan they are seeking.

The Board requests comment about other compliance issues related to prequalifications, and contemplates that guidance regarding these matters will be provided in the commentary to Regulation C to be issued later this year.

**Reporting of refinancings.** The regulation requires lenders to report refinancings, which are defined as loans involving the satisfaction of an existing obligation and its replacement by a new obligation undertaken by the same borrower. The Board solicits comment on the reporting of transactions that are not technically refinancings, but that serve as the functional equivalent of refinancings. In some regions, transactions are structured as modifications of existing obligations (sometimes called modification, extension, and consolidation agreements or "MECAs"), rather than as replacements thereof, often in order to reduce borrower costs associated with a refinancing (for example, title insurance fees).

Institutions have inquired whether they should report such transactions, which serve the same purpose as refinancings and normally entail the same underwriting procedures. The Board solicits comment on this matter. The Board also solicits comment on what types of modifications should not be subject to reporting (such as the simple modification of a loan term from 25 to 15 years), as well as the basis for any such distinctions. Other issues on which comment is requested include whether the reporting of such

transactions should be limited to cases where a new lender is offering the modification, or should also be available to the original lender.

Another matter on which the Board seeks comment concerns the current exclusion for certain refinancings based on the purpose of the transaction. Under existing Regulation C, a refinancing is to be reported only if the loan being refinanced was a home purchase or home improvement loan, or was a refinancing of such a loan. In addition, a refinancing is reported only if the amount outstanding on the loan being refinanced, plus the amount of any new money for home purchase or home improvement purposes, is equal to more than 50 percent of the total new loan amount. For example, if a borrower refinances a home purchase loan only for the purpose of getting a lower interest rate on the outstanding balance, and therefore does not obtain any new money, the refinancing is reported because the amount outstanding on the original loan is equal to 100 percent of the new loan amount. Similarly, if a borrower refinances a home purchase loan and obtains new money to be used entirely for home improvement purposes, then again the refinancing is reported because here again, the amount outstanding plus new money for "covered purposes" (home improvement and home purchase) is equal to 100 percent of the new loan amount. At the other extreme, if a borrower refinances a loan with an outstanding balance of \$20,000 and obtains \$40,000 of new money to be used for starting a new business, the refinancing is not reported because the amount outstanding plus new money for "covered purposes" is equal to only one-third of the new loan amount.

This purpose test for determining whether refinancings are to be reported under Regulation C has generated a substantial number of questions from lenders. For example, the purpose of the loan being refinanced may not be clear at the time the borrower applies for the refinancing. In some cases, a loan has been refinanced repeatedly, new money having been obtained each time; and the calculations necessary to determine whether more than 50 percent of the total new loan amount is for covered purposes become difficult. An alternative approach that would be easier to understand and apply would be to treat all refinancings as subject to reporting on the HMDA-LAR. Although such an expansion in coverage would result in the disclosed data's being less tied to the home purchase and home improvement categories, it is not clear that the resulting data would be less

useful. The Board solicits comment on the advantages and disadvantages of these changes, both for reporting institutions and for users of HMDA data.

*Collection of racial or ethnic information.* Regulation C provides that applicants for mortgage and home improvement loans be requested, but not required, to provide information about their race or national origin, gender, and income. The purpose is to gather data that may help regulatory agencies to gauge whether a lending institution is complying with the fair lending laws. If an applicant chooses not to provide the information on race or national origin and gender, the loan officer is required to enter the information on the basis of visual observation or surname.

Currently, the categories in Regulation C for data collection on race/national origin of applicants are:

- American Indian or Alaskan Native
- Asian or Pacific Islander
- Black
- Hispanic
- White
- Other

The categories that the Office of Management and Budget (OMB) issues for government statistical purposes are substantially the same, except that the "other" category is not included. OMB and others have indicated their belief that the presence of the "other" category undercuts the usefulness of the data, in that a data user has no way of knowing what the category represents.

In adopting the monitoring provisions of Regulation C in 1989, the Board based the categories used on Regulation B, which has contained the "other" category since it was first adopted by the Board in 1976. The Board believed that the "other" category served a useful function. For example, it provides a choice to applicants who do not identify with any of the specifically defined categories; in 1992, the "other" category was used in roughly 45,000 out of 10 million loan records. The Board notes also that OMB is likely in the next few years to propose changing the list of categories for the next decennial census.

Comment is solicited on whether the Board should consider deleting the "other" category. The Board notes that if this change were made for Regulation C, a parallel change would be made in the monitoring provisions of Regulation B.

(4) Economic Impact Statement. The Board's Division of Research and Statistics has prepared an economic impact analysis of the proposed amendments. A copy of the analysis may be obtained from Publications Services, Board of Governors of the

Federal Reserve System, Washington, DC 20551, or by telephone 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.

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

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

#### PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

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

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

2. Section 203.2 would be amended by revising paragraph (f) as follows:

##### § 203.2 Definitions.

(f) *Home improvement loan* means any loan that [— (1)] is stated by the borrower (at the time of the loan application) to be for ►home improvement purposes. ◀ [the purpose of repairing, rehabilitating, or remodeling a dwelling; and (2) is classified by the financial institution as a home improvement loan.]

3. Section 203.4 would be amended by revising the second sentence of paragraph (a) introductory text and paragraph (a)(7) as follows:

##### § 203.4 Compilation of loan data.

(a) *Data format and itemization.* \* \* \* These [data shall be presented] ►transactions shall be recorded, within one month of taking final action, ◀ on a register in the format prescribed in appendix A ►of this part ◀ and shall include the following items:

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

4. Section 203.5 would be amended by revising paragraphs (a) and (e) as follows:

##### § 203.5 Disclosure and reporting.

(a) *Reporting to agency.* By ►February 1 ◀ [March 1] following the calendar year for which the loan data are compiled, a financial

institution shall send [two copies of] its complete loan application register [(if submitted in paper form)] to the agency office specified in appendix A of this [regulation] ►part ◀, and shall retain a copy for its records for a period of not less than three years. [A financial institution need only submit one copy when the submission is on computer tape or diskette.]

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its ►HMDA data ◀ [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.

5. Item II. of appendix A to Part 203 would be amended by revising the first sentence of paragraph A., by removing the last 3 sentences of paragraph A., and by adding a new paragraph E., as follows:

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

##### II. Required Format and Reporting Procedures

A. Institutions [are expected to] ►shall ◀ submit data to their supervisory agencies in an automated, machine-readable form [unless 100 or fewer application and loan entries are reported]. \* \* \* [An institution that submits its register in nonautomated form must send two copies that are typed or computer printed. You must use the format of the loan/application register but are not required to use the form itself. Each page must be numbered, and the total number of pages must be given (for example, "Page 1 of 3").]

►E. Applications and loans must be fully recorded on your register, including geographic information, within one month of final action (such as the origination, denial or withdrawal of an application, or the purchase of a loan). ◀

6. Item III. of appendix A to Part 203 would be amended by revising paragraphs A., B., C., and G., as follows:

##### III. Submission of HMDA-LAR and Public Release of Data

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

B. You must submit all required data to your supervisory agency in one complete package, with the prescribed transmittal

sheet. An officer of your institution must certify to the accuracy of the data. ▶Any additional data submissions that become necessary (for example, because you discover that data were omitted from the initial submission, or because revisions are called for) also must be accompanied by a transmittal sheet. ◀

C. ▶The transmittal sheet must state the total number of HMDA-LAR line entries included in the accompanying data submission. ◀ [You are encouraged to provide in a cover letter an approximate count of the total number of line entries contained in your data submission.] If you are a depository institution, you also are asked to ▶provide ◀ [include] a list of the MSAs where you have a home or branch office.

\* \* \* \* \*

G. Posters. Your agency [can] ▶may ◀ provide [you with] HMDA posters that you can use to inform the public of the availability of your disclosure statement, or you may print your own posters. ▶If you print your own, the following language is suggested:

**Home Mortgage Disclosure Act Notice**

The HMDA data about our residential mortgage lending are available for review. The data show geographic distribution of loans and applications; race, gender, and income of applicants and borrowers; and information about loan approvals and denials. To inspect our HMDA data, inquire at this office. ◀

7. Item V. of Appendix A to Part 203 would be amended by revising paragraphs A.5.code 2, A.8.f., and C.5., as follows:

\* \* \* \* \*

**V. Instructions for Completion of Loan/ Application Register**

**A. Application or loan information**

\* \* \* \* \*

**5. Explanation of purpose codes**

\* \* \* \* \*

**Code 2: Home Improvement**

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

\* \* \* \* \*

**8. Loan amount.**

\* \* \* \* \*

f. ▶Reporting counteroffers. ◀ [If you offered to lend less than the applicant applied for, enter the amount of the loan if the offer was accepted by the applicant. If the offer was not accepted, enter the amount that the applicant applied for.] ▶If you make a counteroffer for an amount different from the amount initially applied for, and the counteroffer is accepted by the applicant, report it as an origination for the amount of the loan actually granted. If the applicant turns down the counteroffer or fails to respond, report it as a denial for the amount initially requested. Do not report it as a

withdrawn application or as an application that was approved but not accepted. ◀

\* \* \* \* \*

**C. Property location.**

\* \* \* \* \*

5. 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 enter the MSA, state, county, and census tract numbers or you may enter the code "NA" in each of these columns. ▶If you choose to enter the numbers, they must be correct for the property in question. ◀

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, June 7, 1994.

**William W. Wiles,**

*Secretary of the Board.*

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