



FEDERAL RESERVE BANK
OF DALLAS

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

January 10, 1995

DALLAS, TEXAS
75265-5906

Notice 95-03

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

SUBJECT

**Final Amendments to Regulation C
(Home Mortgage Disclosure Act)**

DETAILS

The Board of Governors of the Federal Reserve System has adopted amendments to Regulation C (Home Mortgage Disclosure Act). The Home Mortgage Disclosure Act requires most lenders in metropolitan areas to report annually to regulators and to disclose data on their mortgage lending activity to the public.

Under the new rule, institutions—except for institutions with 25 or fewer line entries to report—will be required to report in machine-readable form (such as by magnetic tape or computer diskette). In addition, institutions must update their loan application registers on a quarterly basis. These changes are intended to enhance the quality of the data and to help in bringing about earlier public disclosure. Other revisions to the regulation clarify reporting requirements in response to questions raised by institutions.

ATTACHMENT

A copy of the Board's notice as it appears on pages 63698-706, Vol. 59, No. 236, of the Federal Register dated December 9, 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.

For additional copies, bankers and others are encouraged to use one of the following toll-free numbers in contacting the Federal Reserve Bank of Dallas: Dallas Office (800) 333-4460; El Paso Branch *Intrastate* (800) 592-1631, *Interstate* (800) 351-1012; Houston Branch *Intrastate* (800) 392-4162, *Interstate* (800) 221-0363; San Antonio Branch *Intrastate* (800) 292-5810.

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:** Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation C (Home Mortgage Disclosure) and to revise the instructions and reporting forms that financial institutions must use in complying with the annual reporting requirements. The amendments respond to the statutory provisions regarding earlier availability of the Home Mortgage Disclosure Act (HMDA) disclosure statements to the public; provide clarifications requested by financial institutions that report under HMDA; and are intended to help improve the quality of the HMDA data. The amendments require reporting in machine-readable format; require institutions to update their loan application registers quarterly during the year as data are being collected; and make a number of other changes.

DATES: *Effective date:* January 1, 1995.

Compliance dates: Compliance is mandatory for paragraphs III.B. and III.C. of Appendix A to Part 203, the amendment regarding the transmittal sheet, for the submission of calendar year 1995 data, which is due no later than March 1, 1996. For all other amendments, compliance is mandatory for the collection of data that begins January 1, 1996, which is to be submitted to supervisory agencies no later than March 1, 1997. Institutions may comply with the amendments beginning January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, Staff Attorney, or John C. Wood, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-2412 or (202) 452-3667; for the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:**I. 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 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.

Lenders are required to report data about 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. 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. The statements are sent to lenders and the lenders are required to make the statements available to the public at their home office and at certain branch offices.

The Board also prepares aggregate disclosure tables covering all lenders in each MSA, and sends them, along with the individual lenders' disclosure statements, to a central data depository in each MSA. The central depositories are usually public libraries, regional planning agencies, or other public offices.

II. Summary of Amendments

In June 1994, the Board proposed amendments to Regulation C (59 FR 30310, June 13, 1994). Approximately 300 comments were received on the proposal. While many commenters supported the proposal, a number raised concerns about some of the specific provisions. After reviewing the comment letters and upon further analysis the Board is adopting amendments to Regulation C.

A principal reason for amending Regulation C is 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, the FFIEC should make every effort to ensure that disclosure statements for individual lenders are available to the

public by July 1 of the following year, and that aggregate tables are available at the central depositories by September 1.

Another purpose for the amendments is to improve further the accuracy of the HMDA data. The accuracy of the HMDA reports has been improving from year to year, but concerns continue about data quality. Amendments that require institutions to report in machine-readable format and to update their HMDA/LARs on a quarterly basis are intended to help improve data quality, as well as aid in earlier data availability.

Institutions are expected to accurately compile and check their data before submission. Some of the amendments are intended to clarify and simplify the reporting requirements, thus facilitating institutions' performance of these tasks.

The Board intends to publish by year-end 1994 a proposed staff commentary to Regulation C. The commentary will provide a vehicle for interpretations to help lenders better understand and comply with the regulation's requirements. The commentary will supplement the instructions provided in Appendix A to Regulation C for completion of the HMDA-LAR.

The Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) recently proposed to amend their Community Reinvestment Act (CRA) regulations, and included a proposal that would require some lenders to collect additional mortgage data (59 FR 51232, October 7, 1994). Accordingly, the Board published for comment proposed amendments to Regulation C to implement the CRA changes (59 FR 51323); the final amendments set forth below do not include final action on that HMDA proposal.

Institutions must comply with the new or changed requirements beginning with the collection of data for calendar year 1996, to be reported by March 1, 1997; institutions may choose to comply beginning January 1, 1995. (For the amendments concerning the transmittal sheet, compliance is mandatory beginning with the submission of the 1995 data that are due by March 1, 1996.) In other cases, the amendments merely clarify existing rules already in effect, with no substantive change, and institutions must continue to comply with the existing rule. The amendments setting forth such clarifications are those relating to: the definition of "financial institution" (§ 203.2(e)); reporting of gross annual income (§ 203.4(a)(7)); treatment of counteroffers (Appendix A, paragraphs V.A.8.f. and V.B.2.a. and c.);

and reporting of property location (Appendix A, paragraph V.C.5.).

Section 203.2—Definitions

Paragraph (e)—Financial Institution

The Board is amending paragraphs (e)(1) and (e)(2) to clarify that a refinancing of a home purchase loan is itself a home purchase loan for the purposes of this definition. This technical revision (which was not addressed in the proposed rule) conforms the regulatory language to existing language in the HMDA-LAR instructions (see Appendix A, paragraphs I.B., C., and D. of this part).

Paragraph (f)—Home Improvement Loan

The existing definition of "home improvement loan" sets two conditions: The stated purpose of the loan is to repair, rehabilitate, or remodel a dwelling; and the loan is classified by the financial institution as a home improvement loan.

The Board proposed to define a home improvement loan as a loan "stated by the borrower (at the time of the loan application) to be for home improvement purposes," to broaden the coverage to improvements to the real property but not to the "dwelling" itself.

Some commenters expressed concerns that the proposed definition would cover only loans expressly stated by the borrower to be for home improvement purposes, noting that an applicant might not specifically say that a loan is "for a home improvement purpose." Commenters suggested deleting the requirement that the borrower "state" that a loan is for "home improvement."

Based on the comments received and upon further analysis, the Board has revised the definition to provide that a home improvement loan is one for the purpose of repairing, rehabilitating, remodeling, or improving either a dwelling or the real property on which the dwelling is located (even if it is not called a "home improvement" loan by the borrower). For example, a loan that the borrower states is for a driveway, detached garage, or landscaping is a home improvement loan subject to the regulation.

The Board proposed to eliminate the second part of the definition—that the loan be classified in the records of the financial institution as a home improvement loan. This revision would have made the manner in which an institution classifies a loan irrelevant for HMDA purposes. This proposed change was intended to enable an institution to report home improvement loans on its HMDA-LAR even if the institution did not record them as home improvement

loans for other purposes. Commenters supporting the proposal noted that loans may be for home improvement purposes but may not be "classified" in the institution's records as home improvement loans.

Many other commenters requested that the Board not change this part of the definition. They said that deleting the classification aspect of the home improvement loan definition could work a hardship on institutions that do not now classify loans in all their product lines, and that would have to adopt procedures to identify which loans are in fact used for home improvement purposes. The Board has retained the current classification provision. The Board believes, however, that institutions wishing to report loans that have a home improvement purpose need not make major modifications to their recording procedures to meet the definition. Classification can mean that a loan is recorded on an institution's books or otherwise identified or coded in some manner as a home improvement loan. For example, loans that are marketed, "booked," or classified on call reports as home improvement loans could be considered "classified" as home improvement loans under the revised definition.

Some commenters requested a change in the treatment of a multiple-purpose loan where a portion is for home improvement. The Board has previously interpreted the definition of home improvement loan to mean that if more than 50 percent of the proceeds of a loan will be used for home improvement purposes, the total loan amount may be reported as a home improvement loan. Commenters suggested that compliance would be made easier if the Board instead provided that regardless of the amount of a multi-purpose loan specified for home improvement purposes, institutions may report the loan as a home improvement loan. After further analysis, the Board has revised the definition of a home improvement loan to provide that if a portion of a loan is for home improvement purposes, it may be reported as such, assuming it is classified by the institution as a home improvement loan. The Board believes that in most instances this revision will not result in institutions having to report multipurpose transactions not previously reportable, because reporting is still limited to those transactions that are classified by an institution as home improvement loans.

Section 203.4—Compilation of Loan Data

Paragraph (a)—Data Format and Itemization

Maintenance of LARs on current basis. The regulation requires covered institutions to report HMDA data for a given calendar year to their supervisory agency by March 1 of the following year. The Board proposed to require institutions to record transactions on the HMDA-LAR within one month after final action is taken (such as origination of a loan, or denial or withdrawal of an application). Comment was requested on whether any burden caused by a periodic maintenance requirement might be reduced if institutions were required to update the HMDA-LAR on a quarterly basis.

Most commenters who addressed the issue stated that it would be costly and burdensome to record all the HMDA-LAR information within one month after final action. On the other hand, commenters generally supported the Board's alternative proposal requiring institutions to maintain the HMDA-LAR on a quarterly basis. These commenters believed that it would be feasible to update the HMDA-LAR quarterly, noting that the OCC requires national banks to update their HMDA-LARs within thirty calendar days after the end of each calendar quarter (12 CFR 27.3(a)(1)(ii)). The FDIC requires institutions it supervises to enter all required information on the HMDA-LAR within thirty calendar days of final action (12 CFR 338.8(c)).

The Board believes that quarterly updating will help in improving the accuracy and timeliness of the HMDA data without imposing an undue compliance burden on institutions. Under the final rule, an institution must record transactions within thirty calendar days after the end of the calendar quarter in which final action is taken (such as origination of a loan, or denial or withdrawal of an application). For example, institutions must record by April 30 all transactions in which final action is taken during the first quarter. Calendar year 1996 is the first year during which quarterly updating will be required.

Under this final rule, current-year registers will be available to examiners so that the supervisory agency can work with the institution to ensure that any errors are promptly corrected. Institutions are expected to make a good faith effort to enter all data concerning transactions completely and accurately. If an examiner finds, on reviewing a quarterly update, that some data are incorrect or incomplete despite such

effort, the error or omission will not constitute a violation of Regulation C. The new requirement is intended to facilitate early detection of errors by examiners or by the institution itself, so that errors can be corrected before the annual report is submitted. The Board believes that updating the HMDA-LAR within one month after the end of each quarter is an important step toward improving the accuracy and timeliness of HMDA reports.

Institutions should keep in mind that the new Regulation C rule is only a minimum requirement and does not supersede stricter updating rules that a supervisory agency may impose on institutions under its jurisdiction (such as those that the FDIC and the OCC currently have in place).

Reporting income. The Board proposed to revise the regulation to clarify how institutions report applicant income. Regulation C currently provides that financial institutions shall collect data on the "income relied upon in processing the loan application." The instructions for completing the HMDA-LAR similarly state that an institution must enter the "gross annual income that your institution relied upon in making the credit decision" (Appendix A, paragraph V.D.5.). If no income is "asked for or relied on" in the credit decision, institutions are instructed to enter "NA" (not applicable) in the income field (Appendix A, paragraph V.D.5.c.).

The Board proposed that lenders should report on their HMDA-LAR the income reported on the application, including income of coapplicants, whether or not the lender relied on a particular source of income to qualify the applicant for a certain amount of credit.

Most commenters opposed the proposed change. Many said that reporting all income stated on the application, whether or not relied on in the credit decision, would involve significant procedural and programming modifications. Commenters believed that expanding the income-reporting requirement would increase their burden without a commensurate increase in data quality and accuracy. Some commenters also suggested that income relied upon serves as a better measure of a lender's decision-making process.

Based on the comments received and further analysis, the Board has retained the existing rule. As under the current regulation, the income to be reported for HMDA purposes is the income relied on by the creditor in making the credit decision.

Currently lenders need not report income for streamlined refinancings or other loans in which they do not ask for, or do not 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.

Under Regulation B (12 CFR Part 202), creditors may not discount or exclude from consideration the income of an applicant or the spouse of an applicant because of a prohibited basis (such as race, color, religion, national origin, sex, marital status, or age) or because the income is derived from part-time employment or an annuity, pension, or other retirement benefit. However, creditors may consider the amount and probable continuance of any income in evaluating an applicant's creditworthiness. This rule applies in reporting income under Regulation C; if a lender determines that some portion of the income reported by the applicant cannot be verified, is overstated, or is unreliable, the lender need not report that income on the LAR.

In addition, a technical change has been made to § 203.4(a)(7) of Regulation C to reflect the instructions for completing the HMDA-LAR, which specify that lenders must report the gross annual income relied upon in making the credit decision.

Section 203.5—Disclosure and Reporting

Paragraph (a)—Reporting to Agency

Proposed change in reporting deadline. Statutory amendments contained in the Housing and Community Development Act of 1992 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.

To facilitate earlier availability, the Board proposed to make February 1 the deadline for HMDA-LAR submission by lenders to their regulatory agencies, instead of March 1. Many commenters expressed objections to this proposal and stated that a February 1 deadline would be extremely difficult or impossible to meet. Commenters pointed out the difficulties already present in the current March 1 deadline, given the time required for institutions

with large branch networks to collect the data in a central location at year-end and review and compile the data prior to submission to their regulator. Other commenters mentioned the many other reports that are already due at the end of January, making it difficult to meet a February 1 deadline for HMDA.

Some commenters questioned whether an earlier deadline was necessary to meet the agencies' earlier timetables given the other changes that the Board was proposing to make (such as the requirements that data be maintained on a current basis and submitted to the agencies in an automated, edited format). Some suggested that this proposed change could result in less accurate data because there would be less time to audit the data and correct any errors.

Based on the comments received and further analysis, the Board has decided *not* to change the reporting deadline from the current March 1 date. With the expectation of further efficiencies in the agencies' internal processing schedules, the Board believes that adoption of the other amendments will assist in meeting the earlier timetables for release of data without the proposed change in deadline.

Reporting in machine-readable format. The Board proposed to require that all institutions report HMDA data in machine-readable form and that they edit the data before submission, either using agency-supplied HMDA software or using the same edits in private vendors' software. The proposed change was intended to help lenders ensure submission of accurate data. The Board also requested comment 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 on a case-by-case basis.

A significant proportion of lending institutions still report HMDA data in paper form. For example, among institutions reporting to the OCC, 24 percent report in paper form; for institutions reporting to the FDIC, the National Credit Union Administration, and the Board, the figures are 27 percent, 47 percent, and 20 percent, respectively. Some commenters (especially smaller institutions with few transactions to report) stated that it would be burdensome for them to report in automated form. Many others indicated that they would have no difficulty in doing so.

The Board believes that reporting in machine-readable form should not be overly burdensome for most institutions, considering the availability

of personal-computer software at no cost from most of the supervisory agencies and the existence of private vendors that sell software for preparing reports or that offer report-preparation services. The Board has therefore adopted the requirement for machine-readable reporting, but is making the requirement applicable to calendar year 1996 data. This delay in effective date will enable institutions to minimize expenses by allowing them to make changes to procedures over a reasonable period of time.

The Board recognizes that for institutions that have only a few lines of data to report, changing over from paper to machine-readable reporting could be expensive on a per-transaction basis. Even if the cost of computer hardware and software and related costs, such as for training, are modest, the costs may outweigh the benefits for a very small amount of data. Accordingly, institutions with 25 or fewer line entries to report will continue to be permitted to submit their data in paper form. (For the 1995 data collection year, the existing rule remains in place; lenders reporting more than 100 line entries are expected to submit data in machine-readable form.)

The Board decided against the granting of waivers from the machine-readable reporting requirement on the grounds that a waiver procedure would likely be cumbersome for both agencies and institutions and that institutions might not know on a timely enough basis whether they had to report in machine-readable form.

Paragraph (e)—Notice of Availability

The Board has adopted the technical change to § 203.5(e) concerning the suggested language for the lenders' notice of availability. As discussed in the proposal, amendments contained in the Housing and Community Development Act of 1992 and incorporated into Regulation C (58 FR 13403, March 11, 1993) require lending institutions to make their loan/application registers available to the public (after deleting certain data fields).

Appendix A—Form and Instructions for Completion of HMDA-LAR

II. Required Format and Reporting Procedures

Paragraph A

As discussed above, the revised regulation requires that HMDA-covered institutions, except those whose HMDA-LARs contain 25 or fewer line entries, submit data in machine-

readable form effective with the data due on March 1, 1997.

Paragraph E

A new paragraph II. E. reflects the requirement that the HMDA-LAR be updated within 30 days after the end of the calendar quarter, beginning in calendar year 1996. See the discussion under § 203.4(a), above.

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

Paragraphs B and C

Requirement to Report Total HMDA-LAR Entries on Transmittal Sheet

Regulation C 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. The Board proposed to amend the regulation to require financial institutions to report on the transmittal sheet the total number of line entries included in the data submission, and to send a transmittal sheet with the initial and any subsequent submissions 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 proposed changes were intended to reduce the likelihood of any data being lost during the collection process.

The Board has adopted the changes as proposed. The final amendment clarifies that the number to be reported on the transmittal sheet is the total number of line entries contained in the accompanying submission. If the submission is not the first submission of data by an institution, the number to be reported is the line-entry count for that particular submission, not a cumulative number for all submissions to date. For submissions that include line entries representing revisions or deletions of previously submitted entries, the number to be reported is the total of line entries in that submission (including revisions, deletions, entries being resubmitted without change, and entries being submitted for the first time).

Paragraph G Posters

The Board has adopted suggested language for the notice of availability that lenders post in their home and branch offices in metropolitan areas, to correspond to the technical change made to § 203.5(e). The final sentence

has been revised to mirror more accurately the requirements of § 203.5(b) and (c), indicating that the data need only be available in one branch office in each MSA.

The poster language is optional. Lenders may continue to use their existing posters without violating the regulation. When they next reprint their poster supplies, they should use language similar to that suggested here.

V. Instructions for Completion of Loan/ Application Register

A. Application or Loan Information

5. Explanation of Purpose Codes

Code 2: Home improvement. The HMDA-LAR instructions have been revised to reflect the Board's amendments to the definition of home improvement loans in § 203.2(f), as discussed above. Paragraphs a. and c. under Code 2 have been revised for consistency with this change to the regulation.

Code 3: Refinancings. The regulation requires lenders to report refinancings, which are defined as loans that satisfy an existing obligation and replace it with a new obligation undertaken by the same borrower. The Board sought comment on the exclusion of certain refinancings based on the "predominant purpose" test. Under this test, 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, equals more than 50 percent of the total new loan amount. Many commenters suggested that this 50 percent test could be abolished without making the data collected any less useful and that this would greatly ease compliance, thereby promoting greater accuracy in reporting. The Board agrees, and has revised paragraph c. under Code 3; refinancings may be reported regardless of the purpose of, or the amount outstanding on, the original loan and regardless of the amount of new money (if any) that is for home purchase or home improvement purposes. However, if an institution knows that the purpose of the original loan was not home purchase or home improvement, the refinancing need not be reported.

Many commenters noted that to ensure that the collection of data under HMDA is related to the housing credit needs of communities (as specified in the act), reportable refinancings should be limited to those secured by a dwelling. In keeping with the revisions to paragraph c. under Code 3, the Board has revised paragraph a. under Code 3 to state that only refinancings of loans

secured by a lien on residential dwellings are to be reported. Therefore, refinancings of unsecured home improvement loans will no longer be reported under HMDA.

While these changes in the reporting of refinancings may result in some net increase in the number of refinancings reported, the Board believes that the greater ease in determining whether a given transaction is to be reported outweighs any additional reporting burden.

In its proposed rule the Board sought comment on whether to require the reporting of certain types of loan modifications (sometimes called modification, extension, and consolidation agreements or "MECAs"), which are technically not "refinancings" but which can be their functional equivalent. Some commenters suggested that lenders ought to be allowed to report modifications that are truly the functional equivalent of refinancings. The Board believes, however, that the advantages of a bright-line test for determining whether a transaction is to be reported outweigh the benefits of the additional data on modifications. Accordingly, the final rule limits reporting of refinancings to those that result in the satisfaction of an existing obligation and its replacement by a new obligation undertaken by the same borrower.

The Board has made a technical change to the language in paragraph a. Previously, paragraph a. stated that refinancings would not be reported if, under the loan agreement, a lender was "unconditionally obligated to renew or refinance the obligation," or was "obligated to renew or refinance the obligation subject to conditions within the borrower's control." As the renewal of an existing obligation does not involve the satisfaction of that obligation, the Board has deleted this language to avoid confusion.

8. Loan Amount

Paragraphs b, c, and d. Paragraphs b., c., and d. have been revised for consistency with the changes, discussed above, regarding home improvement loans and refinancings.

Paragraph f. Paragraph f. has been revised to make clear that a counteroffer not accepted by the applicant is to be reported as a denial, consistent with new paragraphs B.2.a. and c., discussed below.

B. Action Taken

2. Explanation of Codes

As was proposed, the final rule clarifies in new paragraphs a. and c.

(existing paragraphs a. and c. have been redesignated) 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. Commenters generally supported the Board's interpretation. Some commenters stated that this clarification was necessary to conform the treatment of counteroffers in Regulation C with the treatment of counteroffers in Regulation B (12 CFR Part 202, Equal Credit Opportunity).

Other commenters were concerned that classifying unaccepted counteroffers as denials would not reflect an institution's offer of credit, although in a different amount or on different terms from those applied for. Some suggested that unaccepted counteroffers should be reported as applications approved but not accepted or as withdrawn. However, under Regulation C an application that is approved but not accepted is one that the lender has approved in the amount and on the terms applied for, not in a different amount or on different terms as in the case of a counteroffer. A withdrawn application is one that the applicant has withdrawn unilaterally and before the lender has communicated its decision to the applicant. The Board believes that neither of these categories is appropriate for reporting an unaccepted counteroffer for HMDA purposes.

C. Property Location

5. Outside-MSA

Under Regulation C, for loans on property located outside the metropolitan areas in which an institution has a home or branch office (or outside any MSA), the institution has the option to enter on the HMDA-LAR information on the location of the property to which the loan relates, or to enter "NA." The Board proposed to revise this paragraph to clarify that, if a lender chooses to enter 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. The Board has adopted the proposal in final form, with additional clarification on how the location data are to be entered.

Under the CRA proposal recently issued for comment (59 FR 51323, October 7, 1994), certain depository institutions would have to report property location for all their HMDA loan transactions, whether or not the property to which the loan relates is located in an MSA in which the institution has a home or branch office

Final action is still pending on that proposal; the public comment period closed on November 21.

D. Applicant Information—Race or National Origin, Sex, and Income

5 Income

The Board is making a technical change in paragraph c., which states that if income is not asked for or relied on in a credit decision, the creditor should enter "NA" for income on the HMDA-LAR. The Board has deleted the parenthetical reference to "no income verification" loans as possibly inaccurate; the Board intends to provide guidance on types of loans that would qualify under this paragraph in the staff commentary to Regulation C.

III. Other Matters

In addition to seeking comment on the proposed amendments, the Board solicited comment on other matters related to HMDA reporting: home equity lines, prequalification programs, and the collection of racial or ethnic information. These are discussed below.

Home Equity Lines

The Board solicited comment on ways in which Regulation C might be changed to better address problems of accuracy of the HMDA data. Specifically, the Board asked whether allowing or requiring all home-equity credit lines to be reported—rather than only the portion of a line the borrower intended to use for home improvement or home purchase—would simplify reporting and therefore bring about greater consistency.

A number of commenters suggested that the Board should allow the entire amount of the home-equity credit line to be reported under HMDA, regardless of the amount earmarked for home improvement or home purchase purposes. They believed that such a change would simplify the reporting process. However, other commenters questioned whether allowing the entire credit line to be reported is consistent with the stated purpose of the act—to determine whether financial institutions are meeting their obligations to serve the housing needs of their communities. Based on the comments and further analysis, the Board is leaving unchanged the reporting rules for home-equity credit lines.

Prequalification Programs

The Board requested comment on the treatment of prequalifications under HMDA. In particular, for denials of prequalification requests that are covered by HMDA, questions have been raised about the reporting of the loan

amount, loan type, and property location data fields on the HMDA-LAR. Although "NA" is an acceptable entry for property location (for example, if the prospective homebuyer has not requested financing for a specific property), for loan amount the regulation currently does not provide any acceptable code if the prospective homebuyer has not requested a particular amount of credit.

Based on the comments and upon further analysis, the Board has determined that for 1994 and 1995 data collection, institutions need not report prequalification requests on the HMDA-LAR. The Board expects to address issues related to prequalification requests in the staff commentaries for Regulations B and C.

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. If this information is not provided when the application is taken in person, the loan officer is required to enter the information on the basis of visual observation or surname. The purpose is to gather data that may help supervisory agencies determine whether a lending institution is complying with the fair lending laws.

The categories in Regulation C for data collection on race/national origin of applicants include the category of "other." The categories used by the Office of Management and Budget (OMB) for government statistical purposes do not provide that option. Comment was solicited on whether the Board should consider deleting the "other" category.

Commenters generally believed that the "other" category serves a useful purpose. Several commenters expressed the view that providing this option helps ensure the integrity of the existing categories. These commenters stated that the HMDA data are more useful and accurate when persons who believe they do not fit into a specific category are not forced into one. Commenters also noted that use of this category should not affect HMDA data analysis significantly, because only 45,000 applicants out of 10 million records (less than half of one percent) utilized this option in 1992. The Board has retained the "other" category for the present. OMB is currently exploring changes that may be adopted for use in the decennial census for the year 2000, and is expected to announce changes in categories in the

next several years. The Board will reexamine this matter at that time.

IV. Regulatory Flexibility Analysis

The proposed amendments to Regulation C that the Board published for comment in June 1994 were intended to improve the quality of HMDA data and make the data available to the public earlier. Many commenters supported the objectives of the proposal but thought that some of the proposed changes were unnecessarily burdensome. In many cases, commenters suggested alternatives that they believed would help achieve the objectives of the proposed amendments at a lower cost. The revised amendments have been responsive to the advice in the public comments. The revised amendments should disrupt current practices much less and therefore have lower compliance costs than the changes originally proposed. At the same time, the revised amendments would achieve the original objective of more accurate and timely HMDA data.

V. Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 35; 5 CFR 1320.13) these revisions have been reviewed under the authority delegated to the Federal Reserve Board by the Office of Management and Budget, after consideration of the comments received during the comment period. Where appropriate, steps were taken to minimize any increase in burden.

The amended regulation revises the transmittal sheet for the HMDA-LAR by requiring a record count to be included; the Board believes that the paperwork expansion associated with this requirement is de minimis. The amended regulation requires lenders to file submission in machine-readable format, with an exception for institutions whose reports contain 25 or fewer line entries. The burden associated with machine-readable reporting is likely to be minimal, particularly given the lead-time provided for mandatory compliance. The one-time costs for machine-readable reporting will be offset by savings in the ongoing costs of reporting.

The amended regulation requires quarterly updating of the HMDA-LAR. Many institutions already maintain their data on an ongoing basis, rather than entering all data at year-end. Overall, this change does not represent an increase in paperwork burden.

The amended requirements for reporting refinancings and home improvement loans will likely mean that a higher volume of transactions will

be reported. Lenders will find compliance easier, however, as they will have less difficulty in determining whether particular refinancings or home improvement loans are covered by HMDA, offsetting any marginal increase in the cost of reporting additional transactions. Thus, no increased burden should result. The remaining amendments clarify existing rules, make minor technical changes, or make changes that are optional for institutions, and do not represent an increase in paperwork burden.

Based on its analysis of the impact of the amended regulation, the Board believes that there is no net change in the Board's current estimate of paperwork burden associated with Regulation C. The public reporting burden for collection of the HMDA data is estimated to vary from 10 to 10,000 hours per response, with an average of 200 hours per response. This includes the time to gather and maintain the data needed and to review instructions and complete the information collection.

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 amends 12 CFR Part 203 as set forth below:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

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

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

2. Section 203.2 is amended by republishing paragraph (e) introductory text, and by revising paragraph (e)(1) introductory text, and paragraphs (e)(2) and (f) to read as follows:

§ 203.2 Definitions.

* * * * *

(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), including a refinancing of a home purchase loan, secured by a first lien on a one- to four-family dwelling if:

* * * * *

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) whose home purchase loan originations (including refinancings of home purchase loans) equaled or exceeded ten percent of its loan origination volume,

measured in dollars, in the preceding calendar year.

(f) *Home improvement loan* means any loan that:

(1) Is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located; and

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

* * * * *

3. Section 203.4 is amended by revising the second sentence of the introductory text in paragraph (a), and paragraph (a)(7), to read as follows:

§ 203.4 Compilation of loan data.

(a) *Data format and itemization.*

* * * These transactions shall be recorded, within thirty calendar days after the end of each calendar quarter in which final action is taken (such as origination or purchase of a loan, or denial or withdrawal of an application), 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 gross annual income relied upon in processing the application.

* * * * *

4. Section 203.5 is amended by revising paragraph (a), and by revising paragraph (e), to read as follows:

§ 203.5 Disclosure and reporting.

(a) *Reporting to agency.* By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send its complete loan application register to the agency office specified in Appendix A of this part, and shall retain a copy for its records for a period of not less than three years.

* * * * *

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its HMDA data 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 is amended by revising 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 must submit data to their supervisory agencies in an automated, machine-readable form. The format must conform exactly to that of form FR HMDA-LAR, including the order of columns, column headings, etc. Contact your federal supervisory agency for information regarding procedures and technical specifications for automated data submission; in some cases, agencies also make software for automated data submission available to institutions. The data must be edited before submission, using the edits included in the agency-supplied software or equivalent edits in software available from vendors or developed in-house. (Institutions that report 25 or fewer entries on their HMDA-LAR may collect and report the data in paper form. An institution that submits its register in nonautomated form must send two copies that are typed or computer printed, and must use the format of form FR HMDA-LAR (but need not 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 recorded on your register within thirty calendar days after the end of the calendar quarter in which final action (such as origination or purchase of a loan, or denial or withdrawal of an application) is taken. The type of purchaser for loans sold need not be included in these quarterly updates.

* * * * *

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

* * * * *

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

* * * * *

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 line entries contained in the accompanying data submission. If the data submission involves revisions or deletions of previously submitted data, state the total of all line entries contained in that submission, including both those representing revisions or deletions of previously submitted entries, and those that are being resubmitted unchanged or are being submitted for the first time. If you are a depository institution, you also are asked to provide a list of the MSAs where you have a home or branch office.

* * * * *

G. *Posters.* Some of the agencies provide HMDA posters that you can use to inform the public of the availability of your HMDA data, or you may create your own posters. If you print your own, the following language is suggested but is not required:

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. Inquire at this office regarding the locations where HMDA data may be inspected.

* * * * *

7. Item V. of Appendix A to Part 203 is amended as follows:

a. Paragraphs A.5.Code 2 a. and c., A.5. Code 3 a. and c., and A.8. b., c.; d., and f. are revised;

b. Paragraphs B.2.a., B.2.b., and B.2.c. are redesignated as paragraphs B.2.b., B.2.d., and B.2.e., respectively;

c. New paragraphs B.2.a. and B.2.c. are added;

d. Paragraph C.5. is revised; and

e. Paragraph D.5.c. is revised.

The revisions and additions read 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 if (i) a portion of the proceeds is to be used for repairing, rehabilitating, remodeling, or improving a one- to four-family residential dwelling, or the real property upon which it is located, and (ii) the loan is classified as a home improvement loan.

* * * * *

c. At your option, you may report data about home-equity lines of credit—even if the credit line is not classified as a home improvement loan. If you choose to do so, you may report a home-equity line of credit as a home improvement loan if some portion of the proceeds will be used for home improvement. (See Paragraph 8. "Loan amount.") If you report originations of home-equity lines of credit, you must also report applications for such loans that did not result in originations.

Code 3: Refinancings.

a. Use this code for refinancings (and applications for refinancings) of loans secured by one- to four-family residential dwellings. A refinancing involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower. But do not report a refinancing if, under the loan agreement, you are unconditionally obligated to refinance the obligation, or you are obligated to refinance the obligation subject to conditions within the borrower's control.

* * * * *

c. You may report all refinancings of loans secured by one- to four-family residential dwellings, regardless of the purpose or amount outstanding on the original loan, and regardless of the amount of new money (if any) that is for home purchase or home improvement purposes.

* * * * *

8. Loan Amount

* * * * *

b. For home improvement loans (both originations and purchases), you may include unpaid finance charges in the loan amount if that is how you record such loans on your books. For a multiple purpose loan classified by you as a home improvement loan because it involves a home improvement purpose, enter the full amount of the loan, not just the amount specified for home improvement.

c. For home-equity lines of credit (if you have chosen to report them), enter as the loan amount only that portion of the line that is for home improvement purposes. Report the loan amount for applications that did not result in originations in the same manner. Report only in the year the line is established.

d. For refinancings of dwelling-secured loans, indicate the total amount of the refinancing, including the amount outstanding on the original loan and the amount of new money (if any).

* * * * *

f. 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.

B. Action Taken

* * * * *

2. Explanation of Codes

a. Use code 1 for a loan that is originated, including one resulting from a counteroffer (your offer to the applicant to make the loan on different terms or in a different amount than initially applied for) that the applicant accepts.

* * * * *

c. Use code 3 when an application is denied. This includes the situation when an applicant turns down or fails to respond to your counteroffer. Do *not* report 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 have two options. Under option 1, you may enter the MSA, state, and county codes and the census tract number. You may enter "NA" in the MSA or census tract column if no code or number exists for the property. (Codes exist for all states and counties.) If you choose option 1, the codes and tract number must accurately identify the location for the property in question. Under option 2, you may enter "NA" in all four columns, whether or not the codes or number exist for the property.

* * * * *

D. Applicant Information—Race or National Origin, Sex, and Income

* * * * *

5. Income

* * * * *

c. If no income information is asked for or relied on in the credit decision, enter "NA."

* * * * *

8. A Loan/Application Register Transmittal Sheet is added to Appendix A to Part 203 immediately following paragraph VI.G., to read as follows:

* * * * *

BILLING CODE 6210-01-P

Form FR HMDA-LAR
 OMB No. 7100-0247 Approval expires March 31 1997
 Hours per response: 10 to 10,000 (200 average)
 This report is required by law (12 USC 2801-2810 and 12 CFR 203)

LOAN/APPLICATION REGISTER

TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
_____	_____	_____	_____

The Loan/Application Register that is attached covers activity during 19____ and contains a total of ____ pages

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

Name of Institution

Address

City State ZIP

Enter the name and telephone number of a person who may be contacted about questions regarding your register

Name () Telephone Number

If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

Name

Address

City State ZIP

Enter the name and address of your supervisory agency (or your parent's supervisory agency).

Name

Address

City State ZIP

An officer of your institution must complete the following section

I certify to the accuracy of the data contained in this register.

Name of Officer Signature Date

BILLING CODE 6210-01-C

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 5, 1994.

William W. Wiles,
Secretary of the Board.

[FR Doc. 94-30271 Filed 12-8-94; 8:45 am]

BILLING CODE 6210-01-P