FEDERAL RESERVE BANK
OF DALLAS

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

DALLAS, TEXAS
75265-5906

December 27, 1995

Notice 95-114

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

SUBJECT

Staff Commentary to Regulation C (Home Mortgage Disclosure)

DETAILS

The Board of Governors of the Federal Reserve System has published a staff commentary to Regulation C (Home Mortgage Disclosure) that interprets the requirements of the regulation.

The commentary provides guidance on issues such as the treatment of prequalifications, loan applications received through a broker, participations, refinancings, home-equity lines of credit, and mergers. The Board believes the commentary will help reduce burden and ease compliance by clarifying application of the rules, providing flexibility in compliance, and consolidating the guidance that is currently available from a variety of sources.

Compliance is mandatory for collection of data that begins January 1, 1996, which is to be submitted to supervisory agencies no later than March 1, 1997.

ATTACHMENT

A copy of the Board's notice as it appears on pages 63393-400, Vol. 60, No. 237, of the *Federal Register* dated December 11, 1995, 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.

Rules and Regulations

Federal Register
Vol. 60, No. 237
Monday, December 11, 1995

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

7 CFR Chapter XXXII

Office of Grants and Program Systems

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Final rule.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is removing 7 CFR Chapter XXXII and 7 CFR Part 3201, which relates to the Competitive Research Grants Program for Forest and Rangeland Renewable Resources.

EFFECTIVE DATE: December 11, 1995.

FOR FURTHER INFORMATION CONTACT: Louise Ebaugh at (202) 401–5024.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On July 1, 1986, the Secretary of Agriculture issued Secretary's Memorandum 1020–26 which abolished the Office of Grants and Program Systems (OGPS) and transferred all of its authorities, responsibilities and activities to the Cooperative State Research Service (CSRS). Pursuant to Public Law 103–354, the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, the Secretary of Agriculture issued Secretary's Memorandum 1010–1, Reorganization of the Department of Agriculture, on October 20, 1994. That memorandum orders the abolishment of the CSRS and the establishment of the CSREES, which assumes the function previously performed by the CSRS. CSREES previously amended Chapter XXXII by moving 7 CFR Part 3200—National Competitive Research Intitative Grants Program (NCRIGP) to 7 CFR Part 3411, December 8, 1995. It now deletes 7 CFR Part 3201—Competitive Research Grants Program for Forest and Ranewable Resources because the objectives of the program have been incorporated into the NCRIGP under newly redesignated 7 CFR Part 3411. This action vacates 7 CFR Chapter XXXII.

List of Subjects in 7 CFR Part 3201

Agricultural research, Forests and forest products, Grant programs—agriculture, Range management, Reporting and recordkeeping requirements.

CHAPTER XXXII—[REMOVED AND RESERVED]

For reasons set out in the preamble and under the authority of Public Law 103–354, Title 7, Subtitle B, Chapter XXXII is removed and reserved.

Done at Washington, D.C. this 29th day of November 1995.

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 95–29457 Filed 12–8–95; 8:45 am]
BILLING CODE 3410–22–M

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–0881]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a staff commentary that interprets the requirements of Regulation C (Home Mortgage Disclosure). The commentary provides guidance on issues such as the treatment under Regulation C of prequalifications, loan applications received through a broker, participations, refinancings, home-equity lines, and mergers. The Board believes the commentary will help reduce burden and ease compliance by clarifying application of the rules, providing flexibility in compliance, and consolidating the guidance that is currently available from a variety of sources.

DATES: *Effective date.* This rule is effective January 1, 1996.

Compliance date. Compliance is mandatory for collection of data that begins January 1, 1996, which is to be submitted to supervisory agencies no later than March 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell, W. Kurt Schumacher, or Manley Williams, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or (202) 452–2412. For users of Telecommunications Device for the Deaf (TDD), please contact Dorothea Thompson 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.*). HMDA requires most mortgage lenders located in metropolitan areas to collect data about their housing-related lending activity. Lenders must file reports annually with their federal supervisory agencies and make disclosures available to the public. The reports and disclosures cover loan originations, applications that do not result in originations (for example, applications that are denied or withdrawn), and loan purchases. Information reported includes the location of the property to which the loan or application relates; the race or national origin, sex, and gross annual income of the borrower or applicant; and the type of purchaser for loans sold in the secondary market.

In June, the Board published a proposed staff commentary to Regulation C interpreting the regulation (60 FR 30013, June 7, 1995). The Board received approximately 130 comment letters, primarily from financial institutions and their trade associations. The commenters generally supported the Board's decision to develop a staff commentary and identified a number of additional issues that would benefit from interpretation. The commenters also made a variety of specific suggestions on the proposal.

Based on the comments received and further analysis, the Board has revised and reorganized many of the comments, and has made technical and stylistic changes to clarify the interpretations. Except as discussed below, the Board has retained the general substance of the commentary as proposed.

The commentary compliments Appendix A (Form and Instructions for

Completion of HMDA Loan/Application Register) to Regulation C. Rather than reproducing the information from Appendix A in the commentary, the Board has incorporated that material only where necessary for clarity.

A number of commenters inquired about the status of *A Guide to HMDA Reporting—Getting It Right*!—developed by member agencies of the Federal Financial Institutions Examination Council (FFIEC) (the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Reserve Board) and the Department of Housing and Urban Development (HUD) now that the Board is publishing a commentary to Regulation C. The *Guide* provides information in a more informal manner that many commenters have found useful (for example, its step-by-step guidance and the flow chart on coverage). In addition, the *Guide* provides useful information not provided in the regulation, such as the state and county codes for counties in Metropolitan Statistical Areas (MSAs). Accordingly, the member agencies of the FFIEC and HUD contemplate continuing to publish the *Guide*.

II. Section-by-Section Analysis

Section 203.1—Authority, Purpose, and Scope

1(c) Scope. Refinancings. Comments 1(c)–2 through –4 deal with refinancings. Comment 1(c)–2 states that modification, extension, and consolidation agreements (MECAs)—in which the existing obligation is not satisfied and replaced—are not refinancings. Some commenters suggested that the Board treat MECAs as refinancings, on the basis that they may serve the same purpose as formal refinancings. The Board has retained the interpretation as proposed. The Board believes that moving from the current bright-line test for refinancings to a broader test that would include MECAs and other types of renewals and extensions would increase institutions' compliance burdens significantly in determining which transactions are covered and which are not.

Comment 1(c)–3 clarifies that, for coverage purposes, an institution may base its determination of whether a transaction is a refinancing of a home-purchase loan on whether a first lien (as opposed to a subordinate lien) on a dwelling is involved. For institutions that meet the coverage test, comment 1(c)–4 makes clear that the data collection requirement (in contrast to coverage) does not depend on lien position.

Under both comments, an institution may always determine whether a new transaction is a refinancing for HMDA purposes based on the actual purpose of the existing loan. An institution also has the option to rely on the statement of the applicant or look to the security interest, if any.

Broker and investor institutions. The substance of proposed comments 1(c)–5 through –10 has been adopted as proposed, although the comments have been revised and reorganized. To address the concerns of some commenters and to allow the consistent use of the terms "broker" and "investor" in each of the comments, comment 1(c)–5 defines a "broker" and "investor" broadly. For example, as the term is used in the commentary a broker may or may not make the credit decision, depending upon the circumstances. The Board has also adopted a new comment 1(c)–9 which clarifies the reporting responsibilities of an institution that uses an agent.

Some commenters suggested revising the proposed comments to change the existing reporting responsibilities. Under the proposed commentary certain brokers could show a substantial number of denials, yet have few corresponding originations on their HMDA–LARs. This is the case where a broker makes the decision to deny certain applications rather than send them on to an investor for a credit decision. As a result, the investor reports more originations and the broker more denials. A number of commenters suggested revising this approach.

The position stated in the final commentary, like the proposal, is consistent with Appendix A's instructions for completing the HMDA–LAR, paragraphs IV.A.3 and IV.A.4. Prior to January 1, 1993, Regulation C specified that the institution in whose name a loan closed reported an origination (regardless of whether it made the credit decision), while the institution that made the credit decision reported the denials. Thus, a broker might report as an origination a loan that was approved in advance by an investor. In response to public comment, and based on its own analysis, the Board decided in 1992 that the rule for reporting originations in brokered or correspondent situations should match the reporting of denials—that is, the party making the credit decision should report both originations and denials for HMDA purposes. (See the Board's final rule revising Regulation C, at 57 FR 56963, December 2, 1992). Thus, the commentary has been adopted substantially as proposed.

Affiliate bank underwriting. In response to public comment, the Board has added a new comment 1(c)–10 to address a pre-closing review by an affiliate bank under 12 CFR 250.250, which interprets section 23A of the Federal Reserve Act, Restrictions on Transactions with Affiliates (sometimes known as a "250.250 review"). Section 23A limits the amount of "covered transactions" that a bank may engage in with a single affiliate. As stated in 12 CFR 250.250, a bank has not engaged in a covered transaction when it purchases a loan made by the affiliate if the bank completes an "independent evaluation of the credit worthiness of the mortgagor(s)" prior to the affiliate's committing to make the loan and the bank promptly purchases the loan after the loan is made. Under HMDA, when a bank conducts an "independent credit evaluation" of an application it must report the action taken on the application, rather than treat the transaction as the purchase of an originated loan.

Participations. Proposed comment 1(c)–10 would have allowed the reporting of an institution's partial interest in a participation loan, including interests in some consortium loans, at the institution's option. The Board solicited comment on whether it is appropriate to report partial interests on the HMDA–LAR in this manner. Based on the comments and after further consideration, the Board has decided that for the present the HMDA data should not reflect partial interests in loans. The Board has revised the comment accordingly. Reporting partial interests could distort the HMDA data by showing a single loan as a number of loans (for example, if ten lenders participated in a loan there could be as many as ten entries in HMDA–LARs). The Board may consider amending Regulation C at a later time to allow reporting of partial interests in loans, perhaps establishing a special code to indicate the extent of the interest.

Assumptions. In response to public comment, the Board has adopted a new comment 1(c)–12 dealing with assumptions. The comment adopts and expands upon the language found in the FFIEC's

Guide to HMDA Reporting—Getting it Right!

Section 203.2—Definitions

2(b) Application. Comment 2(b)–1 has been revised to clarify that while Board interpretations of the definition of application under Regulation B (Equal

Credit Opportunity) (such as the distinction between an inquiry and an application, and the guidance concerning application procedures) are applicable to Regulation C, prequalification requests are not applications for purposes of Regulation C, even though they may be applications under Regulation B.

Comment 2(b)–2 addresses prequalification requests. Several commenters noted that institutions sometimes process and treat prequalification requests like other applications, to ensure that a notice of action taken under Regulation B is sent if the request is denied. The Board has revised comment 2(b)–2 to accommodate such practices.

In the amendments to Regulation C issued in December 1994 (59 FR 63698, December 9, 1994), the Board deferred a final determination on whether and how lenders ought to report requests for prequalifications (or preapprovals). (A preapproval request is generally considered to be a request by an applicant for a commitment from an institution to lend a specific amount, subject to the applicant's selection of residential property that is satisfactory to the institution. A preapproval program may be part of or separate from the institution's mortgage loan application program.) The Board stated that institutions need not include data about prequalifications (or preapprovals) in their HMDA submissions for calendar years 1994 or 1995.

Based on the comments and upon further analysis, the Board has determined that for 1996 data collection, institutions need not report prequalification (or preapproval) requests on the HMDA–LAR. The Board may consider amending Regulation C at a later date to address whether (and how) institutions should report some or all prequalification (or preapproval) requests.

2(c) Branch office. The Board has added a new comment 2(c)–1 to clarify that a branch office of a credit union meets the regulatory definition even if it has not been approved as a branch by a federal or state agency. The National Credit Union Administration, which charters and regulates federal credit unions, does not require approval of branch offices.

2(d) Dwelling. The Board has adopted comment 2(d)–1 substantially as proposed. Some commenters requested guidance on whether the purchase of a time-share is a purchase of a dwelling. Because the purchase of a time-share is the purchase of a "use" interest in the property, it is not a purchase of a dwelling for HMDA purposes. Other commenters requested guidance on the treatment of loans on structures such as dormitories and nursing homes. An institution need not treat these structures as dwellings for purposes of HMDA reporting. If an institution wishes to report the transaction it must determine that the structure is a residential structure under state or federal law.

2(f) Home-improvement loan. The Board has deleted an example in proposed comment 2(f)(1)–1 concerning the purchase of appliances to be installed as fixtures. The use of the term "fixture" generated numerous questions from commenters. Upon further analysis, the Board has decided not to define the term fixture because the Board believes the requirement that an institution classify a loan as a home-improvement loan suffices to distinguish these loans from other home-related consumer loans.

The Board has deleted proposed comment 2(f)(1)–2, which addressed home-improvement loans secured by a property other than the property being improved. Some commenters interpreted the comment to suggest that institutions should only report secured home-improvement loans. Rather than reiterate language from Appendix A—which instructs institutions to report both secured and unsecured home-improvement loans—the Board opted to delete the comment. Comment 4(a)(6)–2 addresses how to report the property location for a home-improvement loan secured by a property other than the property being improved.

Proposed comment 2(f)(2)–1 used the example of marketing as a means of classifying loans. Although the comment was intended to clarify that an institution satisfies the classification requirement if it designs and markets a loan product as a home improvement loan product, some commenters interpreted the comment as requiring an institution to report all loans for which the marketing might have indicated that the loan could be used for home-improvement. The Board has deleted the reference because marketing practices alone will not suffice for classifying a loan product as a home-improvement loan.

2(g) Home-purchase loan. The Board has revised the comments to § 203.2(g) in response to issues raised by commenters and to improve clarity. For example, comments 2(g)–2 and –3 clarify that, as is the case for home-improvement loans, an institution may use any reasonable standard to determine a property's primary use, and may select the standard case-by-case.

Section 203.3—Exempt Institutions

3(a) Exemption based on location, asset size, or number of home-purchase loans. Comment 3(a)–3 addresses reporting requirements for bulk purchases where no merger or acquisition of an institution is involved. Several commenters expressed concerns about data quality for these purchased loans. Commenters noted that a lender may only review a small percentage of the total loan purchase, and be unaware that information required to be reported on the HMDA–LAR is missing for some loans in the bulk purchase. The Board recognizes the reporting difficulties associated with bulk purchases, but believes that HMDA requires the reporting of these data in an accurate and complete manner.

Section 203.4—Compilation of Loan Data

4(a) Data format and itemization. Paragraph 4(a)(1)—Application date. The Board has revised comments 4(a)(1)–1 and –2 to clarify that while an institution is allowed flexibility, its approach in reporting the application date for its entire HMDA submission should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans).

The Board has revised comment 4(a)(1)–3 to clarify that the comment applies to all reinstated applications (not only counteroffers and denials).

Paragraph 4(a)(2)—Type and purpose. In response to comments on proposed comment 2(f)(1)–4, the Board has added a new comment 4(a)(2)–1 concerning loans that are for more than one covered purpose (home purchase, home improvement, or refinancing).

Paragraph 4(a)(3)—Occupancy. Proposed comment 4(a)(3)–1 dealt with the occupancy status for properties located outside the MSAs in which an institution has a home or branch office, and allowed an institution to report the actual occupancy status. The final comment makes this rule applicable also to a multifamily property loan. Although Appendix A is written more narrowly, the Board believes this more permissive rule will reduce compliance burden and will not adversely affect data quality.

Paragraph 4(a)(4)—Loan amount. In response to requests by commenters, the Board has added a new comment 4(a)(4)–4 concerning the loan amount to be reported in the case of an assumption of a loan.

Proposed comment 4(a)(4)–4 has been deleted, consistent with the position taken on the nonreporting of loan

participations. (See discussion of comment 1(c)–11, above.)

Paragraph 4(a)(5)—Type of action taken and date. Comment 4(a)(5)–1 deals with the "action taken" code to be used for counteroffers. A change has been made to illustrate that counteroffers may contain other terms different from those initially requested besides loan amount. Counteroffers that are not accepted by the applicant are to be reported as denials. If there are a series of offers or counteroffers, an institution reports only the final action taken at the conclusion of the negotiations. In addition, in some circumstances a rejected counteroffer that is reinstated and accepted by the applicant need not be reported as a denial. (See comment 4(a)(1)–3.)

Comment 4(a)(5)–2 deals with rescinded transactions. Some commenters asked whether they must consistently report the action taken in the case of a loan rescission as either "approved but not accepted" or as "loan originated." The Board believes that a strict requirement is not warranted in light of the small number of loans that are rescinded.

Comment 4(a)(5)–4 relates to conditional approvals. The proposal stated that if an institution approves an application subject to conditions that are not met, the action is reported as a denial. In response to comments, the Board has revised the comment to reflect that not all instances of failure to satisfy conditions should be classed as denials. For example, if a loan application is approved subject to routine conditions such as attendance at the closing or payment of closing costs, and such conditions are not met, the action is reported as approved but not accepted, rather than denied. However, loan approval subject to an underwriting condition (such as a larger downpayment or obtaining a cosigner or guarantor) is reported as a denial if the condition is not met.

Comment 4(a)(5)–5 gives options for reporting the date of action taken for applications approved but not accepted. In response to comments received, the options have been expanded.

Paragraph 4(a)(6)—Property location. In response to comments and to improve the usefulness of the HMDA data, the Board has revised proposed comment 4(a)(6)–1 and added a new comment to indicate that for home-improvement loans involving multiple properties, an institution should generally report the location of the property being improved.

Paragraph 4(a)(7)—Applicant and income data. Applicant data. The Board has revised and reordered comments 4(a)(7)–1 through –5 for greater guidance. For example, comment 4(a)(7)–3 clarifies that a creditor is not required to collect monitoring information if the face-to-face meeting occurs after the application process is complete, and comment 4(a)(7)–4 clarifies that a joint applicant may enter the government monitoring information on behalf of an absent co-applicant. The Board has expanded comment 4(a)(7)–5 to address the treatment of remote electronic application processes that use text communication (such as Internet-based services) rather than "live" oral and visual communication. Such applications are treated as mail applications.

Income data. The Board has revised and reorganized the comments concerning the reporting of income data. For example, proposed comment 4(a)(7)–5 provided that institutions must report all income used to make the credit decision, even if the funds were not included in the debt-to-income ratio. Proposed comment 4(a)(7)–7 provided that an institution should not report the income of cosigners and guarantors, even if the creditor relied on that income in making the credit decision. Commenters believed that guarantors' and cosigners' income should be reported if that income was in fact relied upon by the creditor. Several commenters noted that to do otherwise is inconsistent with the general rule that creditors report the income relied on. Some commenters made a distinction between cosigners, who are primarily liable on the obligation, and guarantors, who are secondarily liable. They suggested that an institution should report the income of cosigners but not guarantors. Based on the comments received and upon further analysis, the Board has revised and consolidated the proposed comments into comment 4(a)(7)–6 to clarify that institutions report the income of applicants and cosigners (but not guarantors) to the extent relied upon in making the credit decision.

Paragraph 4(c) Optional data. In response to comments, comment 4(c)–1 has been modified to reflect that state regulations also may require the reporting of the reasons for denial.

Section 203.6—Enforcement

6(b) Bona fide errors. Comment 6(b)–1 states that an error is bona fide only if the institution maintains reasonable procedures to avoid the error. To provide an example of reasonable procedures, the proposed comment had used the word "audit" in the sense of examine and check. Because some commenters interpreted this as a requirement to conduct a formal audit, the Board has revised the comment.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, 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. Part 203 is amended by adding a new Supplement I—Staff Commentary after the Appendices to read as follows:

Supplement I to Part 203—Staff Commentary

Introduction

1. *Status and citations.* The commentary in this supplement is the vehicle by which the Division of Consumer and Community Affairs of the Federal Reserve Board issues formal staff interpretations of Regulation C (12 CFR part 203). The parenthetical citations given are references to Appendix A to Regulation C, Form and Instructions for Completion of the HMDA Loan/Application Register.

Section 203.1—Authority, Purpose, and Scope

1(c) *Scope.*

1. *General.* The comments in this section address issues affecting coverage of institutions, exemptions from coverage, and data collection requirements. (Appendix A of this part, I., IV., and V.)

2. *Meaning of refinancing.* A refinancing of a loan is the satisfaction and replacement of an existing obligation by a new obligation by the same borrower. The term "refinancing" refers to the new obligation. If the existing obligation is not satisfied and replaced, but is only renewed, modified, extended, or consolidated (as in certain modification, extension, and consolidation agreements), the transaction is not a refinancing for purposes of HMDA. (Appendix A of this part, Paragraph V.A.5. Code 3.)

3. *Refinancing—coverage.* The regulation bases coverage, in part, on whether an institution originates home purchase loans. For determining whether an institution is subject to Regulation C or is exempt from coverage, an origination of a home-purchase loan includes the refinancing of a home-purchase loan. An institution may always determine the actual purpose of the existing obligation (for example, by reference to available documents). (Appendix A of this part, Paragraphs I.B., I.C., and I.D.) Alternatively, an institution may:

i. Rely on the statement of the applicant that the existing obligation was (or was not) a home-purchase loan; or

ii. Assume that the new obligation is not a refinancing of a home-purchase loan if

either the existing obligation or the new obligation is not secured by a first lien on the dwelling.

4. *Refinancing—data collection.* The regulation requires collection and reporting of data on refinancings of home-purchase and home-improvement loans. An institution may always determine the actual purpose of the existing obligation (for example, by reference to available documents). (Appendix A of this part, Paragraph V.A.5. Code 3.) Alternatively, an institution may:

i. Rely on the statement of the applicant that the existing obligation was (or was not) a home-purchase or home-improvement loan; or

ii. Assume that the new obligation is a refinancing of a home-purchase or home-improvement loan only if the existing obligation was secured by a lien on a dwelling; or

iii. Assume that the new obligation is a refinancing of a home-purchase or home-improvement loan only if the new obligation will be secured by a lien on a dwelling.

5. *The broker rule and the meaning of "broker" and "investor."* For the purposes of the guidance given in this commentary, an institution that takes and processes a loan application and arranges for another institution to acquire the loan at or after closing is acting as a "broker," and an institution that acquires a loan from a broker at or after closing is acting as an "investor." (The terms used in this commentary may have different meanings in certain parts of the mortgage lending industry and other terms may be used in place of these terms, for example in the Federal Housing Administration mortgage insurance programs.) Depending on the facts, a broker may or may not make a credit decision on an application (and thus it may or may not have reporting responsibilities). If the broker makes a credit decision, it reports that decision; if it does not make a credit decision, it does not report. If an investor reviews an application and makes a credit decision prior to closing, the investor reports that decision. If the investor does not review the application prior to closing, it reports only the loans that it purchases; it does not report the loans it does not purchase. Thus, an institution that makes a credit decision on an application prior to closing reports that decision regardless of whose name the loan closes in. (Appendix A of this part, Paragraphs IV.A. and V.B.)

6. *Illustrations of the broker rule.* Assume that, prior to closing, four investors receive the same application from a broker; two deny it, one approves it, and one approves it and acquires the loan. In these circumstances, the first two report denials, the third reports the transaction as approved but not accepted, and the fourth reports an origination (whether the loan closes in the name of the broker or the investor). Alternatively, assume that the broker denies a loan before sending it to an investor; in this situation, the broker reports a denial. (Appendix A of this part, Paragraphs IV.A. and V.B.)

7. *Broker's use of investor's underwriting criteria.* If a broker makes a credit decision based on underwriting criteria set by an investor, but without the investor's review prior to closing, the broker has made the credit decision. The broker reports as an origination a loan that it approves and closes, and reports as a denial an application that it turns down (either because the application does not meet the investor's underwriting guidelines or for some other reason). The investor reports as purchases only those loans it purchases. (Appendix A of this part, Paragraphs IV.A. and V.B.)

8. *Insurance and other criteria.* If an institution evaluates an application based on the criteria or actions of a third party other than an investor (such as a government or private insurer or guarantor), the institution must report the action taken on the application (loan originated, approved but not accepted, or denied, for example). (Appendix A of this part, Paragraphs IV.A. and V.B.)

9. *Credit decision of agent is decision of principal.* If an institution approves loans through the actions of an agent, the institution must report the action taken on the application (loan originated, approved but not accepted, or denied, for example). State law determines whether one party is the agent of another. (Appendix A of this part, Paragraphs IV.A. and V.B.)

10. *Affiliate bank underwriting (250.250 review).* If an institution makes an independent evaluation of the creditworthiness of an applicant (for example, as part of a pre-closing review by an affiliate bank under 12 CFR 250.250, which interprets section 23A of the Federal Reserve Act), the institution is making a credit decision. If the institution then acquires the loan, it reports the loan as an origination whether the loan closes in the name of the institution or its affiliate. An institution that does not acquire the loan but takes another action reports that action. (Appendix A of this part, Paragraphs IV.A. and V.B.)

11. *Participation loan.* An institution that originates a loan and then sells partial interests to other institutions reports the loan as an origination. An institution that acquires only a partial interest in such a loan does not report the transaction even if it has participated in the underwriting and origination of the loan. (Appendix A of this part, Paragraphs I., II., IV., and V.)

12. *Assumptions.* An assumption occurs when an institution enters into a written agreement accepting a new borrower as the obligor on an existing obligation. An institution reports as a home-purchase loan an assumption (or an application for an assumption) in the amount of the outstanding principal. If a transaction does not involve a written agreement between a new borrower and the institution, it is not an assumption for HMDA purposes and is not reported. (Appendix A of this part, Paragraphs IV.A. and V.B.)

Section 203.2—Definitions

2(b) *Application.*

1. *Consistency with Regulation B.* Board interpretations that appear in the official staff commentary to Regulation B (Equal Credit Opportunity, 12 CFR Part 202, Supplement I) are generally applicable to the definition of an application under Regulation C. However, under Regulation C the definition of an application does not include prequalification requests. (Appendix A of this part, Paragraph IV.A.)

2. *Prequalification.* A prequalification request is a request by a prospective loan applicant for a preliminary determination on whether the prospective applicant would likely qualify for credit under an institution's standards, or on the amount of credit for which the prospective applicant would likely qualify. Some institutions evaluate prequalification requests through a procedure that is separate from the institution's normal loan application process; others use the same process. In either case, Regulation C does not require an institution to report prequalification requests on the HMDA–LAR, even though these requests may constitute applications under Regulation B. (Appendix A of this part, Paragraphs I. and IV.A.)

2(c) *Branch office.*

1. *Credit union.* For purposes of Regulation C, a "branch" of a credit union is any office where member accounts are established or loans are made, whether or not the office has been approved as a branch by a federal or state agency. (See 12 U.S.C. 1752.) (Appendix A of this part, Paragraphs I., V.A.7., and V.C.)

2. *Depository institution.* A branch of a depository institution does not include a loan production office, the office of an affiliate, or the office of a third party such as a loan broker. (Appendix A of this part, Paragraphs I., V.A.7., and V.C.) (But see Appendix A of this part, Paragraph V.C.7., which requires certain depository institutions to report property location even for properties located outside those MSAs in which the institution has a home or branch office.)

3. *Nondepository institution.* A branch of a nondepository institution does not include the office of an affiliate or other third party such as a loan broker. (Appendix A of this part, Paragraphs I., V.A.7., and V.C.) (But see Appendix A of this part, Paragraph V.C.6., which requires certain nondepository institutions to report property location even in MSAs where they do not have a physical location.)

2(d) *Dwelling.*

1. *Scope.* The definition of "dwelling" is not limited to the principal or other residence of the applicant or borrower, and thus includes vacation or second homes and rental properties. A dwelling also includes a mobile or manufactured home, a multifamily structure (such as an apartment building), and a condominium or a cooperative unit. Recreational vehicles such as boats or campers are not dwellings for purposes of HMDA. (Appendix A of this part, Paragraphs I.B., IV., and V.A.5.)

2(e) *Financial institution.*

1. *Branches of foreign banks—treated as a bank.* A federal branch or a state-licensed insured branch of a foreign bank is a "bank" under section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)), and is covered by HMDA if it meets the tests for a depository institution found in §§ 203.2(e)(1) and 203.3(a)(1) of Regulation C. (Appendix A of this part, Paragraphs I.A. and I.B.)

2. *Branches and offices of foreign banks—treated as a for-profit mortgage lending institution.* Federal agencies, state-licensed agencies, state-licensed uninsured branches

of foreign banks, commercial lending companies owned or controlled by foreign banks, and entities operating under section 25 or 25(a) of the Federal Reserve Act, 12 U.S.C. 601 and 611 (Edge Act and Agreement corporations) are not "banks" under the Federal Deposit Insurance Act. These entities are nonetheless covered by HMDA if they meet the tests for a nondepository mortgage lending institution found in §§ 203.2(e)(2) and 203.3(a)(2) of Regulation C. (Appendix A of this part, Paragraphs I.C. and I.D.)

2(f) *Home-improvement loan.*

1. *Definition.* A home-improvement loan is a loan that is made for the purpose of home improvement and that is classified by the institution as a home-improvement loan. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

2. *Statement of the applicant.* An institution may rely on the oral or written statement of an applicant regarding the proposed use of loan proceeds. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.c.)

3. *Home-equity lines.* An institution that has chosen to report home-equity lines of credit reports as a home-improvement loan only the part of a home-equity line that is intended for home improvement. An institution that reports home-equity lines reports the disposition of all applications, not just originations. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.c.)

4. *Classification requirement.* An institution has "classified" a loan as a home-improvement loan if it has entered the loan on its books as a home-improvement loan, or has otherwise coded or identified the loan as a home-improvement loan. For example, an institution that has booked a loan or reported it on a "call report" as a home-improvement loan has classified it as a home-improvement loan. An institution may also classify loans as home-improvement loans in other ways (for example, by color-coding loan files). (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

5. *Improvements to real property.* Home improvements include improvements both to a dwelling and to the real property on which the dwelling is located (for example, installation of a swimming pool, construction of a garage, or landscaping). (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

6. *Commercial and other loans.* A loan for improvement purposes originated outside an institution's consumer lending division (such as a loan to improve an apartment building made through the commercial loan department) is reported if the institution classifies it as a home-improvement loan. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

7. *Multiple-purpose loan.* A loan for home improvement and for other purposes is treated as a home-improvement loan even if less than 50 percent of the total loan proceeds are to be used for improvement, provided the institution classifies the loan as a home-improvement loan. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.) (But see comment (2)(f)–3 of this supplement on home-equity lines of credit.)

8. *Mixed-use property.* A loan to improve property used for residential and commercial purposes (for example, a building containing apartment units and retail space) satisfies the purpose requirement if the loan proceeds are primarily to improve the residential portion of the property. If the loan proceeds are to improve the entire property (for example, to replace the heating system), the loan satisfies the purpose requirement if the property itself is primarily residential. An institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. An institution may select the standard to apply on a case-by-case basis. To report the loan as a home-improvement loan, the institution must also classify it as such. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 2.)

2(g) *Home-purchase loan.*

1. *Multiple properties.* A home-purchase loan includes a loan secured by one dwelling and used to purchase another dwelling. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

2. *Mixed-use property.* A loan to purchase property used primarily for residential purposes (for example, an apartment building containing a convenience store) is a home-purchase loan. An institution may use any reasonable standard to determine the primary use of the property, such as by square footage or by the income generated. An institution may select the standard to apply on a case-by-case basis. (Appendix A of this part, Paragraphs IV.A., IV.B.1., and V.A.5. Code 1.)

3. *Farm loan.* A loan to purchase property used primarily for agricultural purposes is not a home-purchase loan even if the property includes a dwelling. An institution may use any reasonable standard to determine the primary use of the property, such as by reference to the exemption from Regulation X (Real Estate Settlement Procedures, 24 CFR 3500.5(b)(1)) for a loan on property of 25 acres or more. An institution may select the standard to apply on a case-by-case basis. (Appendix A of this part, Paragraphs IV.B.1. and V.A.5. Code 1.)

4. *Commercial and other loans.* A home-purchase loan includes a loan originated outside an institution's residential mortgage lending division (such as a loan for the purchase of an apartment building made through the commercial loan department). For home-purchase loans, there is no classification test. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

5. *Construction and permanent financing.* A home-purchase loan includes both a combined construction/permanent loan and the permanent financing that replaces a construction-only loan. It does not include a construction-only loan, which is considered "temporary financing" under Regulation C and is not reported. (Appendix A of this part, Paragraphs IV.A. and B.2, and V.A.5. Code 1,)

6. *Home-equity line.* An institution that has chosen to report home-equity lines of credit reports as a home-purchase loan only the part that is intended for home purchase. An institution may rely on the applicant's oral or written statement about the proposed use of the funds. An institution that reports home-equity lines reports the disposition of all applications, not just the originations. (Appendix A of this part, Paragraphs IV. and V.A.5. Code 1.)

Section 203.3—Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

1. *General.* An institution that ceases to meet the tests for HMDA coverage (such as the 10 percent test for nondepository institutions) or becomes exempt may stop collecting HMDA data beginning with the next calendar year. For example, a bank whose assets drop to $10 million or less on December 31 of a given year reports data for that full calendar year, but does not report data for the succeeding calendar year. (Appendix A of this part, Paragraph I.)

2. *Coverage after a merger.* Several scenarios of data collection responsibilities for the calendar year of a merger are described below. Under all the scenarios, if the merger results in a covered institution, that institution must begin data collection January 1 of the following calendar year. (Appendix A of this part, Paragraph I.)

i. Two institutions are exempt from Regulation C because of asset size. The institutions merge. No data collection is required for the year of the merger (even if the merger results in a covered institution).

ii. A covered institution and an exempt institution merge. The covered institution is the surviving institution. For the year of the merger, data collection is required for the covered institution's transactions. Data collection is optional for transactions handled in offices of the previously exempt institution.

iii. A covered institution and an exempt institution merge. The exempt institution is the surviving institution, or a new institution is formed. Data collection is required for transactions of the covered institution that take place prior to the merger. Data collection is optional for transactions taking place after the merger date.

iv. Two covered institutions merge. Data collection is required for the entire year. The surviving or resulting institution files either a consolidated submission or separate submissions for that year.

3. *Mergers versus purchases in bulk.* If a covered institution acquires loans in bulk from another institution (for example, from the receiver for a failed institution) but no merger or acquisition of an institution is involved, the institution reports the loans as purchased loans. (Appendix A of this part, Paragraph V.B.)

Section 203.4—Compilation of Loan Data

4(a) *Data format and itemization.*

1. *Quarterly updating.* An institution must make a good-faith effort to record all data concerning covered transactions—loan originations (including refinancings), loan purchases, and the disposition of applications that did not result in originations—fully and accurately within 30 days after the end of each calendar quarter. If some data are inaccurate or incomplete despite this good-faith effort, the error or omission is not a violation of Regulation C provided that the institution corrects and completes the information prior to reporting the HMDA–LAR to its regulatory agency. (Appendix A of this part, Paragraph II.E.)

2. *Updating—agency requirements.* Certain state or federal regulations, such as the

Federal Deposit Insurance Corporation's regulations, may require an institution to update its data more frequently than is required under Regulation C. (Appendix A of this part, Paragraph II.E.)

3. *Form of updating.* An institution may maintain the quarterly updates of the HMDA–LAR in electronic or any other format, provided the institution can make the information available to its regulatory agency in a timely manner upon request. (Appendix A of this part, Paragraph II.E.)

Paragraph 4(a)(1) Application date.

1. *Application date—consistency.* In reporting the date of application, an institution reports the date the application was received or the date shown on the application. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.A.2.)

2. *Application date—application forwarded by a broker.* For an application forwarded by a broker, an institution reports the date the application was received by the broker, the date the application was received by the institution, or the date shown on the application. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.A.2.)

3. *Application date—reinstated application.* If, within the same calendar year, an applicant asks an institution to reinstate a counteroffer that the applicant previously did not accept (or asks the institution to reconsider an application that was denied, withdrawn, or closed for incompleteness), the institution may treat that request as the continuation of the earlier transaction or as a new transaction. If the institution treats the request for reinstatement or reconsideration as a new transaction, it report the date of the request as the application date. (Appendix A of this part, Paragraph V.A.2.)

Paragraph 4(a)(2) Type and purpose.

1. *Purpose—multiple-purpose loan.* If a loan is for home improvement and another covered purpose, an institution reports the loan as a home-improvement loan if the institution classifies it as a home-improvement loan. Otherwise the institution reports the loan as a home-purchase loan or a refinancing, as appropriate. An institution may determine how to report such loans on a case-by-case basis. (Appendix A of this part, Paragraphs V.A.4. and 5.)

Paragraph 4(a)(3) Occupancy.

1. *Occupancy—actual occupancy status.* If a loan relates to multifamily property, property located outside an MSA, or property in an MSA where the institution has no home or branch office, the institution may either report the actual occupancy status or report using the code for "not applicable." (A nondepository institution may be deemed to have a home or branch office in an MSA under § 203.2(c)(2) of Regulation C.) (Appendix A of this part, Paragraph V.A.7.)

2. *Occupancy—multiple properties.* If a loan relates to multiple properties, the institution reports the owner-occupancy status of the property for which property location is being reported. (See the comments to paragraphs 4(a)(6) Property location.) (Appendix A of this part, Paragraphs V.A.6. and 7.)

Paragraph 4(a)(4) Loan amount.

1. *Loan amount—counteroffer.* If an applicant accepts a counteroffer for an amount different from the amount initially requested, the institution reports the loan amount granted. If an applicant does not accept a counteroffer or fails to respond, the institution reports the loan amount initially requested. (Appendix A of this part, Paragraph V.A.8.f.)

2. *Loan amount—multiple-purpose loan.* Except in the case of a home-equity line of credit, an institution reports the entire amount of the loan, even if only a part of the proceeds is intended for home purchase or home improvement. (Appendix A of this part, Paragraph V.A.8.)

3. *Loan amount—home-equity line.* An institution that reports home-equity lines of credit reports only the part that is intended for home-improvement or home-purchase purposes. An institution may rely on the applicant's oral or written statement about the proposed use of the loan proceeds. (Appendix A of this part, Paragraph V.A.8.c.)

4. *Loan amount—assumption.* An institution that enters into a written agreement accepting a new party as the obligor on a loan reports the amount of the outstanding principal on the assumption as the loan amount. (Appendix A of this part, Paragraphs V.A.8.)

Paragraph 4(a)(5) Type of action taken and date.

1. *Action taken—counteroffers.* If an institution makes a counteroffer to lend on terms different from the applicant's initial request (for example, for a shorter loan maturity) and the applicant does not accept the counteroffer or fails to respond, the institution reports the action taken as a denial. (Appendix A of this part, Paragraph V.B.)

2. *Action taken—rescinded transactions.* If a borrower rescinds a transaction after closing, the institution, on a case-by-case basis, may report the transaction either as an origination or as an application that was approved but not accepted. (Appendix A of this part, Paragraph V.B.)

3. *Action taken—purchased loans.* An institution reports the loans that it purchased during the calendar year, and does not report the loans that it declined to purchase. (Appendix A of this part, Paragraph V.B.)

4. *Action taken—conditional approvals.* If an institution issues a loan approval subject to the applicant's meeting underwriting conditions (other than customary loan commitment or loan closing conditions, such as a "clear title" requirement or an acceptable property survey) and the applicant does not meet them, the institution reports the action taken as a denial. (Appendix A of this part, Paragraph V.B.)

5. *Action taken date—approved but not accepted.* For a loan approved by an institution but not accepted by the applicant, the institution reports using any reasonable date, such as the approval date, the deadline for accepting the offer, or the date the file was closed. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.B.3.b.)

6. *Action taken date—originations.* For loan originations, an institution generally reports the settlement or closing date. For loan originations that an institution acquires through a broker, the institution reports either the settlement or closing date, or the date the institution acquired the loan from the broker. If the disbursement of funds takes place on a date later than the settlement or closing date, the institution may use the date of disbursement. For a construction/permanent loan, the institution reports either the settlement or closing date, or the date the loan converts to the permanent financing. Although an institution need not choose the same approach for its entire HMDA submission, it should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans). (Appendix A of this part, Paragraph V.B.3.)

Paragraph 4(a)(6) Property location.

1. *Property location—multiple properties (home improvement/refinance of home improvement).* For a home-improvement loan, an institution reports the property being improved. If more than one property is being improved, the institution reports the location of one of the properties or reports the loan using multiple entries on its HMDA–LAR (with unique identifiers) and allocating the loan amount among the properties. (Appendix A of this part, Paragraph V.C.)

2. *Property location—multiple properties (home purchase/refinance of home purchase).* For a home-purchase loan, an institution reports the property taken as security. If an institution takes more than one property as security, the institution reports the location of the property being purchased if there is just one. If the loan is to purchase multiple properties and is secured by multiple properties, the institution reports the location of one of the properties or reports the loan using multiple entries on its HMDA–LAR (with unique identifiers) and allocating the loan amount among the properties. (Appendix A of this part, Paragraph V.C.)

3. *Property location—loans purchased from another institution.* The requirement to report the property location by census tract in an MSA where the institution has a home or branch office applies not only to loan applications and originations but also to loans purchased from another institution. This includes loans purchased from an institution that did not have a home or branch office in that MSA and did not collect the property location information. (Appendix A of this part, Paragraph V.C.)

4. *Property location—mobile or manufactured home.* If information about the potential site of a mobile or manufactured home is not available, an institution reports using the code for "not applicable." (Appendix A of this part, Paragraph V.C.)

5. *Property location—use of BNA.* At its option, an institution may report property location by using a block numbering area (BNA). The U.S. Census Bureau, in conjunction with state agencies, has established BNAs as statistical subdivisions of counties in which census tracts have not been established. BNAs are generally identified in census data by numbers in the range 9501 to 9999.99. (Appendix A of this part, Paragraph V.C.4.)

Paragraph 4(a)(7) Applicant and income data.

1. *Applicant data—completion by applicant.* An institution reports the monitoring information as provided by the applicant. For example, if an applicant checks the "other" box the institution reports using the "other" code. (Appendix A of this part, Paragraph V.D.)

2. *Applicant data—completion by lender.* If an applicant fails to provide the requested information for an application taken in person, the institution reports the data on the basis of visual observation or surname. As stated in paragraph I.B.5 to Appendix B of this part, the institution does not use the "other" code, but selects from the categories listed on the form. (Appendix A of this part, Paragraph V.D.)

3. *Applicant data—application completed in person.* When an applicant meets in person with a lender to complete an application that was begun by mail or telephone, the institution must request the monitoring information. If the meeting occurs after the application process is complete, for example, at closing, the institution is not required to obtain monitoring information. (Appendix A of this part, Paragraph V.D.)

4. *Applicant data—joint applicant.* A joint applicant may enter the government monitoring information on behalf of an absent joint applicant. If the information is not provided, the institution reports using the code for "information not provided by applicant in mail or telephone application." (Appendix A of this part, Paragraph V.D.)

5. *Applicant data—video and other electronic application processes.* An institution that accepts applications through electronic media with a video component treats the applications as taken in person and collects the information about the race or national origin and sex of applicants. An institution that accepts applications through electronic media without a video component (for example, the Internet or facsimile) treats the applications as accepted by mail. (Appendix A of this part, Paragraph V.D.) (See Appendix B of this part for procedures to be used for data collection.)

6. *Income data—income relied upon.* An institution reports the gross annual income relied on in evaluating the creditworthiness of applicants. For example, if an institution relies on an applicant's salary to compute a debt-to-income ratio, but also relies on the applicant's annual bonus to evaluate creditworthiness, the institution reports the salary and the bonus to the extent relied upon. Similarly, if an institution relies on the income of a cosigner to evaluate creditworthiness, the institution includes this income to the extent relied upon. But an institution does not include the income of a guarantor who is only secondarily liable. (Appendix A of this part, Paragraph V.D.5.)

7. *Income data—co-applicant.* If two persons jointly apply for a loan and both list income on the application, but the institution relies only on the income of one applicant in computing ratios and in evaluating creditworthiness, the institution reports only the income relied on. (Appendix A of this part, Paragraph V.D.5.)

8. *Income data—loan to employee.* An institution may report "NA" in the income field for loans to employees to protect their privacy, even though the institution relied on their income in making its credit decisions. (Appendix A of this part, Paragraph V.D.5.)

Paragraph 4(a)(8) Purchaser.

1. *Type of purchaser—loan participation interests sold to more than one entity.* An institution that originates a loan, and then sells it to more than one entity, reports the "type of purchaser" based on the entity purchasing the greatest interest, if any. If an institution retains a majority interest it does not report the sale. (Appendix A of this part, Paragraph V.E.)

4(c) Optional data.

1. *Agency requirements.* Certain state or federal entities, such as the Office of Thrift Supervision, require institutions to report the reasons for denial even though this is optional reporting under HMDA and Regulation C. (Appendix A of this part, Paragraph V.F.)

4(d) Excluded data.

1. *Loan pool.* The purchase of an interest in a loan pool (such as a mortgage-participation certificate, a mortgage-backed security, or a real estate mortgage investment conduit or "REMIC") is a purchase of an interest in a security under HMDA and is not reported on the HMDA–LAR. (Appendix A of this part, Paragraph IV.B.5.)

Section 203.5—Disclosure and Reporting

5(a) Reporting to agency.

1. *Change in supervisory agency.* If the supervisory agency for a covered institution changes (as a consequence of a merger or a change in the institution's charter, for example), the institution reports data to its new supervisory agency for the year of the change and subsequent years. (Appendix A of this part, Paragraphs I., III. and VI.)

2. *Subsidiaries.* An institution is a subsidiary of a bank or savings association (for purposes of reporting HMDA data to the parent's supervisory agency) if the bank or savings association holds or controls an ownership interest that is greater than 50 percent of the institution. (Appendix A of this part, Paragraph I.E. and VI.)

5(e) Notice of availability.

1. *Poster—suggested text.* The suggested wording of the poster text provided in Appendix A of this part is optional. An institution may use other text that meets the requirements of the regulation. (Appendix A of this part, Paragraph III.G.)

Section 203.6—Enforcement

6(b) Bona fide errors.

1. *Bona fide error—information from third parties.* An institution that obtains the property location information for applications and loans from third parties (such as appraisers or vendors of "geocoding" services) is responsible for ensuring that the information reported on its HMDA–LAR is correct. An incorrect entry for a census tract number is a bona fide error, and is not a violation of the act or regulation, provided that the institution maintains reasonable procedures to avoid such errors (for example, by conducting periodic checks of the information obtained from these third parties). (Appendix A of this part, Paragraph V.C.)

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, December 4, 1995.

William W. Wiles,

Secretary of the Board.

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