

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 7897]
June 18, 1976

HOME MORTGAGE DISCLOSURE
Text of New Regulation C

To All Institutions That Will Be Subject to the Home Mortgage Disclosure Act of 1975,
and Others Concerned, in the Second Federal Reserve District:

Enclosed is a copy of the new Regulation C, "Home Mortgage Disclosure," of the Board of Governors of the Federal Reserve System. A statement issued June 9 by the Board of Governors, announcing adoption of the new regulation and summarizing its major provisions, was contained in our Circular No. 7894, dated June 9, 1976. Additional copies of the regulation will be furnished upon request.

In addition, printed below is an excerpt from the *Federal Register* of June 14, 1976, containing the text of a statement by the Board of Governors explaining the differences between the regulation as finally adopted and the proposed text submitted for public comment in March.

Information regarding Standard Metropolitan Statistical Areas (SMSAs), referred to in the regulation, will be sent to member banks in this District shortly. In addition, SMSA listings will be furnished upon request.

Any questions on the new regulation should be directed to our Bank Regulations Department.

PAUL A. VOLCKER,
President.

Title 12—Banks and Banking
CHAPTER II—FEDERAL RESERVE SYSTEM
SUBCHAPTER A—BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM
[Docket No. R-0029; Reg. C]
PART 203—HOME MORTGAGE
DISCLOSURE

Implementation Regulations

By notice of proposed rulemaking published in the FEDERAL REGISTER on March 31, 1976 (41 F.R. 13619), the Board of Governors of the Federal Reserve System proposed for comment a new Part 203 (Regulation C) to implement the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200; 89

Stat. 1125 et seq.) (hereinafter referred to as "the Act"), which requires the disclosure of mortgage loan data by depository institutions that both make federally related mortgage loans as determined by the Board and are located in standard metropolitan statistical areas. These proposals were issued pursuant to section 305 of the Act which requires the Board to prescribe implementing regulations. A public hearing regarding the proposals was held on April 22, 1976. Comments were received through May 3, 1976.

After consideration of all comments received, statements made at the hearing, and staff analyses and recommendations, the Board has determined to adopt the regulations substantially as pro-

posed. The purposes of the regulations are, among other things, to describe the mortgage loan data to be disclosed, indicate the extent to which such data are to be itemized by census tracts or ZIP codes, suggest a guideline mortgage loan disclosure statement form, specify the dates by which mortgage loan disclosure statements are to be made available to the public, and establish procedures to be followed by State-chartered depository institutions seeking an exemption from the Act. Nothing in the regulations is intended to encourage unsound lending practices or the allocation of credit.

The most significant changes made in the regulations since they were proposed are the following:

1. The category of mortgage loans to be disclosed has been narrowed to exclude junior lien loans (except for home improvement purposes) and first lien loans where the lien arises incidentally in connection with a business loan. Two kinds of mortgage loans will be required to be reported: "residential mortgage loans" and "home improvement loans." Residential mortgage loans are defined to include only first lien loans to purchase or improve residential real property. Home improvement loans will include loans that the depository institution records on its books as home improvement loans and that are unsecured, or secured by collateral other than the property to be improved, or secured by junior liens on the property to be improved.

2. The deadline for making available the initial mortgage loan statements has been extended by one month to September 30, 1976.

3. Depository institutions will be required to take affirmative action to notify their depositors of the availability of the mortgage loan disclosure statements and to designate in their mortgage loan disclosure statements the name and address of their respective Federal enforcement agency.

A discussion of the regulations, including the substantive changes made since the proposals were announced, follows.

SECTION 203.2—DEFINITIONS

Definition of "depository institution."—"Depository institution" is defined to mean any commercial bank, saving bank, savings and loan association, building and loan association, homestead association (including cooperative banks), or credit union, which makes federally related mortgage loans. Any majority-owned subsidiary of a depository institution is deemed to be part of its parent depository institution for the purposes of the home mortgage disclosure regulations.

As proposed, the Board has exercised its general regulatory authority pursuant to the Act to bring the mortgage lending operations of majority-owned subsidiaries under the coverage of the Act. Without such a provision, the Board believes that an inaccurate and incomplete picture of the mortgage lending practices of a depository institution might be presented if the institution conducts all or part of its mortgage lending operations in a subsidiary. Moreover, without this provision, a depository institution might avoid the Act entirely by originating all its federally related mortgage loans through its subsidiary. This approach is consistent with other provisions of Federal law that, in effect, treat a depository institution and its subsidiary as one entity. However, the Board does not believe that it is necessary to extend coverage to collateral affiliates of depository institutions.

The proposed definition was amended to clarify the following:

1. A depository institution is subject to the Act if either it or its majority-owned subsidiary makes federally related mortgage loans.

2. The assets of the majority-owned subsidiary are to be combined with the assets of the parent in determining

whether the depository institution meets the total asset limitation of \$10,000,000 to qualify for an exemption.

3. In view of the definition of "branch office" (discussed hereinafter), none of the offices of the majority-owned subsidiary would be considered to be a home or branch office of the parent for the purpose of determining for which standard metropolitan statistical area ("SMSA") the parent must prepare statements. If a majority-owned subsidiary is located in a SMSA in which the parent does not have a home or branch office, loans originated or purchased by the subsidiary on property in that SMSA are to be included in the aggregate mortgage loan data relating to loans on residential real property located outside the relevant SMSA (or SMSAs).

4. Mortgage loans originated or purchased by a majority-owned subsidiary must be included in the mortgage loan disclosure statements to be made available at offices of the parent depository institution. A depository institution may decide, at its option, whether to show loans of the subsidiary separately, or on a consolidated basis, in its disclosure statement.

Definition of "branch office."—This section was adopted without change. A "branch office" is defined to mean any office approved as a branch of the depository institution by that depository institution's federal or State supervisory agency. Administrative offices, data processing offices, and loan production offices are excluded because these offices are not approved as branches. Electronic banking machines, such as automated tellers and point-of-sale terminals, are excluded because the Board does not regard machines as "offices."

Definition of "federally related mortgage loan."—The definition of "federally related mortgage loan" adopted by the Board is essentially the definition of that term in the Real Estate Settlement Procedures Act of 1974. The result is that every depository institution (with assets of more than \$10,000,000) located in a SMSA is subject to the home mortgage disclosure regulations if (i) it makes first lien mortgage loans on one- to four-family residences in the United States or Puerto Rico, and (ii) it is federally insured or regulated, or originates loans that are insured or guaranteed by HUD, or are intended to be sold to FNMA, GNMA, or the FHLMC.

The only change made in the definition is the addition of the phrase "located in a State" to exclude loans on property located outside the United States and Puerto Rico. It would be unduly burdensome to require depository institutions to review their foreign loan files for the few mortgage loans they may make outside the country, and reporting of such loans does not appear necessary to effectuate the purposes of the Act.

Definitions of "mortgage loan" and "residential mortgage loan."—"Mortgage loan" is defined in the regulation to mean any "residential mortgage loan" or any "home improvement loan." The narrower term "residential mortgage loan," in turn, is defined as a loan which is secured by a first lien on residential real property located in a State, including a

first lien refinancing of an existing loan, but does not include (i) temporary financing, (ii) purchase of an interest in a pool of mortgage loans, or (iii) a loan made primarily for purposes other than the purchase, repair, rehabilitation or remodeling of residential real property, but in connection with which a first lien on the residential real property is taken as collateral.

In adopting the final definitions, the Board made the following changes from the proposals:

1. The proposals did not have a definition of "residential mortgage loan" but included such loans in the definition of the broader term "mortgage loan." The adoption of the term "residential mortgage loan" is a technical device that permits a clearly identifiable segregation in the disclosure statement of home improvement loans from other statutorily-defined "mortgage loans" and minimizes the use in the disclosure statement of the term "mortgage loan," which is not generally understood as including home improvement loans.

2. There was general agreement among depository institutions and consumer and public interest groups that inclusion of mortgage loans unrelated to housing needs would distort the data from the standpoint of the purposes of the Act and that first lien loans should be separately identified. The Board believes that repeated references in the legislative history of the Act to "homeownership and home repair" support a narrower definition of mortgage loan than was proposed. Accordingly, the final regulations exclude mortgage loans secured by junior liens (except loans secured by junior liens that are undertaken for home improvement purposes) and loans made primarily for business or consumer purposes but in connection with which a first lien is taken as collateral. For example, the latter exclusion would apply to loans made in the following kinds of situations: (1) a commercial loan is made to a small business and a lien is taken on the property of the officer or owner as additional collateral; (2) a loan is undertaken by the borrower for business purposes and he executes a confession of judgment note which, when recorded, effects a lien upon all real property of the borrower in the county where the note is recorded; and (3) a commercial or consumer loan is initially unsecured but the borrower subsequently encounters problems causing the depository institution to demand collateral.

3. Rather than excluding from mortgage loans to be reported all refinancings involving no increase in the unpaid principal amount which was the proposal, the Board has decided that different treatment is appropriate for originations and purchases. Purchasers of refinanced residential mortgage loans will report all refinanced loans since, from their standpoint, there is no reason to distinguish between an original loan and a refinanced loan. An originator of a refinanced residential mortgage loan, however, will not be permitted to report a refinanced loan if the depository institution and the borrower were the same parties to the loan being refinanced and no additional principal is advanced. If

the originator advances additional principal, the loan would be reported in the full principal amount of the refinanced loan since, in effect, it is an entirely new loan. The Board has implemented this distinction by defining all first lien refinancings as residential mortgage loans but providing in section 203.4(a) (4) (i) (A) of the regulations for the exclusion of originated refinancings in the circumstances described herein.

4. For the reason discussed earlier, the phrase "located in a State" has been added.

5. There were several requests for the Board to clarify the term "temporary financing." The intent of the lender and borrower would be determinative in a particular case, but essentially the term refers to short-term lending where a source of permanent financing will later be required. For example, in addition to construction loans, it would also apply to "bridge financing" where a purchaser of a new home needs temporary financing to provide payment for the new home pending the sale and receipt of the proceeds from his prior residence. Whether or not there is a firm take-out commitment for permanent financing, the Board regards these temporary loans as commercial or consumer loans rather than mortgage loans and believes their inclusion in the term "mortgage loan" would distort the data contrary to the purposes of the Act.

Definition of "home improvement loan."—"Home improvement loan" is defined to mean an unsecured loan or a loan secured by collateral other than a first lien on residential real property that meets both of the following conditions: (i) the proceeds of the loan are to be used for the purpose of repairing, rehabilitating, or remodeling an existing residential dwelling located in a State as stated by the borrower to the lender at the time of the loan transaction, and (ii) that is recorded on the books of the depository institution as a home improvement loan.

The definition has been amended to clarify that both conditions must be met and that condition (ii) refers to the recording of the loan as a home improvement loan rather than the recording of the statement of the borrower. The two substantive changes made in the final definition are:

1. A loan that might be used for home improvement purposes and that is secured by a first lien on the property is to be reported as a "residential mortgage loan" rather than a "home improvement loan." The Board has decided that it is preferable that the nature of the collateral take precedence over the purpose of the loan in this case for the purpose of the disclosure statement because of the emphasis placed on first lien loans by consumer and public interest groups and in the light of similar treatment in financial statements required to be filed with federal supervisory agencies. The Board believes that the mortgage loan data will not be significantly affected by this classification because first lien loans for home improvement purposes are comparatively rare.

2. For the reason discussed earlier, the phrase "located in a State" has been added.

Some depository institutions have clas-

sified loans on their books as home improvement loans for the purpose of State law that do not meet the purpose statement (i.e., condition (i)) of the Board's definition. It would be very burdensome and, perhaps, impossible for such institutions in preparing their initial mortgage loan disclosure statements to isolate those loans that meet the State law definition but do not meet the Board definition. Accordingly, the Board has provided in section 203.4(a) (4) (ii) (A) that, with respect to the disclosure statement for a full fiscal year ending prior to July 1, 1976, depository institutions may elect to follow the State law definition that they used in classifying home improvement loans provided they make clear in the statement that the State law definition is being utilized.

Some depository institutions objected to the inclusion of unsecured home improvement loans. The Board's review of the legislative history of the Act does not lend support to that view, and the Board is adhering to its proposal in that regard. A technical change has been made in several places in the regulations by adding the phrase "or, in the case of home improvement loans, the property to be improved" to conform to the inclusion of unsecured loans.

A question has also been raised as to whether home improvement installment sales contracts that are discounted by depository institutions should be considered to be "home improvement loans." It is the Board's view that where a depository institution has an arrangement with a vendor whereby the institution will investigate the creditworthiness of the consumer prior to the services being rendered and purchase the installment sales contract when it has approved the credit, such contracts should be considered to be home improvement loans if recorded on the books of the depository institution as home improvement paper or a home improvement loan.

Definition of "residential real property."—The only change made in the definition of "residential real property" is to make clear that the term includes dwellings for from two to four families, as well as single-family homes, multi-family dwellings, and individual units of condominiums and cooperatives.

Definition of "State."—For the reason discussed earlier, the term "State" has been added and is defined to include any State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

SECTION 203.3—EXEMPTIONS

This section has been adopted without change. It provides for the exemption of depository institutions that (1) have no more than \$10,000,000 in total assets, or (2) do not have a home or branch offices in standard metropolitan statistical areas ("SMSAs"), or (3) are State-chartered institutions that the Board determines are subject to similar State mortgage disclosure laws. A depository institution that loses its exemption must make available a mortgage loan disclosure statement for each year beginning with its last full fiscal year prior to the loss of the exemption and will be permitted to use ZIP code itemization in its initial statement.

There are not likely to be many changes in the definitions of SMSAs prior to the expiration date of the Act that would cause a depository institution to lose its exemption. However, to apprise institutions of such changes, the Board is undertaking to issue a timely announcement in the event any changes are made by the Office of Management and Budget. A list of the currently defined SMSAs as of the effective date of these regulations is available from the Board or the Reserve Banks and is being distributed to the other Federal enforcement agencies for their use and the use of the institutions they supervise.

SECTION 203.4—COMPILATION OF MORTGAGE LOAN DATA

Breakdowns of required mortgage loan data.—This section establishes six categories of mortgage loan data: (i) FHA, FmHA, or VA loans except on multi-family dwellings; (ii) all other residential mortgage loans except on multi-family dwellings; (iii) total residential mortgage loans except on multi-family dwellings (which is the sum of the preceding two categories); (iv) total home improvement loans except on multi-family dwellings; (v) total mortgage loans on multi-family dwellings; and (vi) all mortgage loans to non-occupants of the property, except loans on multi-family dwellings. (The first five categories include loans to both occupants and non-occupants, and the last category is merely an addendum item.) Each of these categories must be broken down into originated loans and purchased loans, and further broken down into loans on property located within the relevant SMSA and loans on property located outside the relevant SMSA (or SMSAs).

A number of technical and conforming changes discussed above and certain clarifying changes have been made in the final regulations regarding the breakdowns. The significant changes are the following:

1. The addendum category for non-occupant loans has been eliminated only with respect to mortgage loan data relating to residential real property located outside the relevant SMSA (or SMSAs). The data on outside SMSA loans are aggregate figures without further geographical itemization. Elimination of the aggregate figure for such loans made to non-occupants will not diminish the usefulness of the data, but will significantly reduce the reporting burden on depository institutions.

2. In recognition of the need to clarify the term "reside" for the purpose of the non-occupant loan category, the Board has indicated in the regulation that the term refers to principal dwelling. Accordingly, a loan or a second home or summer home would be regarded as a loan to a non-occupant. The Board believes that such interpretation of the term best effectuates the purposes of the Act.

3. A category for total residential mortgage loans except on multi-family dwellings has been added to supply a simple calculation for those who are not interested in a breakdown of residential mortgage loans between conventional

loans and FHA, FmHA, and VA loans. The Board believes that such a category is more useful than the category proposed in the guideline disclosure statement form for "total mortgage loans" that summed up residential mortgage loans, home improvement loans, and loans on multi-family dwellings.

Geographical itemization of the data.—The Board has adhered to its proposed approach regarding geographical itemization of mortgage loan data. Prospective mortgage loan data relating to residential real property located within the relevant SMSA must be further itemized by the census tract in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located; itemization may be by ZIP codes, in lieu of census tracts, only to the extent that the area in which the property is located is not tracted on the PHC-(1) census tract maps prepared by the Bureau of the Census. However, with respect to a full fiscal year ending prior to July 1, 1976, mortgage loan data relating to residential real property located within the relevant SMSA may be itemized by ZIP codes, in lieu of census tracts, in all cases; ZIP code itemization of the data for a part of a fiscal year is also permissible if that part ends on June 30, 1976, provided that a separate statement for such a short year is furnished. The reasons that the Board has adhered to this approach are discussed at length later in this notice.

The PHC-(1) Series reports containing the tract maps may be ordered through the U.S. Government Printing Office at prices ranging from \$.45 to \$12.75, (with 97 per cent of the reports priced at less than \$4.00). There has been some difficulty in the past in obtaining the reports for certain SMSAs. To assure that maps will be available, the Bureau of the Census has undertaken to become another public source of the maps at a similar price range. (Inquiries should be addressed to Customer Services Branch, Data User Services Division, Bureau of the Census, Washington, D.C. 20233.) Census block maps, providing greater geographical detail for urbanized core areas of SMSAs, may also be ordered through the Government Printing Office or the Bureau of the Census. There are also commercial firms that produce the maps, frequently with special overlay features, including at least one company that publishes an atlas for all SMSAs.

Materials are available for use in conjunction with census tract maps that will facilitate itemization of loans by census tracts for each SMSA. The Census Bureau provides address coding guides for matching street addresses to census tracts (at \$65 per reel to produce a printed copy and \$80 per reel of computer tape). Directories similar to ZIP code directories may be available for this purpose from some local governmental agencies or from commercial firms. In addition, there are data processing firms in the business of furnishing computer services for automatically matching addresses to census tracts.

The Board has declined to make an exception, as requested, to permit the use of the billing address, rather than the

address of the property, in itemizing retrospective mortgage loan data. A billing address that is not the same as the property address frequently means that a loan was made to a non-occupant. Whether or not there is a high correlation between billing addresses and property addresses in a depository institution's total portfolio, one of the principal purposes of the Act is to ascertain whether there is a high correlation in particular areas of the SMSA. Furthermore, in reviewing its mortgage loan files to determine whether loans are made to non-occupants, a depository institution incurs little additional burden in comparing the billing address and the property address.

The Board has not adopted the literal reading of the Act that was sought by some groups to require a depository institution operating on a July 1–June 30 fiscal year to compile data beginning with the last half of 1974. The use of July 1, 1976, rather than June 28, 1976, as the division between prospective and retrospective data, is a de minimis adjustment and conforms to normal accounting practices whereby a fiscal quarter ends on June 30. Furthermore, in view of the difficulties of compiling retrospective data, requiring some institutions to compile 1974 data is, in the Board's opinion, not justified.

Mortgage loans excluded from disclosure statements.—Loans that were both originated and sold or both purchased and sold during a full fiscal year ending prior to July 1, 1976, may be kept in the depository institution's inactive files. To require a depository institution to review all its inactive files for the few loans likely to be in this category seems unduly burdensome. As long as the depository institution consistently either includes or excludes such loans, there should be no distortion of its lending patterns within its relevant SMSA, and the exception has been modified to mandate such consistent treatment if the option is selected. Furthermore, the requirement that a depository institution make clear in its disclosure statement that this option has been selected will indicate to the public that the institution's total mortgage loans may be somewhat understated and will enable an appropriate evaluation to be made on that basis.

The Board has also expanded the exception somewhat to include loans that were both originated and paid in full or both purchased and paid in full during a full fiscal year ending prior to July 1, 1976. Again, this category is likely to be small, and the treatment of such mortgage loans logically should be the same as the category of loans discussed in the preceding paragraph.

An exception has been added for a loan originated or purchased by the depository institution acting as trustee or in some other fiduciary capacity. Obviously, only loans that the institution originates or purchases for its own account should be counted.

The exceptions for certain refinancings and for home improvement loans as defined under State law are discussed above in the section of this notice regarding definitions.

Amount of mortgage loan to be re-

ported.—A depository institution will report the original principal amount of a loan originated by the depository institution to the extent of its interest, where the loan is made jointly or cooperatively, and the unpaid principal balance of a loan purchased by the institution to the extent of its interest in the purchased loan.

The Board has adopted an exception that was not in the proposals to permit the inclusion of unpaid finance charges in the case of purchased home improvement loans. This will facilitate reporting by depository institutions which receive the data in this form and will not significantly affect the data in the mortgage loan disclosure statements.

Applicable presumption.—A depository institution must review its mortgage loans to determine which were made to non-occupants. If the depository institution does not have that information in its records pertaining to that loan and the loan was originated by the depository institution prior to July 1, 1976, or purchased at any time, the institution may presume that the loan was made to a resident if the loan relates to a one- to four-family residence. This provision has been adopted with conforming changes only.

SECTION 203.5—DISCLOSURE REQUIREMENTS

Dates disclosure statements due.—The deadline for the disclosure statement with respect to a full fiscal year ending prior to July 1, 1976, and for the part-year disclosure statement through June 30, 1976, has been extended one month to September 30, 1976. (A corresponding extension of one month has been made for the initial disclosure statement of a depository institution that loses its exemption.) The original deadline was projected on the basis of certain estimates given by depository institutions. It has become apparent to many institutions that providing the data breakdowns will require more processing of the data than was originally thought. Many questions of interpretation have already been presented which the Board is seeking to answer in this notice, but other questions may be forthcoming as depository institutions work with the data. The Board anticipates that some depository institutions would not be able to comply with the deadline originally proposed; furthermore, the granting of an additional month to prepare the initial statement would not detract from the basic purposes of the Act. However, in view of the fact that the Board, in the final regulations, has narrowed somewhat the category of mortgage loans to be disclosed, any further extension of time beyond that provided appears unnecessary.

Offices at which mortgage loan data would be made available.—In the case of a depository institution that has offices in only one SMSA, complete mortgage loan data would be made available at the home office of the depository institution and at least at one branch office in that SMSA. In the case of a depository institution that has offices in more than one SMSA, at least one branch office in each SMSA would be required to make available data itemized by census tracts (or ZIP codes, where permissible) relat-

ing to mortgage loans on property in that particular SMSA, as well as aggregated data (i.e., not itemized by census tracts or ZIP codes) relating to mortgage loans on property located elsewhere. If a depository institution operates in more than two SMSAs, aggregated figures to be made available at a branch office in one SMSA must be given separately for each other SMSA. Of course, the depository institution may simply make the entire disclosure statement available in each SMSA where it has offices, if it so desires.

The change represented since the proposals were announced is the requirement that, in the case of a multi-SMSA depository institution, the data available at a branch in one SMSA must also include aggregate data for loans on property in the institution's other SMSAs. The final regulations are designed to provide complete mortgage loan data at an office in each SMSA where the depository institution operates but without the detail of census tract itemization of loans on property located in other SMSAs. A conforming change has been made in the provisions regarding limited public access depository institutions, such as credit unions in private industrial plants or in restricted Government areas, which are permitted to make the data available by mail or at designated places conveniently accessible to the general public.

The Board believes it is unnecessary to provide for a central location in each SMSA where the data for all depository institutions in that SMSA would be made available. The issue was considered during the legislative process regarding the Act but was not adopted. The administrative complexities of establishing such a system outweigh, in the Board's opinion, the minimal increase in convenience that would be of benefit to only a small segment of the public.

However, since it is recognized that depositors generally will be unaware of the availability of the mortgage loan data, the Board has added a requirement that each depository institution shall make appropriate efforts at least once each year to notify its depositors of the availability of its mortgage loan data. The Board has indicated in the regulations examples of the kinds of steps that it believes to be appropriate.

Manner of making disclosure statements available.—The mortgage loan disclosure statements must be made available for inspection or copying during the normal business hours of the office of the depository institution that has the data. If a depository institution makes reproduction facilities available, it may impose a reasonable charge for the cost of reproduction of the data. These provisions were adopted without change.

The Board believes it is unnecessary further to define "reasonable charge" as used in the regulations; but it emphasizes that the charge must be related to the cost of reproducing the data and not the cost of compiling the mortgage loan data. Nor does the Board believe it is necessary to mandate that offices maintain supplies of copies to be handed out. The Board expects that depository institutions will furnish copies of the data upon request to their depositors as a matter of customer relationships and to others if the

statements are lengthy. If it develops that depository institutions are attempting to frustrate the purposes of the Act, the Board will give consideration to amending the regulations.

SECTION 203.6—SANCTIONS FOR VIOLATIONS

This section was adopted without change. It states that a violation is subject to sanctions as provided in section 305 of the Act and provides relief for an unintentional error in compiling mortgage loan data provided that the depository institution maintains procedures reasonably adopted to avoid any such error.

Several requests were received that the Board adopt additional regulations relating to enforcement of the Act. The Board believes that it is not appropriate for it to determine enforcement procedures for the other federal supervisory agencies. Each of the federal agencies has its own enforcement procedures established and their decisions as to how to enforce the Act should be respected.

EFFECTIVE DATE

The effective date of the regulation is June 28, 1976, as proposed.

It is the Board's normal practice to delay the effective date of its regulations, if the delay is not contrary to the public interest, for a period of at least 30 days after the final regulations are promulgated. The Board has not done so in this case principally for the following reasons:

1. The Act becomes effective on June 28, 1976, and the Board believes it is desirable to have the effective date of the regulations coincide with the effective date of the Act.

2. The regulations have been adopted substantially as proposed. The changes that have been made have not increased the reporting burden for depository institutions.

3. No immediate action will be required at the time the regulations go into effect. The first mortgage loan disclosure statement required pursuant to the regulations is not due until September 30, 1976.

SUPPLEMENT TO PART 203

The Supplement sets forth the procedures to be followed by State-chartered depository institutions in seeking an exemption from the Act on the grounds that they are subject to the mortgage loan disclosure laws (statutes or regulations) of a State or subdivision thereof that contain (i) requirements substantially similar to those imposed under the Act and (ii) adequate provisions for enforcement.

The only change made in the Supplement is to provide in paragraph (d) thereof that a copy of a notice of an exemption will be furnished by the Board to each interested person who has participated in the proceeding relating to a request for a State exemption.

APPENDIX TO PART 203

The Appendix contains the guideline mortgage disclosure statement form with certain instructions on page 2 of the form.¹

Changes have been made in the final form to conform to changes in the regulations previously discussed. In addition, lines have been provided for each depository institution to insert the name and address of its respective Federal enforcement agency under the Act. A mortgage loan disclosure statement that does not contain this information would not be regarded as "in a format similar to guideline Form HMDA-1" within the meaning of section 203.4(a)(1) of this Part.

The Board continues to believe it is desirable to permit some flexibility in the format, provided that the kind of detailed data required by the regulations are clearly and conspicuously disclosed in the mortgage loan disclosure statement. For example, the order of the columns may be rearranged; or each of the columns may be stated as separate schedules; or greater detail than that required may be provided by dividing the "FHA, FmHA, or VA loans" column into separate columns for FHA loans, FmHA loans, and VA loans. Separate schedules might be useful for depository institutions that maintained retrospective home mortgage loan data by census tracts, but wish to report retrospective residential home improvement loans by ZIP codes. Nothing in the regulations is intended to preclude a depository institution from disclosing additional mortgage loan data, provided that any such additional data are stated separately from required data.

ITEMIZATION BY CENSUS TRACTS AND ZIP CODES

In general, there was agreement with the Board's position as represented in the notice of proposed rulemaking, that itemization of prospective data by census tracts is feasible and that the materials for doing so are available. By adopting the PHC-(1) series of maps as the basic census tract tool and providing for ZIP code itemization of loans on property located in an area of a currently defined SMSA that is not tracted in that series of maps, the Board has fulfilled its directive pursuant to section 304(a)(2) of the Act to make a determination regarding the feasibility of census tract itemization. The fact of the matter is that census tract itemization of loan data has been accomplished in several States. It can be reasonably expected that, largely as a result of the Board's adoption of the regulation, additional developments will occur to facilitate the process of census tract itemization.

A number of depository institutions asked that census tract itemization of data be delayed until 1977. The Board notes, however, that the Act was approved on December 31, 1975, containing the statutory preference for census tract itemization. In the notice of proposed rulemaking, the Board indicated the source and costs of census tract maps and depository institutions will have had three months since the date of the Board's proposals to begin preparing for the use of census tract itemization. Furthermore, the initial mortgage loan disclosure statements containing census tract itemization will not be due until the end of March 1977, for depository institutions that are on a cal-

¹Filed as part of the original document.

endar year basis. The Board believes that a delay in the implementation of census tract itemization is not justified.

However, the Board has adhered to its approach of permitting ZIP Code itemization, rather than census tract itemization, in all cases with respect to the initial mortgage loan disclosure statement relating to full fiscal years ending prior to July 1, 1976 (as well as to the portion of the current fiscal year for a period that ends on June 30, 1976, if a statement for such period is made available by September 30, 1976, and to the initial statement due from a depository institution that becomes subject to the Act in the future). The Board summarized its reasons for this position in the notice of proposed rulemaking; and, it has reviewed its position in the light of comments received on the proposal. For the following principal reasons, the Board continues to believe that the exception is fully warranted.

1. The Board's determination pursuant to section 304 of the Act is based upon the feasibility of using the PHC-(1) census tract maps for census tract itemization. These maps are merely outline maps of the tract boundaries containing no interior detail, such as streets or addresses. They can be used for prospective data because the geocoder has the assistance of the loan applicant to pinpoint the property within the tract boundaries and of the appraiser who actually visits the property. It is quite different when the geocoder is given a list of addresses and has no such assistance. Attempts to use the maps for retrospective data will surely result in a high degree of inaccuracy. A number of surveys, such as the Fair Housing Survey, demonstrate this point. Indeed, one commission chartered by a local government to gather mortgage loan data testified at the hearing that, in view of the difficulties involved in gathering retrospective data, it agreed with the Board's approach and had, in fact, modified its own survey on the basis of such considerations.

2. Supplemental tools for census tract itemization are helpful but inadequate. Block maps contain interior street de-

tall but not street addresses. Furthermore, unlike census tract maps which use readily identifiable boundaries such as county, city or town boundaries, many block maps do not use such boundaries so that they are more difficult to work with. Address coding guides are incomplete and unavailable for many SMSAs.

3. With the difficulties attendant in the use of census tract materials for itemizing retrospective data, many institutions would have to turn to automated services, and this means of geocoding would disproportionately increase the costs for many of them. Geocoding is cost efficient in high volume, but virtually every data processing firm imposes relatively high minimum charges.

4. Additional time would be needed if census tract itemization of retrospective data were required. A reasonable estimate would be that the statements could not be required before the end of 1976 without creating great burden and substantially increasing costs to the depository institutions. Extending the deadline to that degree would appear to be inconsistent with the purpose of requiring a year's retrospective reporting, which was to make the Act have an impact this year. Furthermore, an extension of time would not solve the problem of the high degree of inaccuracy and other problems associated with retrospective census tract itemization. In the Board's judgment, there is little justification for requiring disclosure of inaccurate, incomplete data on an untimely and costly basis when there is an accurate, complete, timely, and less costly alternative in the form of ZIP code itemization of retrospective data.

5. ZIP code itemization of data is not useless; otherwise the Act would not have provided for this alternative. Several communities have already had some success (without the aid of census tract data) in identifying areas which were not receiving mortgage credit and were able to obtain agreements from local depository institutions to commit funds to those areas.

6. The principal reason given by some groups that are urging census tract

itemization is to have retrospective data comparable with prospective data. The Board believes that the concern for comparability is incidental, not fundamental, to the Act. The purpose of the Act is disclosure so that the lending practices of a depository institution may be evaluated each year, and this evaluation may be made with or without regard to its past practices. Analysis of trends may be useful for analytical purposes but are not essential to the purposes of the Act.

7. ZIP code itemization of retrospective data would clearly be cheaper. Data are generally already geocoded by ZIP codes, and obviously it will be considerably more expensive to geocode the data by census tracts. Based upon presently available information, the Board estimates that cost of census tract itemization of retrospective loan data is likely to be double that of ZIP code itemization, depending upon the size of the institution involved.

FUTURE STUDY

Pursuant to section 308 of the Act, the Board is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas to make disclosures comparable to those required by this regulation. The experience of depository institutions presently subject to the Act should provide valuable information in this respect, as well as information that might serve as the basis of other legislative recommendations for amendment of the Act.

With this objective in mind, the Board welcomes the submission of information by depository institutions and the public regarding the costs of compiling mortgage loan data and itemizing the data by ZIP codes or census tracts; the number of requests received to inspect the data or to make copies; the use made of the information by the public; and changes in lending practices that may have been adopted as a result of evaluation of the data.

BOARD OF GOVERNORS
of the
FEDERAL RESERVE SYSTEM

HOME MORTGAGE DISCLOSURE

REGULATION C

(12 CFR 203)

Effective June 28, 1976



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REGULATION C

(12 CFR 203)

Effective June 28, 1976

HOME MORTGAGE DISCLOSURE

SECTION 203.1—AUTHORITY, SCOPE, AND ENFORCEMENT

(a) **Authority and scope.** This Part comprises the regulations issued by the Board of Governors of the Federal Reserve System pursuant to the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200; 89 Stat. 1125 *et seq.*). This Part applies to depository institutions which make federally related mortgage loans. Nothing in the Act or this Part is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

(b) **Administrative enforcement.** As set forth more fully in sections 305 and 306 of the Act, compliance with the provisions of the Act and this Part shall be enforced by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), and the Administrator of the National Credit Union Administration.

SECTION 203.2—DEFINITIONS

For the purposes of this Part, the following definitions apply unless the context indicates otherwise:

(a) **Act** means the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200; 89 Stat. 1125 *et seq.*).

(b) **Branch office** means any office approved as a branch of the depository institution by that de-

pository institution's Federal or State supervisory agency.

(c) **Depository institution** means any commercial bank, savings bank, savings and loan association, building and loan association, homestead association (including cooperative banks), or credit union, which makes federally related mortgage loans. Any majority-owned subsidiary of a depository institution shall be deemed to be part of its parent depository institution for the purposes of this Part.

(d) **Federally related mortgage loan** means any loan (other than temporary financing such as a construction loan) which (i) is secured by a first lien on residential real property (including individual units of condominiums and cooperatives) that is designed principally for the occupancy of from one to four families and is located in a State; and (ii)(A) is made in whole or in part by a depository institution the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by a depository institution which is regulated by any agency of the Federal Government; or (B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by any other such officer or agency; or (iii) is intended to be sold by the depository institution that originates the loan to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corpo-

ration, or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation.

(e) **FHA, FmHA, or VA loans** means mortgage loans which are insured under Title II of the National Housing Act or under Title V of the Housing Act of 1949 or which are guaranteed under Chapter 37 of Title 38, United States Code.

(f) **Home improvement loan** means a loan, unsecured or secured by collateral other than a first lien on residential real property, (i) the proceeds of which are to be used for the purpose of repairing, rehabilitating, or remodeling an existing residential dwelling located in a State as stated by the borrower to the lender at the time of the loan transaction, and (ii) that is recorded on the books of the depository institution as a home improvement loan.

(g) **Mortgage loan** means a "residential mortgage loan" as defined in paragraph (h) of this section or a "home improvement loan" as defined in paragraph (f) of this section.

(h) **Residential mortgage loan** means a loan which is secured by a first lien on residential real property located in a State, including a first lien refinancing of an existing loan, but shall not include (i) temporary financing (such as a construction loan), or (ii) purchase of an interest in a pool of mortgage loans (such as mortgage participation certificates issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Farmers Home Administration), or (iii) a loan made primarily for business or consumer purposes (other than to purchase, repair, rehabilitate or remodel residential real property) but in connection with which a first lien on residential real property is taken as collateral.

(i) **Residential real property** means improved real property used or to be used for residential purposes, including single-family homes, dwellings for from two to four families, multi-family dwellings, and individual units of condominiums and cooperatives.

(j) **State** means any State of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

SECTION 203.3—EXEMPTIONS

(a) The following categories of depository institutions are exempt from the compilation of data

and disclosure requirements of sections 203.4 and 203.5 of this Part:

(1) any depository institution that has total assets as of the last day of its last full fiscal year of \$10,000,000 or less; or

(2) any depository institution that has neither a home office nor any branch office located in a standard metropolitan statistical area (SMSA) as currently defined by the Office of Management and Budget of the United States Government; or

(3) any State-chartered depository institution subject to the mortgage loan disclosure laws (statutes or regulations) of a State or subdivision thereof that the Board determines, in accordance with the procedures set forth in the Supplement to this Part, contain (i) requirements substantially similar to those imposed under the Act, and (ii) adequate provisions for enforcement.

(b) A depository institution that was exempt on or after the effective date of this Part on the basis of paragraph (a) of this section and that subsequently becomes no longer exempt shall compile the data described in section 203.4 of this Part for each fiscal year beginning with its last full fiscal year ending prior to the date it was no longer exempt, and that last full fiscal year shall be deemed to be a "full fiscal year ending prior to July 1, 1976" for the purposes of section 203.4 of this Part.

SECTION 203.4—COMPILATION OF MORTGAGE LOAN DATA

(a) **Data to be included.** (1) Each depository institution shall aggregate, separately for each standard metropolitan statistical area (SMSA) in which it has a home office or branch office, its mortgage loan data for each fiscal year beginning with its last full fiscal year ending prior to July 1, 1976, with the exception of mortgage loans described in subsection (4) of this paragraph. Mortgage loan data relating to residential real property located within the relevant SMSA (i.e., the SMSA where a home or branch office is located) shall be segregated from mortgage loan data relating to residential real property located outside the relevant SMSA and shall be itemized by the census tract in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located (except as provided in subsection (2) of this paragraph) according to the

following classifications in a format similar to guideline Form HMDA-1, which is set forth in the appendix to this Part:

(i) FHA, FmHA, or VA loans, except on multi-family dwellings (i.e., dwellings for more than four families), subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(ii) residential mortgage loans other than FHA, FmHA, or VA loans and other than loans on multi-family dwellings, subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(iii) all residential mortgage loans, except on multi-family dwellings, (i.e., sum of classifications (i) and (ii)), subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(iv) home improvement loans, except on multi-family dwellings, subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year;

(v) all mortgage loans (home improvement loans and residential mortgage loans) on multi-family dwellings, subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year; and

(vi) all mortgage loans (home improvement loans and residential mortgage loans), except on multi-family dwellings, made to any borrower who did not, at the time of the loan transaction, intend to reside as his principal dwelling in the property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved), subdivided as to those loans (A) originated and (B) purchased by the depository institution, during that fiscal year.

Classifications (i) through (v) include loans to both occupants and non-occupants of the property. Mortgage loan data relating to residential real property located outside the relevant SMSA (or relevant SMSA's in the case of a depository institution with home or branch offices in more than one SMSA) shall also be itemized according to classifications (i) through (v) set forth above, but further itemization of that data by census tracts or United States Postal Service ZIP codes is not required.

(2) Mortgage loan data relating to residential real property located within the relevant SMSA may be itemized, according to the classifications specified in subsection (1) of this paragraph, by United States Postal Service ZIP codes for the

area in which the principal residential real property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved) is located, in lieu of census tracts, to the extent that such data relate to:

(i) a full fiscal year ending prior to July 1, 1976; or

(ii) a part of a fiscal year if that part ends on June 30, 1976, provided that a mortgage loan disclosure statement for that part of the fiscal year is made available by the depository institution by September 30, 1976, and a separate mortgage loan disclosure statement for the remaining part of that fiscal year (itemizing mortgage loan data relating to residential real property within the relevant SMSA by census tracts) is made available by the depository institution within ninety days of the end of that fiscal year; or

(iii) residential real property located in an area of a currently defined relevant SMSA that is not tracted on the maps (as a portion of then-defined SMSA's or otherwise) in the series "1970 Census of Population and Housing: CENSUS TRACTS, Final Reports, PHC(1) Series" prepared by the Bureau of the Census of the United States Department of Commerce.

(3) Mortgage loan data to be compiled as described in this paragraph shall be in terms of number of loans and total dollar amounts (original principal amounts of loans originated by the institution to the extent of its interest, where the loan is made jointly or cooperatively, and unpaid principal balances of loans purchased by the depository institution, to the extent of its interest in such purchased loans), except that, in the case of purchased home improvement loans, the amount to be reported may include the unpaid finance charges. The compilations shall be on an annual basis and relate to mortgage loans originated or purchased solely during the relevant fiscal year.

(4) (i) A depository institution shall not include in its mortgage loan data to be compiled pursuant to paragraph (a) of this section:

(A) a refinancing that it originates involving no increase in the outstanding balance of the principal due on the existing loan where the depository institution and the borrower are the same parties to the existing loan and the refinancing; and

(B) a loan originated or purchased by the depository institution acting as trustee or in some other fiduciary capacity.

(ii) For the purpose of compiling mortgage loan data pursuant to paragraph (a) of this section with respect to a full fiscal year ending prior to July 1, 1976, a depository institution may —

(A) notwithstanding the definition contained in section 203.2(f) of this Part, itemize as home improvement loans those loans that it has classified as home improvement loans for the purposes of State law, provided that no loans secured by first liens on residential real property shall be included as home improvement loans in the mortgage loan disclosure statement and reference is made in the disclosure statement to the State law definition of home improvement loan that is being utilized; or

(B) omit, at its option, any mortgage loan that was (1) both originated and either sold or paid in full during such fiscal year, or (2) both purchased and either sold or paid in full during such fiscal year, provided that the depository institution consistently applies this option with respect to all loans in those categories and clearly states in its mortgage loan disclosure statement for that year that such data have been omitted.

(b) **Applicable SMSA's, census tracts and ZIP codes.** (1) For the purpose of determining whether a mortgage loan is to be included in the classifications relating to residential real property within the relevant SMSA as described in paragraph (a) of this section (but not for the purpose of determining exemptions pursuant to section 203.3(a)(2) of this Part), the applicable areas of the relevant SMSA shall be those as defined by the Office of Management and Budget of the United States Government and in effect on June 28, 1976, or the first day of the fiscal year to which the mortgage loan disclosure statement relates, whichever is the later date.

(2) Applicable census tract numbers and boundaries shall be those appearing on the census tract maps in the series "1970 Census of Population and Housing: CENSUS TRACTS, Final Reports, PHC(1) Series" prepared by the Bureau of the Census, United States Department of Commerce. If the number itself would be duplicated in the mortgage loan disclosure statement for the relevant SMSA, the county, city, or town that uniquely identifies the census tract shall be identified in that disclosure statement.

(3) An applicable ZIP code shall be that for the area in which the principal residential real property securing the residential mortgage loan

(or, in the case of home improvement loans, the property to be improved) is located. No depository institution is obligated to revise its mortgage loan data to reflect official changes of ZIP code numbers or boundaries made after the ZIP code for a particular loan is recorded.

(4) Nothing contained in this paragraph is intended to prohibit the use of maps, directories, computer programs, or the like that have more recent definitions of the applicable SMSA areas than those specified in subsection (1) of this paragraph, provided that every mortgage loan relating to residential real property within the applicable areas of the relevant SMSA as specified in subsection (1) of this paragraph or within the areas of the relevant SMSA as more recently defined shall be included in the data to be itemized by census tracts or ZIP codes as required by paragraph (a) of this section. If such updated revisions are utilized, the mortgage loan disclosure statement shall indicate the source of the revision.

(c) **Applicable presumption.** For the purpose of compiling mortgage loan data described in paragraph (a) of this section, a depository institution may presume (unless its records relating to that loan contain information to the contrary) with respect to any mortgage loan originated prior to June 28, 1976, or purchased at any time, that the borrower intended, at the time of the loan transaction, to reside as his principal dwelling in the property securing the residential mortgage loan (or, in the case of home improvement loans, the property to be improved), if such property is a residential dwelling used or to be used by from one to four families.

SECTION 203.5—DISCLOSURE REQUIREMENTS

(a) **Dates disclosure statements due.** (1) Each depository institution shall make available to the public by the following dates mortgage loan disclosure statements required to be compiled pursuant to section 203.4 of this Part:

(i) September 30, 1976, in the case of a disclosure statement relating to a full fiscal year ending prior to July 1, 1976, except as provided in subsection (2) of this paragraph;

(ii) within ninety days of the end of the relevant fiscal year in the case of a disclosure statement that relates to a full fiscal year ending subsequent to June 30, 1976; and

(iii) within ninety days of the date a depository institution becomes no longer exempt in the case of the initial disclosure statement required pursuant to section 203.3(b) of this Part.

(2) If an application for an exemption is filed by September 30, 1976, pursuant to section 203.3(a)(3) of this Part, a State-chartered depository institution subject to the mortgage disclosure laws of a State or subdivision thereof being considered in the application shall not be required to compile and make available to the public a mortgage loan disclosure statement relating to a full fiscal year ending prior to July 1, 1976, while the application is pending before the Board. If the State-chartered depository institution is not granted an exemption by the Board's determination on the application, that depository institution shall make the disclosure statement for that fiscal year available within sixty days of the date of the Board's determination.

(3) Any mortgage loan disclosure statement required to be made available shall be maintained and made available for a period of five years after the close of the first fiscal year during which that disclosure statement is required to be maintained and made available.

(b) **Offices at which disclosure statements to be made available.** (1) Except as provided in subsection (2) of this paragraph, each depository institution shall make available to the public disclosure statements required to be compiled pursuant to section 203.4 of this Part, by the dates specified in paragraph (a) of this section, at its home or branch offices, as follows:

(i) in the case of depository institutions that have home or branch offices in only one SMSA, the entire mortgage loan disclosure statement shall be made available at the home office and at least at one branch office (if there is such a branch office) within that SMSA; and

(ii) in the case of depository institutions that have home and branch offices in more than one SMSA, (A) the entire mortgage loan disclosure statement (relating to all SMSA's with respect to which the depository institution is required to compile mortgage loan data) shall be made available at the home office and (B) the entire mortgage loan disclosure statement shall also be made available at least at one branch office within every SMSA where the depository institution has branch offices (including the SMSA where the home office

is located), except that the disclosure statement at a particular branch office need not include census tract or ZIP code itemizations with respect to relevant SMSA's other than the SMSA in which the particular branch office is located provided that aggregated data from the disclosure statement with respect to each of those other relevant SMSA's (i.e., the column totals of Section I of the appendix to this Part) are furnished.

(2) Any depository institution all of whose offices (home and branch) are located where there is no general public access shall make available mortgage loan disclosure statements required to be compiled pursuant to section 203.4 of this Part, by the dates specified in paragraph (a) of this section, in either of the following ways:

(i) it shall designate a place convenient and accessible to the public within the SMSA of its home office where the entire mortgage loan disclosure statement (relating to all SMSA's with respect to which it is required to compile mortgage loan data) will be available at reasonable times, and shall designate a convenient and accessible place within every other SMSA where it has a branch office, at which designated place will also be made available the entire mortgage loan disclosure statement except for the omission, at the option of the depository institution, of census tract or ZIP code itemizations with respect to relevant SMSA's other than the SMSA where the particular branch is located provided that aggregated data from the disclosure statement with respect to each of those other relevant SMSA's (i.e., the column totals of Section I of the appendix to this Part) are furnished; or

(ii) it shall promptly furnish by mail to anyone requesting the information a copy of a required mortgage loan disclosure statement, imposing no more than a reasonable charge for the cost of reproduction of the data.

(3) A depository institution shall make appropriate efforts at least once each year to notify its depositors of the availability of its mortgage loan data, such as by (i) inserting a notice in a periodic account statement or other communication to depositors, (ii) posting a notice in the lobbies of its home and branch offices located in SMSA's for at least one month, or (iii) publishing a notice in a newspaper or newspapers of general circulation in the SMSA's in which its home and branch offices are located.

(4) Upon request, any office of a depository institution shall promptly provide information regarding the location of any office or designated place of that depository institution at which mortgage loan disclosure statements are available.

(c) **Manner of making disclosure statements available.** Each office or designated place of a depository institution that is required pursuant to paragraph (b) of this section to make a mortgage loan disclosure statement available shall make such a mortgage loan disclosure statement available to anyone requesting it for inspection or copying during the hours in which such office or designated place is normally open to the public for business. If a depository institution makes reproduction facilities available, it may impose a reasonable charge for the cost of reproduction of the data.

SECTION 203.6—SANCTIONS FOR VIOLATIONS

(a) A violation of the Act or this Part is subject to sanctions as provided in section 305 of the Act.

(b) An error in compiling or disclosing required mortgage loan data shall not be deemed to be a violation of the Act or this Part if the error was unintentional and resulted from a *bona fide* mistake notwithstanding the maintenance of procedures reasonably adopted to avoid any such error.

SECTION 203.7—EFFECTIVE DATE

This Part shall be effective on June 28, 1976.

MORTGAGE LOAN DISCLOSURE STATEMENT
 (Specimen Form)

Federal Enforcement Agency for this Institution

Name of Depository Institution _____

Name _____

Relevant SMSA _____

Address _____

Reporting Period _____

PART A ORIGINATIONS

Section I Mortgage loan data relating to residential real property located within the relevant SMSA

CENSUS TRACT or ZIP CODE (in numerical sequence)	Loans to both Occupants and Non-occupants of the Property								Addendum Item			
	FHA, FmHA or VA LOANS (except on multi-family dwellings)		OTHER RESIDENTIAL MORTGAGE LOANS ("Conventional") (except on multi- family dwellings)		TOTAL RESIDENTIAL MORTGAGE LOANS (except on multi- family dwellings)		TOTAL HOME IMPROVEMENT LOANS (except on multi-family dwellings)		TOTAL MORTGAGE LOANS ON MULTI- FAMILY DWELLINGS		NON-OCCUPANT LOANS (except on multi-family dwellings)	
	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount
Column Totals												

Section II Mortgage loan data relating to residential real property located outside the relevant SMSA (or SMSA's)

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(See Instructions on p. 10)

MORTGAGE LOAN DISCLOSURE STATEMENT (cont.)

(Specimen Form)

PART B PURCHASED LOANS

Section I Mortgage loan data relating to residential real property located within the relevant SMSA

CENSUS TRACT or ZIP CODE (in numerical sequence)	Loans to both Occupants and Non-occupants of the Property										Addendum Item	
	FHA, FmHA or VA LOANS (except on multi-family dwellings)		OTHER RESIDENTIAL MORTGAGE LOANS ("Conventional") (except on multi- family dwellings)		TOTAL RESIDENTIAL MORTGAGE LOANS (except on multi- family dwellings)		TOTAL HOME IMPROVEMENT LOANS (except on multi-family dwellings)		TOTAL MORTGAGE LOANS ON MULTI- FAMILY DWELLINGS		NON-OCCUPANT LOANS (except on multi-family dwellings)	
	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount	No. of Loans	Principal Amount
Column Totals												

Section II Mortgage loan data relating to residential real property located outside the relevant SMSA (or SMSA's)

Instructions:

1. Data may be rounded to nearest thousands of dollars.
2. If more than one SMSA is involved, the relevant SMSA should be indicated next to the tract number or, preferably, separate pages should be used.
3. If the tract number is duplicated within a SMSA, the county, city or town that uniquely identifies the number should be stated next to the number.
4. Whenever a ZIP code number is permitted to be used, it should be preceded by the letter "Z".
5. If the statement is prepared on the basis of the definition of the relevant SMSA that is more recent than that in effect on the first day of the reporting period, so indicate.
6. Census tract numbers are those appearing on the maps in the Bureau of the Census 1970 PHC(1) series, but computer coding is permissible if explained on the statement.
7. "Multi-family dwellings" means residential dwellings for more than four families.
8. The column "Total Residential Mortgage Loans" should equal the sum of the preceding two columns (except for rounding).
9. This statement must be retained and made available for a period of five years from the last day of the reporting period.
10. If census tract itemization is required, the relevant tract maps should be conveniently made available with the statement.

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SUPPLEMENT TO PART 203

PROCEDURES FOR AN APPLICATION FOR EXEMPTION PURSUANT TO PARAGRAPH (a)(3) OF SECTION 203.3

(a) **Application.** Any State or subdivision thereof,¹ State-chartered depository institution, or association of State-chartered depository institutions, may make application to the Board pursuant to the terms of this Supplement and the Board's Rules of Procedure (12 CFR 262) for a determination that, under the laws of that State or municipality,² a State-chartered depository institution is subject to requirements substantially similar to those imposed by Regulation C (12 CFR 203) and that there is adequate provision for enforcement of such requirements.

(b) **Supporting documents.** The application, which may be made by letter, shall be accompanied by (1) a copy of the full text of the laws of the State or municipality which are claimed by the applicant to impose requirements substantially similar to those imposed by this Regulation; (2) a statement of reasons to support the claim that applicable requirements of the laws of the State or municipality are substantially similar to all requirements imposed under this Regulation including an explanation of reasons as to why any differences are not significant; (3) a copy of the full text of the laws of the State or subdivision thereof which provide for enforcement of the State laws referred to in item (1) of this paragraph; and (4) an undertaking to inform the Board within 30 days of the occurrence of any change in the applicable law or regulations of the State or municipality.

(c) **Public notice of filing.** In connection with any application which has been filed in accordance with the requirements of paragraphs (a) and (b), notice of such filing will be published by the Board in the *Federal Register*, and a copy of such application will be made available for examination by interested persons during business hours at the Board and at the Federal Reserve Bank of each

Federal Reserve District in which the applicant is situated. A period of time will be allowed from the date of such publication for the Board to receive written comments from interested persons with respect to that application. Should multiple applications be received with respect to the laws of the same State or municipality, the Board may, in its discretion, (1) consolidate the notice of receipt of all such applications in one *Federal Register* notice, and (2) dispense with publication of the notice of applications received after publication of the notice of an application relating to the laws of the same State or municipality.

(d) **Exemption from requirements.** If the Board determines on the basis of the information before it that under the laws of a State or municipality some or all State-chartered depository institution(s) are subject to requirements substantially similar to those imposed by this Regulation, and that there is adequate provision for enforcement of such requirements, the Board will exempt those State-chartered depository institutions in that State or municipality that are subject to such requirements from the requirements of the Act and the Board's regulations in the following manner: (1) Notice of the exemption will be published in the *Federal Register* and the Board will furnish a copy of such notice to the applicant, to each State or municipal authority responsible for administrative enforcement of the laws of the State or municipality, to the regulatory authorities specified in section 305(b) of the Act, and to each interested person who has participated in the proceeding. (2) The Board will inform the appropriate official of any State or municipality in which State-chartered depository institutions that have received an exemption are located of any subsequent amendments of the Act (including the implementing provisions of this Part and published interpretations of the Board) which might call for amendment of the law, regulations or official interpretations of the State or municipality.

(e) **Revocation of exemption.** (1) The Board reserves the right to revoke any exemption if it at any time determines that the laws of a State or municipality do not in fact impose requirements which are substantially similar to those imposed by this Regulation or that there is not in fact adequate provision for enforcement. (2) Notice of the Board's intention to revoke any exemption previously granted shall be published in the *Federal Register* and shall be transmitted to the appropriate official of the State or municipality.

¹ Hereinafter referred to as a municipality.

² Any reference to the laws of a State or municipality in this Supplement includes a reference to any regulations which implement such laws and official interpretations thereof, and to regulations of a State or municipal agency or department having jurisdiction over a class or classes of depository institutions.

A period of time will be allowed from the date of publication for the Board to receive written comments from interested persons with respect to the proposed revocation. (3) In the event of revocation of such exemption, notice of such revocation

shall be published by the Board in the *Federal Register* and a copy of such notice shall also be furnished to the appropriate official of the State or municipality and to regulatory authorities specified in section 305(b) of the Act.

STATUTORY APPENDIX

Title III of Pub. Law 94-200 (approved Dec. 31, 1975); 89 Stat. 1125 *et seq.* 12 U.S.C. 2801-2809.

TITLE III—HOME MORTGAGE DISCLOSURE

Sec.

- 301. Short Title.
- 302. Findings and Purposes.
- 303. Definitions.
- 304. Maintenance of Records and Public Disclosure.
- 305. Enforcement.
- 306. Relation to State Laws.
- 307. Research and Improved Methods.
- 308. Study.
- 309. Effective Date.
- 310. Termination of Authority.

§ 301. Short Title

This title may be cited as the "Home Mortgage Disclosure Act of 1975."

§ 302. Findings and Purposes

(a) The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) The purpose of this title is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are fulfilling their obligations to serve the housing needs of the communities and neighborhoods in which they

are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Nothing in this title is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

§ 303. Definitions

For purposes of this title—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, building and loan association, or homestead association (including cooperative banks) or credit union which makes federally related mortgage loans as determined by the Board;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "Secretary" means the Secretary of Housing and Urban Development.

§ 304. Maintenance of Records and Public Disclosure

(a)(1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at at least one branch office within each standard metropolitan statistical area in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated, or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal

year of that institution which immediately preceded the effective date of this title).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts, where readily available at a reasonable cost, as determined by the Board, otherwise by ZIP code, for borrowers, under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area. For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Any item of information relating to mortgage loans required to be maintained under subsection (a) shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act or under title V of the Housing Act of 1949 or which are guaranteed under chapter 37 of title 38, United States Code;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage, intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

§ 305. Enforcement

(a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of

this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this title, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union.

(c) For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

§ 306. Relation to State Laws

(a) This title does not annul, alter, or affect, or exempt any State-chartered depository institution subject to the provisions of this title from comply-

ing with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depository institutions, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this title if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this title, or that such law otherwise provides greater disclosure than is required under this title.

(b) The Board may by regulation exempt from the requirements of this title any State-chartered depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) Section 8 of the Federal Deposit Insurance Act in the case of national banks, by the Comptroller of the Currency; and

(2) Section 5(d) of the Home Owners' Loan Act of 1933 in the case of any institution subject to that provision, by the Federal Home Loan Bank Board.

§ 307. Research and Improved Methods

(a) (1) The Federal Home Loan Bank Board, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Federal Home Loan Bank Board deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts

to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Federal Home Loan Bank Board is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Federal Home Loan Bank Board shall recommend to the Committee on Banking, Currency and Housing of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate such additional legislation as the Federal Home Loan Bank Board deems appropriate to carry out the purpose of this title.

§ 308. Study

(a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this title.

(b) A report on the study under this section shall be transmitted to the Congress not later than three years after the date of enactment of this title.

§ 309. Effective Date

This title shall take effect on the one hundred and eightieth day beginning after the date of its enactment. Any depository institution which has total assets as of its last full fiscal year of \$10,000,000 or less is exempt from the provisions of this title.

§ 310. Termination of Authority

The authority granted by this title shall expire four years after its effective date.

FEDERAL ENFORCEMENT AGENCIES

The following list indicates the Federal Agencies that enforce Regulation C for each of the classes of depository institutions which must comply with its provisions. Any question concerning compliance by a particular depository institution should be directed to the appropriate enforcing agency.

National Banks

Comptroller of the Currency
Consumer Affairs Division
Washington, D.C. 20219

State Member Banks

Federal Reserve Bank serving the area in which the State member bank is located.

FDIC Insured Banks (except for National Banks and State Member Banks) and Mutual Savings Banks

Office of Bank Customer Affairs
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Savings and Loan Associations and Other Savings Institutions insured by the FSLIC and Members of the FHLB System (except for Savings Banks insured by FDIC)

Office of Housing and Urban Affairs
Federal Home Loan Bank Board
320 First Street, N.W.
Washington, D.C. 20552

Credit Unions

National Credit Union Administration
2025 M Street, N.W.
Washington, D.C. 20456

Other Depository Institutions

Office of Bank Customer Affairs
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429