

FEDERAL RESERVE BANK
OF NEW YORK

Circular No. 9008
January 22, 1981

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Comment Invited on Proposal Regarding
Public Disclosure of Small Business Loan Activity

*To All Depository Institutions, and Others Concerned,
in the Second Federal Reserve District:*

The following is quoted from the text of a statement issued by the Federal Financial Institutions Examination Council, which is composed of representatives from the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, requesting public comment on the feasibility and usefulness of public disclosure of small business loan activity and on methods of such disclosure:

The Council made its request pursuant to recent legislation requiring the Council to conduct a study assessing the feasibility and usefulness of requiring depository institutions which make small business loans to compile and disclose publicly information regarding such loans.

Results of the study are to be reported to the Congress by March 1, 1981.

The Council asked specifically for responses from financial institutions, small businesses, community organizations, representative associations and the academic community, as well as from the general public.

Enclosed—for member banks in the Second Federal Reserve District—is a copy of the text of the FFIEC's notice requesting comments, including a discussion of specific issues to which comment should be addressed; the text will be provided to others upon request directed to the Circulars Division of this Bank.

Comments on the proposal must be submitted by February 17, 1981, and should be submitted directly to the Federal Financial Institutions Examination Council, Washington, D. C.

ANTHONY M. SOLOMON,
President.

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Request for Comments on the Feasibility and Usefulness of Requiring Depository Institutions which Make Small Business Loans to Compile and Publicly Disclose Information Regarding Such Loans.

AGENCY: Federal Financial Institutions Examination Council

COMMENT DEADLINE: February 17, 1981

INTRODUCTION:

The Federal Financial Institutions Examination Council (Council), which is composed of representatives of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration and Office of the Comptroller of the Currency, is required by Section 311(d) of the Housing and Community Development Act of 1980 (Public Law 96-399) to conduct a study to assess the feasibility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The results of this study are to be reported to the House and Senate Banking Committees not later than March 1, 1981.

As part of its study, the Council requests comment from the public--including small businesses, financial institutions, community organizations, trade associations and the academic community--on the general feasibility and usefulness of public disclosure of small business loan activity and on various issues related to method of disclosure should such a requirement be deemed appropriate.

DISCUSSION:

The Congressional call for this study on small business loan disclosures appears to have originated from a concern in some communities that lenders

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are giving insufficient attention to the credit needs of small businesses, especially those located in low- and moderate-income neighborhoods. It has been suggested that small business lending patterns in a community can be identified most effectively by requiring public disclosure of the small business lending activities of local depository institutions, just as public disclosure of mortgage lending data under the Home Mortgage Disclosure Act (HMDA) is seen by many as useful in identifying mortgage lending patterns.

Although the mandatory disclosure of small business lending activity might be judged both feasible and useful in an absolute sense, the Council requests that all comments be directed to the relative value of such disclosures in terms of real costs and benefits. Depository institutions should consider carefully the additional demands such a disclosure requirement would place on their business operations, and potential users of the data should describe clearly the benefits the proposed disclosures would provide to them.

For purposes of the issues raised below, the term "depository institution" means any commercial bank, savings bank, savings and loan association, credit union, or similar institution (including any majority-owned subsidiaries) the deposits or accounts of which are insured by an agency of the federal government or which is regulated by any agency of the federal government. The definition of "small business loan" is open for comment under Issue A2. In general, however, "business loans" may be considered to include all credit extended to any natural person, business, or organization, which is not considered "consumer credit" under Federal

Reserve Regulation Z, Truth in Lending (TIL), and is exempted from TIL disclosure requirements on the basis of 12 CFR 226.3(a).^{1/}

ISSUES:

A. Specific Issues

1. Definition of "Small Business." If disclosure of small business lending activity were to be required, the term "small business" would have to be defined. Possible definitions could be based upon the complex eligibility standards established by the Small Business Administration (SBA) for use in its various programs, simplified variations of the SBA standards (e.g., abbreviated Standard Industrial Classification, asset size, and employee count), or a single criterion such as number of employees at the borrowing firm. Comment is requested on the advantages and disadvantages of various approaches to defining "small business" and specifically on the feasibility of using number of employees as the determinant. Comments should include discussion of whether the borrower characteristics needed for a particular definition are currently recorded by financial institutions; and, if not, whether the information is readily available from borrowers and the anticipated expense of modifying recordkeeping systems to collect it. If SBA guidelines were used to define the size of a business, information such as sales, asset size, employment, etc., would have to be recorded on a consolidated basis where the borrowing business was a subsidiary or division of a larger commercial enterprise. What effect would imposing this procedure have on the lender's ability to collect required

^{1/} Regulation Z (12 CFR 226) Section 226.2(p) states in part "'consumer credit' means credit offered or extended to a natural person . . . primarily for personal, family, household or agricultural purposes." The exemption in Section 226.3(a) covers "extensions of credit to organizations, including governments, or for business or commercial purposes, other than agricultural purposes."

information and on the utility of the resulting data to community users? Alternatively, would disclosures based on unconsolidated information relating only to the local borrower (e.g., the subsidiary) have any value?

2. Definition of "Small Business Loan." The Council seeks comment on whether all credit granted to a borrower meeting the definition of "small business" should be considered a small business loan for disclosure purposes. Where the lender has more than one department approving various types of credit to small businesses, what difficulties, if any, could be encountered in attempting to consolidate loan data from multiple departments? Should a line of credit be counted as one loan for the total amount at the time it is established, or should each draw against that line be counted as a separate loan? Are there other unique commercial credit arrangements that could complicate disclosures?
3. Loan Data. HMDA requires mortgage loan data to be compiled in terms of number of loans and total dollar amounts (of original principle originated or purchased). Considering that commercial loans are less homogeneous in character than residential mortgages, comment is sought on the appropriate loan data disclosures for small business loans. Comment is specifically requested on the feasibility and usefulness of separating disclosures on the basis of such criteria as (a) purpose of loan, (b) term of loan, or (c) conventional versus government guaranteed. The Council also requests comment on whether disclosures should be broken down by the borrower's type of industry. For example, what added costs and benefits would result if loans were separated on the basis of the nine basic industry groups identified by U.S. Standard Industrial Classification numbers?

4. Data Aggregation and Itemization. HMDA requires that institutions with offices in standard metropolitan statistical areas (SMSA's) disclose mortgage loan data aggregated by SMSA and that, within SMSA's, data be itemized by census tract. HMDA also provides that reporting institutions record aggregated data on lending outside of the SMSA without itemization. The Council requests comment on whether similar requirements would be feasible and useful for disclosures of loans to small businesses. What kind of geographic information is routinely recorded on commercial loan applications? If a borrower operates at multiple locations, what additional information would have to be recorded to allow identification of the business location receiving primary benefit of the credit extended? What additional costs would be incurred in this process? If no single location receives the primary benefit, how should such a loan be identified geographically for disclosure purposes? Specific comment on the feasibility and usefulness of compiling and disclosing small business loan data in non-SMSA (e.g., rural) areas is also requested.
5. Exemptions. Section 309 of HMDA (and Section 203.3(a)(1) of Regulation C - 12 CFR 203) specifically exempts depository institutions with less than \$10 million in assets from mortgage loan disclosure requirements. The Council solicits comment on whether a similar exemption would be appropriate with regard to any requirement for small business loan disclosures. Views on the role of small institutions in providing credit to small businesses and on what effect exclusion of small institution loan data would have on the usefulness of disclosures would be helpful.

B. Summary Issues

1. General Feasibility. In addition to the foregoing specific issues the Council requests comment, especially from depository institutions, on the overall increase in cost of operations that would result from required small business loan disclosures. Would such costs be variable or fixed, one time or recurring, related to the size of the institution, etc.? In addition, the Council requests comment on whether past cost/benefit experience under HMDA is relevant to the recording and disclosure of small business loans. What unique characteristics of business lending might pose special problems not found with disclosures of mortgage lending activity? How can such problems be overcome and at what cost? Commentors are requested to substantiate their conclusions on this issue by describing in detail the factors considered.
2. General Usefulness. Potential users of disclosures of small business loan activity are assumed to be primarily the same groups currently using HMDA data (i.e., community action groups, local and state government agencies, private and government researchers, the federal financial regulatory agencies, etc.) plus the business community itself. The Council requests comment from all categories of potential users on what specific needs or problems currently exist which they expect to be satisfied or resolved by requiring depository institutions to compile and publicly disclose information regarding loans to small businesses. The Council considers it important for potential users to substantiate both that information is needed and that public disclosure of small business lending by depository institutions would be the most effective means of obtaining it.

COMMENTS:

Any person or organization wishing to comment on the issues outlined above may do so by filing a written submission with the Council, to be received not later than February 17, 1981. All submissions will become part of the record and will be available for public review.

All written comments, or requests for further information, should be directed to David K. Schweitzer, Deputy Executive Secretary, Federal Financial Institutions Examination Council, Eighth Floor, 490 L'Enfant Plaza, SW, Washington, DC 20219, telephone (202) 287-4206.

Dated: December 22, 1980

(signed) Robert J. Lawrence

Robert J. Lawrence
Executive Secretary
Federal Financial Institutions Examination Council