

**FEDERAL RESERVE BANK  
OF NEW YORK**

[ Circular No. 9028 ]  
March 2, 1981

**HOME MORTGAGE DISCLOSURE**

**Proposed Revisions to Simplify Regulation C**

*To All Institutions Subject to the Home Mortgage Disclosure Act, and  
Others Concerned, in the Second Federal Reserve District:*

The Board of Governors of the Federal Reserve System has announced a proposed revision of its Regulation C, "Home Mortgage Disclosure," designed to simplify the regulation and further implement the Home Mortgage Disclosure Act.

The following is quoted from the text of the Board's announcement:

HMDA requires financial institutions located in standard metropolitan statistical areas (SMSAs) to disclose publicly the location of their residential mortgage loans.

The Board's proposal followed action by the Congress in October 1980 amending the Act, and extending its life by five years. The amendments to the Act require (1) compilation and disclosure of mortgage loan data on a calendar (rather than fiscal) year basis; (2) itemization of data by census tract and county (rather than by census tract and ZIP Code); (3) the use of a standard disclosure format to be prescribed by the Federal Reserve; (4) a system of central data repositories in each SMSA, and (5) aggregation of mortgage loan data to cover all institutions in each SMSA.

The Board in November amended Regulation C to implement the changeover to calendar year compilation of the data required by the Act. The Board's proposed further revisions of Regulation C implement the other changes in the Act. At the same time, the Board proposes revisions — in keeping with the Board's Regulatory Improvement Project for review and simplification of all of its regulations — to simplify Regulation C, focus disclosure requirements on those that are most useful and that can be provided at reasonable cost, and make the regulation more concise. The proposed regulation is nearly a third shorter than the existing regulation.

The principal proposed revisions of Regulation C would:

— Permit institutions that have been exempt (on grounds of size, location or provisions of State law, as provided in the Act) but which lose their exemption, to begin compiling data for the year *following* the year in which the exemption is lost (rather than for the year preceding the loss).

— Require disclosures of conventional loans and of FHA, FMHA (Farmers Home Administration) and VA loans, but not (as previously required) the sum of the conventional and other types of loans.

— Permit branches of institutions to cease making disclosures of loans in the SMSA in which the home office is located (avoiding duplicate disclosures in the home office SMSA).

— Permit, but not require, branch office disclosures to omit all data relating to loans in SMSAs other than that in which the branch office is located.



—Permit institutions to omit the presently required annual notice to the public concerning the availability of mortgage loan data (a requirement that is not called for in the Act).

The Board wishes particularly to receive comment on these proposed revisions of the regulation.

Printed on the following pages is the summary portion of the text of the Board's proposal, which has been reprinted from the *Federal Register*. Enclosed—for State member banks—is a copy of the complete text of the proposal, which includes a section-by-section explanation of the proposal, an extensive regulatory analysis, and the Federal Financial Institutions Examination Council's proposal regarding the development of aggregation tables of residential loan data to be produced for each SMSA; it will be furnished to others upon request directed to the Circulars Division of this Bank (Tel. No. 212-791-5216).

In connection with the Board's proposal, please note that those States that have already been exempted from the requirements of the regulation, including the States of Connecticut, New Jersey, and New York, may be required to reapply to the Board of Governors in order to retain their exemptions under a revised Regulation C.

Comments on the proposal should be submitted by April 15, and may be sent to our Consumer Affairs and Bank Regulations Department.

ANTHONY M. SOLOMON,  
*President.*



## FEDERAL RESERVE SYSTEM

### 12 CFR Part 203

[Regulation C; Docket No. R-0350]

#### Home Mortgage Disclosure; Revision of Regulation C and Aggregation Tables

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

**ACTION:** Proposed rule.

**SUMMARY:** The Board's Regulation C implements the Home Mortgage Disclosure Act (HMDA) and requires depository institutions with offices in standard metropolitan statistical areas (SMSAs) to disclose data about their home mortgage and home improvement loans each year. The Board is publishing for comment a revised version of Regulation C to implement certain amendments to the act that are contained in the Housing and Community Development Act of 1980 (Pub. L. 96-399). The statutory amendments require compilation and disclosure of loan data by calendar year, in place of fiscal year; itemization of data by census tract and county, rather than by census tract and ZIP code; the use of a standard disclosure format as prescribed by the Federal Reserve Board; and a system of central data repositories in each SMSA.

The amendment to the act requiring a changeover to calendar year compilation of data was implemented by an amendment to Regulation C published by the Board on December 8, 1980 (45 FR 80813). The proposal that follows implements the remaining changes. It includes an extensive regulatory analysis, to comply both with the expanded rulemaking procedures set forth in the Board's policy statement of January 19, 1979 (44 FR 3957) and with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354).

The amended act also requires the Federal Financial Institutions Examination Council (FFIEC) to produce, for each SMSA, aggregate residential loan data by census tract for all depository institutions covered by HMDA or similar state regulations. The Board's proposal contains a section (which it is publishing on behalf of the FFIEC) relating to the aggregation of the HMDA data; the package includes a proposed format for the basic aggregation tables that will be produced for each SMSA (with various groupings of the loan data by age of housing stock, income level, and racial characteristics).

**DATE:** Comments must be received on or before April 15, 1981.

**ADDRESS:** Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th & Constitution Avenue, N.W., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to Docket No. R-0350.

**FOR FURTHER INFORMATION CONTACT:** Regarding the regulation, contact: John C. Wood, Senior Attorney (202-452-2412), Claudia Yarus, Staff Attorney (202-452-3667), Jesse Filkins, Staff Attorney (202-452-3867), or Lyn Goldfaden, Staff Attorney (202-452-3867), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Regarding the HMDA-1 disclosure form, contact: Tim Burniston, Review Examiner, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3946). Regarding the Board's regulatory analysis or the FFIEC's proposed aggregation tables, contact: Glenn Canner, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2503).

**SUPPLEMENTARY INFORMATION:** (1) *General.* Regulation C implements the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.*, and requires depository institutions that have offices in SMSAs and that have more than \$10 million in assets to make annual disclosure of their mortgage lending activity. On October 8, 1980, provisions of the Housing and Community Development Act extended HMDA for a five-year period and made certain changes in its requirements. The 1980 amendments to HMDA require (1) that depository institutions change their data compilation and disclosure from a fiscal to a calendar year basis, beginning with 1980 data; (2) that disclosures be made by census tract and county, rather than by census tract and ZIP code; (3) that the Federal Reserve Board prescribe a standard format for disclosures; (4) that disclosure statements be made available at central data repositories; and (5) that aggregate data tables, covering all institutions in each SMSA, be prepared and made available by the Federal Financial Institutions Examination Council (FFIEC).

On December 8, 1980, the Board published an amendment to Regulation C to implement calendar year disclosures for 1980. This means that a

covered institution which previously compiled data on a non-calendar year basis must convert its data compilation and disclosure from a fiscal to a calendar year basis beginning with 1980 data. In addition, such an institution will need to prepare a partial-year disclosure statement for that portion of 1979, if any, which was not covered by the institution's last fiscal year statement. For example, an institution that compiled and disclosed data for its 1979-80 fiscal year will need to redisclose the 1980 loan data in a 1980 calendar year statement. However, it need make no new disclosure of its 1979 loan data. If, on the other hand, the institution's last fiscal year statement was for 1978-79 loan data, then the institution must provide a partial-year statement for 1979 (for that portion of 1979 not covered by the 1978-79 fiscal year report) in addition to the statement for calendar year 1980.

The Board is now publishing a proposed revision of Regulation C to implement the remaining statutory changes. The Board has taken this opportunity to redraft the regulation in a simplified, more concise form—in keeping with the objectives of its Regulatory Improvement Project—and believes that the regulation ultimately adopted will be easier to use. The proposed regulation is approximately 30 percent shorter than the current version.

Because of the statutory requirement regarding aggregation of data, institutions will be subject to certain reporting requirements with respect to data for 1980 and subsequent years. Reporting procedures are being worked out among the Board, the Federal Reserve Banks, the FFIEC, and the other financial institution regulatory agencies—the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. It is envisioned that the reporting requirement will involve a depository institution's submitting two copies of its disclosure statement to its HMDA supervisory agency. One copy will be transmitted by the agency to the central repository that will be established in each SMSA, and the other copy will be sent to the Federal Reserve Board, which will aggregate the data on behalf of the FFIEC. It is anticipated that specific instructions on procedures for reporting 1980 data will be sent by each supervisory agency to the institutions under its jurisdiction by the end of February.

As required by the act, the Board will prescribe, with the final adoption of a



revised Regulation C, a mandatory disclosure format to be used by depository institutions for reporting 1981 loan data. A proposed form, included as Appendix A, is being published for comment at this time.

Institutions are reminded that while a standard form is not required for the disclosure of 1980 data, in order to facilitate the Board's aggregation of 1980 data they should use a format similar to HMDA-1. (It is the Board's understanding that most institutions already do so.)

(2) *Proposed revision.* In revising Regulation C, the Board has attempted to weigh the compliance costs to institutions against the benefits to the public of each regulatory requirement. In a number of instances where the act allows exercise of discretion, the Board proposes to delete or reduce current regulatory requirements accordingly. Other requirements have been modified to ensure that data will be compiled and reported on a uniform basis so as to facilitate aggregation of data.

Some of the principal changes to the regulation that appear in the proposal are as follows. First, an institution that has exempt status and that subsequently loses its exemption must begin to compile and report data only for the calendar year *following* the loss of exemption (rather than for the preceding year, as in the present regulation). Second, the "total residential mortgage loans" category (that is, the sum of the FHA/FmHA/VA loan category and the conventional loan category) would no longer be required. Third, geographic breakdowns would be given in terms of census tracts or counties; ZIP codes could no longer be used. Fourth, disclosure would no longer be required at a branch office in the SMSA where the institution's home office is located. Fifth, disclosures at other branch offices would only be required to give data about loans on property in the SMSA where the branch is located. (The home office disclosure and disclosures at central data repositories would, however, contain complete data for all SMSAs in which the institution has offices.) Finally, the publicizing of loan data availability (for example, by posting a notice in lobbies or by publication in a newspaper) would no longer be required.



Tuesday  
February 10, 1981

# Legal Alert

## Part II

## Federal Reserve System

### Home Mortgage Disclosure, Revision of Regulation C and Aggregation Tables



**FEDERAL RESERVE SYSTEM****12 CFR Part 203****[Regulation C; Docket No. R-0350]****Home Mortgage Disclosure; Revision of Regulation C and Aggregation Tables****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Proposed rule.

**SUMMARY:** The Board's Regulation C implements the Home Mortgage Disclosure Act (HMDA) and requires depository institutions with offices in standard metropolitan statistical areas (SMSAs) to disclose data about their home mortgage and home improvement loans each year. The Board is publishing for comment a revised version of Regulation C to implement certain amendments to the act that are contained in the Housing and Community Development Act of 1980 (Pub. L. 96-399). The statutory amendments require compilation and disclosure of loan data by calendar year, in place of fiscal year; itemization of data by census tract and county, rather than by census tract and ZIP code; the use of a standard disclosure format as prescribed by the Federal Reserve Board; and a system of central data repositories in each SMSA.

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The amended act also requires the Federal Financial Institutions Examination Council (FFIEC) to produce, for each SMSA, aggregate residential loan data by census tract for all depository institutions covered by HMDA or similar state regulations. The Board's proposal contains a section (which it is publishing on behalf of the FFIEC) relating to the aggregation of the HMDA data; the package includes a proposed format for the basic aggregation tables that will be produced for each SMSA (with various groupings of the loan data by age of housing stock, income level, and racial characteristics).

**DATE:** Comments must be received on or before April 15, 1981.

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**SUPPLEMENTARY INFORMATION:** (1)

*General.* Regulation C implements the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.*, and requires depository institutions that have offices in SMSAs and that have more than \$10 million in assets to make annual disclosure of their mortgage lending activity. On October 8, 1980, provisions of the Housing and Community Development Act extended HMDA for a five-year period and made certain changes in its requirements. The 1980 amendments to HMDA require (1) that depository institutions change their data compilation and disclosure from a fiscal to a calendar year basis, beginning with 1980 data; (2) that disclosures be made by census tract and county, rather than by census tract and ZIP code; (3) that the Federal Reserve Board prescribe a standard format for disclosures; (4) that disclosure statements be made available at central data repositories; and (5) that aggregate data tables, covering all institutions in each SMSA, be prepared and made available by the Federal Financial Institutions Examination Council (FFIEC).

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covered institution which previously compiled data on a non-calendar year basis must convert its data compilation and disclosure from a fiscal to a calendar year basis beginning with 1980 data. In addition, such an institution will need to prepare a partial-year disclosure statement for that portion of 1979, if any, which was not covered by the institution's last fiscal year statement. For example, an institution that compiled and disclosed data for its 1979-80 fiscal year will need to redisclose the 1980 loan data in a 1980 calendar year statement. However, it need make no new disclosure of its 1979 loan data. If, on the other hand, the institution's last fiscal year statement was for 1978-79 loan data, then the institution must provide a partial-year statement for 1979 (for that portion of 1979 not covered by the 1978-79 fiscal year report) in addition to the statement for calendar year 1980.

The Board is now publishing a proposed revision of Regulation C to implement the remaining statutory changes. The Board has taken this opportunity to redraft the regulation in a simplified, more concise form—in keeping with the objectives of its Regulatory Improvement Project—and believes that the regulation ultimately adopted will be easier to use. The proposed regulation is approximately 30 percent shorter than the current version.

Because of the statutory requirement regarding aggregation of data, institutions will be subject to certain reporting requirements with respect to data for 1980 and subsequent years. Reporting procedures are being worked out among the Board, the Federal Reserve Banks, the FFIEC, and the other financial institution regulatory agencies—the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. It is envisioned that the reporting requirement will involve a depository institution's submitting two copies of its disclosure statement to its HMDA supervisory agency. One copy will be transmitted by the agency to the central repository that will be established in each SMSA, and the other copy will be sent to the Federal Reserve Board, which will aggregate the data on behalf of the FFIEC. It is anticipated that specific instructions on procedures for reporting 1980 data will be sent by each supervisory agency to the institutions under its jurisdiction by the end of February.

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(2) *Proposed revision.* In revising Regulation C, the Board has attempted to weigh the compliance costs to institutions against the benefits to the public of each regulatory requirement. In a number of instances where the act allows exercise of discretion, the Board proposes to delete or reduce current regulatory requirements accordingly. Other requirements have been modified to ensure that data will be compiled and reported on a uniform basis so as to facilitate aggregation of data.

Some of the principal changes to the regulation that appear in the proposal are as follows. First, an institution that has exempt status and that subsequently loses its exemption must begin to compile and report data only for the calendar year following the loss of exemption (rather than for the preceding year, as in the present regulation). Second, the "total residential mortgage loans" category (that is, the sum of the FHA/FmHA/VA loan category and the conventional loan category) would no longer be required. Third, geographic breakdowns would be given in terms of census tracts or counties; ZIP codes could no longer be used. Fourth, disclosure would no longer be required at a branch office in the SMSA where the institution's home office is located. Fifth, disclosures at other branch offices would only be required to give data about loans on property in the SMSA where the branch is located. (The home office disclosure and disclosures at central data repositories would, however, contain complete data for all SMSAs in which the institution has offices.) Finally, the publicizing of loan data availability (for example, by posting a notice in lobbies or by publication in a newspaper) would no longer be required.

These proposed changes are discussed in greater detail below, along with other changes contained in the proposed revision. The discussion follows the order of sections of the proposed regulation.

### § 203.1 Authority, purpose, and scope.

Section 203.1 of the proposal corresponds to § 203.1(a) of the existing regulation. Current § 203.1(b), dealing with administrative enforcement, has been incorporated into proposed § 203.6.

Paragraph (a) of the proposal establishes the authority for the regulation. Paragraph (b) defines the purpose of the regulation; the new material is drawn from the statement of purpose in the act.

Proposed paragraph (c) summarizes which institutions are covered by the regulation and generally describes their disclosure and reporting responsibilities. Proposed paragraph (d) references the contemplated system of central data repositories and of data aggregation; this information is related to some of the regulatory requirements. The Board believes that including it here may help explain some of the regulatory requirements and make the regulation easier to use.

### § 203.2 Definitions.

Section 203.2 contains, in alphabetical order, the definitions that apply to the entire regulation. Several of the defined terms in the current regulation have been deleted or incorporated into other definitions.

*Act.* This definition cites the original and the amended statute.

*Branch office.* A specific exclusion has been added to this definition for automated teller machines and other electronic terminals. Although such machines may require approval as branches, they are not offices for purposes of this regulation. Administrative offices, data processing offices, and loan production offices are not covered because they are not approved as branches.

*Depository institution.* This definition has been revised. First, a reference to federally related mortgage loans has been added. A second change is the incorporation of Board Interpretation § 203.001, concerning the treatment of majority-owned subsidiaries (both depository and non-depository) of an institution.

"Federally related mortgage loan" is defined in a footnote (it appears as a separately defined term in the existing regulation) and is substantially similar to the definition in the Real Estate Settlement Procedures Act. An institution qualifies as a depository institution for Regulation C purposes if (1) it makes first-lien mortgage loans on 1-to-4 family dwellings in the United States or Puerto Rico, and (2) it is federally insured or regulated, or originates loans that are insured or

guaranteed by HUD, VA, or another federal agency, or that are intended to be sold to FNMA, GNMA, or FHLMC.

*Federal Housing Authority (FHA), Farmers Home Administration (FmHA), or Veterans Administration (VA) loans.* There are no substantive changes in this definition.

*Home improvement loan.* This definition has been changed in several ways. The current requirement that a secured home improvement loan be secured by collateral other than a first lien on residential real property has been eliminated. Under the proposal, first-lien loans would be reported as home improvement loans if they otherwise meet the home improvement loan definition. The Board believes that this classification is more meaningful than their classification as "residential mortgage loans" under the existing regulation. However, comment is solicited on whether this change would make data compilation more difficult or the disclosures less useful.

Language has been added to include refinanced loans in the definition. This means that a refinancing for home improvement purposes would be reported as a home improvement loan whether the original loan was for home improvement, purchase of a dwelling, or some other purpose. An exclusion for certain types of refinanced loans is contained in proposed § 203.4(c)(3).

Like the existing definition, the proposal requires both that the purpose of the loan be for home improvement and that the loan be recorded as a home improvement loan on the institution's books. (The recording requirement is satisfied even if the institution uses some other term—such as "modernization loans"—to identify loans that fall within the definition of home improvement loans.) With regard to the stated purpose of a loan, the word "application" replaces the word "transaction." The Board believes that "application" more precisely defines the time at which the intent of the borrower is expressed.

Existing Regulation C provided a special transition rule, applicable only to the first disclosure year, that allowed use of a state law definition of home improvement loans. The Board believes it is not necessary to include a special rule of this sort in the revised regulation. However, comment is solicited on whether any problems currently exist in this area.

*Home purchase loan.* This definition corresponds to the existing definition of residential mortgage loan. It has been substantially rewritten and restructured; the first sentence states what is included and the second what is excluded.



There are six revisions worthy of note. First, the definition initially establishes that only loans for the purchase of residential dwellings fall within this category. As noted above, first-lien loans for repair or remodeling purposes would now be included in the definition of home improvement loans.

Second, a parenthetical phrase incorporates current § 203.2(i), defining residential real property. Third, the current requirement that a home purchase loan be secured by a first lien has been eliminated; any secured home purchase loan, regardless of the type of lien, would be covered by the definition.

Fourth, the exclusion in existing § 203.2(h)(iii), of loans for business or consumer purposes unrelated to the purchase or improvement of residential real property, has been deleted. The Board believes that an express exclusion is unnecessary because of the change in the definition limiting it to loans for the purchase of residential property.

Fifth, the temporary-financing exclusion—for short-term lending where a source of permanent financing will later be required—has been further clarified. In the case of construction loans, only temporary financing is excluded from coverage. A reference to bridge loans makes clear that the exclusion applies to loans for the purchase of a new home pending receipt of proceeds from the sale of a prior residence. Whether or not there is a firm take-out commitment for permanent financing, the Board considers these temporary loans to be other than mortgage loans, and believes their inclusion as home purchase loans would distort the data, contrary to the purposes of the act.

Sixth, the reference to refinanced loans has been changed. The current definition includes only first-lien refinancings. The proposed definition would include all refinancings for home purchase purposes, other than those expressly excluded under proposed § 203.4(c)(3).

The Board solicits comment on the extent to which any of these proposed changes would increase institutions' costs, create difficulties in data compilation, or diminish the utility of the disclosures.

*State.* The definition is unchanged from the current regulation.

#### § 203.3 Exemptions.

This section establishes the categories of depository institutions that would be exempt from the requirements of Regulation C. The categories are essentially the same as in the existing regulation.

Paragraph (a)(1) exempts any depository institution with assets of \$10 million or less. The only change from the current regulation is the substitution of December 31 for "the last day of its last full fiscal year" as the date for determining the institution's asset size.

Paragraph (a)(2) provides an exemption for any depository institution that does not have a home or branch office in an SMSA. The substitution of the U.S. Department of Commerce for the Office of Management and Budget reflects the fact that the Department of Commerce, rather than OMB, now defines SMSAs.

The exemption set forth in paragraph (b) corresponds to existing § 203.3(a)(3). It is available to state-chartered depository institutions that are subject to state laws containing requirements substantially similar to Regulation C and making adequate provision for enforcement. The procedures for applying to the Board for exempt status are set forth in proposed § 203.30 (Supplement I).

The amended act requires that loan data for all depository institutions, including those which receive an exemption from the federal law, be aggregated and that disclosure statements be made available at the central repository in each SMSA. To implement these requirements, § 203.3(b) limits the state law exemption by providing that exempt institutions shall submit the data required by their state law to their state supervisory agencies, which in turn will forward the data to the appropriate central repositories and, for aggregation, to the Federal Reserve.

Existing § 203.3(b) requires that an institution losing its exemption begin compliance by compiling and disclosing data for the year preceding the year in which the exemption was lost. Proposed paragraph (c) would change this rule. An institution would instead report beginning with the data for the first calendar year after the exemption is lost. For example, if on April 1, 1982, an institution opens a home or branch office in an SMSA, and thereby loses its exemption, it would have to compile and report its 1983 data. This report would have to be available by March 31, 1984, in accordance with § 203.5 (a) and (d). Similarly, if on December 31, 1982, an institution's assets exceed \$10 million for the first time, the institution would be required to compile its 1983 data and report it by March 31, 1984. The Board believes that the high cost of compiling data for a period already ended justifies the proposed change.

Because of the revision regarding loss of exemption, existing Board

Interpretation § 203.002 would no longer be applicable. If the rule is adopted as proposed, this interpretation will be rescinded.

There is no express provision on when an exemption, once applicable, takes effect. The intent, however, is that an exemption would become effective immediately. Therefore, the institution would not report its data for that year or for subsequent years, so long as it remains exempt.

#### § 203.4 Compilation of loan data.

Section 203.4 sets forth the rules for the compilation of loan data and describes what data are included. This section has been restructured and significantly rewritten, and contains some substantive changes. Current § 203.4(a)(2) (i) and (ii) and (a)(4)(ii) have been deleted as obsolete, since they are transition rules related to the original implementation of the regulation.

Paragraph (a) of the proposal describes the mortgage loan data to be compiled. It requires data compilation on a calendar year basis, rather than fiscal year, to implement a statutory change. The existing regulation already reflects this change in § 203.4(d)(1), which was published by the Board on December 8, 1980 (45 FR 80813).

The proposal (like the existing regulation) requires that loan data be shown in terms of the number of loans and the total dollar amount of loans. The definition of "total dollar amount," set forth in existing § 203.4(a)(3), appears as footnote 2 in the proposal.

Paragraph (b) of the proposal, concerning format and itemization of data, incorporates portions of existing § 203.4 (a) and (c) and contains a number of changes. It requires that data be compiled separately for originations and purchases (as does the present regulation), and requires the use of a standard format for disclosures. (The proposed form appears as Appendix A.) Note that this would be a required form, unlike Form HMDA-1 in existing Regulation C. The use of a standard reporting format is necessary to facilitate the aggregation of data mandated by the amended act.

Paragraph (b)(1) describes the required geographic itemization of data. As in the existing regulation, the general rule is that data must be broken down by the SMSA within which the property that secures the loan (or that is to be improved) is located; within each SMSA the data is to be further itemized by the census tract in which the property is located.

There are exceptions to census tract reporting; these differ to some extent



from the existing regulation. First, loans relating to property in any county having a population of 30,000 or less must be itemized by county rather than by census tract. (The term "county" includes similar state political subdivisions such as parishes.) This exception implements an amendment to the act.

Second, loans on property located in an area that has not been census tracted (even if in a county with a population over 30,000) also must be itemized by county. The second exception, made necessary by the fact that some areas have not been assigned census tract numbers, corresponds to the current provision in Regulation C permitting compilation on the basis of ZIP codes for untraced areas. The Board believes that compilation of data for untraced areas by county rather than by ZIP code will result in simpler compilation procedures and in more understandable mortgage loan disclosures. If the ZIP code provision were carried over from the existing regulation, the resulting disclosures might well contain three different types of geographic breakdowns—census tracts, counties, and ZIP codes.

The rule set forth in proposed paragraph (b)(1)(ii) is unchanged from present Regulation C. For loans on property located *outside any SMSA* in which the institution has a home or branch office, the data need not be broken down but may simply be reported as a lump sum figure covering all such loans. This category includes both loans on property outside any SMSA and loans on property in an SMSA where the institution has no home or branch office.

Paragraph (b)(2) requires that, for each geographic category (census tract, county, SMSA total, and outside-SMSA), loan data must be further itemized by type of loan. The loan categories are substantively unchanged from those in the existing regulation except that the "all residential mortgage loans" category, described in existing § 203.4(a)(1)(iii), has been deleted. Since that category represents the sum of the preceding two home purchases categories (FHA/FmHA/VA loans and conventional mortgage loans), it does not provide new or different information, and hence is unnecessary. In addition, deletion of this category will simplify the required aggregation of data.

Paragraph (b)(2)(v) generally requires an institution to present, as an addendum item, data about loans made to non-occupant borrowers. The second sentence of this paragraph expressly

excludes loan data in the outside-SMSA category from this requirement.

Footnote 3 to paragraph (b)(2)(v) incorporates part of existing § 203.4(c). The footnote permits an institution to assume, unless its records on a particular loan contain information to the contrary, that a purchased loan was made to an occupant borrower. The phrase in existing paragraph (c) limiting this presumption to loans on 1-to-4 family dwellings is believed to be unnecessary, since paragraph (b)(2)(v) applies only to such loans. The portion of existing paragraph (c) relating to loans originated prior to June 28, 1976, has been deleted as obsolete.

Paragraph (c) lists certain mortgage loan data that are to be excluded from data compilation; it corresponds to existing § 203.4(a)(4)(i). Paragraphs (c) (1) and (3), regarding loans on which the institution acts in a fiduciary capacity and certain refinancings that involve no increase in the outstanding principal balance, are carried over without change from the existing regulation.

Paragraph (c)(2) specifically excludes loans on unimproved land, and corresponds to a limitation to improved real property contained in the existing definition of residential real property. A specific exclusion is necessary because the proposed definition of "home purchase loan" (which incorporates the existing residential real property definition) contains no such limitation.

Paragraph (d), defining geographic units for compilation purposes, parallels § 203.4(b) of the existing regulation. The U.S. Department of Commerce is now responsible for defining SMSA boundaries and the reference to the Office of Management and Budget has been changed accordingly.

The proposed regulation provides that for compilation purposes, SMSA boundaries are those in effect on January 1 of the year to which the data relate, reflecting the statutory change from fiscal to calendar year compilation. Thus, even if a county becomes part of an SMSA during a reporting year, all loans made in the county are to be reported *for that year* as being outside the SMSA.

Paragraph (d)(2) requires that 1980 census tract maps be used for compilation purposes. Because tract maps for the 1980 census are not yet available, however, footnote 4 provides that the 1970 census tract maps shall be used until the complete 1980 series is available.

Footnote 4 also requires that, for any *previously untraced* area, an institution use the census tract update available on January 1 of the year in which the loan was made. This requirement applies

only with respect to areas that became tracted for the first time after the 1970 census. Areas that were tracted for the 1970 census are to be reported using 1970 census tracts, *not* any later updates. This rule is necessary to permit preparation of aggregate data tables using demographic data obtained in the census. The same rule will apply to the 1980 census tracts when institutions begin using 1980 census tracts.

Section 203.4(b)(3) of the existing regulation, dealing with applicable ZIP codes, has been deleted as unnecessary.

Section 203.4(b)(4) of the existing regulation permitted a depository institution to use maps, directories, or computer programs that contained more recent definitions of SMSA areas than those in effect on the first day of the reporting year. This option was available if the depository institution met certain other reporting specifications and disclosed that an updated SMSA definition was used. Because of the need for uniformity in aggregation, the Board has eliminated this option from the proposed regulation. As noted above, the proposed regulation instead requires that depository institutions all use the SMSA definition in effect on January 1 of the calendar year to which the disclosure statement relates, so that all the reports for a given SMSA will be consistent with each other.

A depository institution may still use directories or computer programs instead of maps to tabulate loans by SMSA, census tract, or county, provided the correct SMSA and census tract definitions have been incorporated into the directory or program.

#### § 203.5 Disclosure and reporting requirements.

The title of § 203.5 has been changed to reflect that, under the amended act, depository institutions are required not only to disclose mortgage loan data at certain offices, but also to report the data for purposes of availability at central data repositories and for multi-institutional data aggregation.

Paragraph (a) deals with timing and retention requirements for disclosures, and reflects the change in basis for compilation from fiscal year to calendar year. It sets March 31 as the due date for the annual disclosure statements, thus retaining the 90-day interval currently provided by the regulation.

Paragraphs (a)(1)(i) and (2) of the existing regulation contain special rules dealing with the first-year disclosures under Regulation C. They are obsolete, and have been deleted. Paragraph (a)(1)(iii) of the existing regulation provides a special rule on the due date



for disclosures when an institution loses an exemption. It is no longer needed under the proposal, since any institution that loses its exemption would compile data beginning with the following calendar year.

The proposal describes the retention period as five years from the disclosure due date. The retention period applies only to the disclosure statements at the depository institutions. The act and regulation do not set a retention period for data on file at the central data repositories.

Paragraph (b), concerning the offices at which disclosure statements are to be made available, has been revised substantially. Proposed paragraph (b)(2) would no longer require that a disclosure statement be made available at a branch office that is in the same SMSA as the home office. The Board believes that this requirement is not mandated by the statute, and is unnecessary, given the new provision for central data repositories.

Proposed paragraph (b)(1), concerning the disclosures at the home office, requires availability of the entire statement, as does existing Regulation C. However, paragraph (b)(2) would permit a branch office disclosure statement to omit all the data relating to property located outside its SMSA. The proposal thus differs from the rule in existing § 203.5(b)(1)(ii), which requires at a branch office either (1) the entire disclosure statement or (2) a statement showing complete itemization by census tract or ZIP code for the SMSA where that branch office is located, total figures by SMSA for other SMSAs in which the institution has offices, and a total figure for all loans outside such SMSAs.

The Board believes that the proposed rule is easier to understand and might make preparation of disclosures easier for institutions, without diminishing the utility of the data disclosure. It would cut down to some extent the length of the disclosure statements at branch offices. Information concerning mortgage loans outside a particular SMSA will be available both at the institution's home office and at the central data repository for any SMSA in which the institution has offices.

Under the proposal, institutions would continue to have the option to make the entire disclosure statement available at branch offices, or to provide more than the minimum disclosures required.

Paragraph (b)(3) is substantively unchanged from existing § 203.5(b)(4). It requires an institution to respond promptly to requests for information about the offices where its disclosure statements are available.

"Existing § 203.5(b)(2) has been deleted. That paragraph sets forth special requirements for public availability of disclosures of depository institutions with offices inaccessible to the general public (such as some credit unions). The intent of the act, in part, is to provide consumers with information to aid them in deciding where to deposit their funds. The Board believes that when an institution does not accept deposits from the general public, it is less essential to make its statements available in a public place. In addition, the disclosure statements of these institutions will now be available to the general public at the central data repositories. (These institutions are subject, of course, to the general requirements on location of disclosure statements at home and branch offices.)

Existing § 203.5(b)(3), which requires a depository institution to notify its depositors at least once each year of the availability of its mortgage loan data, has also been deleted. The notification is not required by the act and the Board believes it is not necessary in light of the establishment of the central data repositories. It is contemplated that the availability of mortgage loan data at the central data repositories, and their location, will be publicized.

Paragraph (c), concerning photocopying and hours of availability, incorporates minor language changes for clarification but is substantively unchanged from the current regulation.

Paragraph (d) has no counterpart in the current regulation. It provides that a depository institution must send two copies of its entire disclosure statement to the appropriate regional office of its supervisory agency (as listed in appendix B). This transmittal to the supervisory agency would be the first step in the process by which disclosure statements will become available at central data repositories and data will be aggregated to cover all reporting institutions in each SMSA.

#### § 203.6. Administrative enforcement and sanctions for violations.

Aside from minor editorial changes, these provisions mirror their counterparts in §§ 203.1(b) and 203.6 of the existing regulation. Paragraph (a), which sets forth the agencies responsible for enforcing the act and Regulation C, has been placed in this section to make its structure consistent with other recent Board regulations.

Paragraph (b) corresponds to existing § 203.6. It notes that depository institutions found to be in violation are subject to administrative sanctions as set forth in § 305 of the act. It also provides relief for an unintentional error

in compilation as long as the depository institution maintains procedures reasonably adapted to avoid any such error.

#### § 203.30 Procedures for an exemption application pursuant to § 203.3(b) of Regulation C (Supplement I).

The act and § 203.3(b) of the regulation provide an exemption for state-chartered institutions in cases where the Board determines that the state law contains requirements substantially similar to those imposed by Regulation C, with adequate provision for enforcement. This supplement describes the procedures for seeking a Board determination. The changes made to paragraphs (a), (b), and (c) simplify and shorten the text. The few substantive changes to the supplement will be discussed below.

Paragraph (d) corresponds to a portion of paragraph (d) of the current supplement, and is unchanged except for editorial revisions and the insertion of a parenthetical reference to the fact that, under proposed § 203.3(B), an exempt institution is required to send the state-required mortgage loan data to its state supervisory agency.

Paragraph (e) corresponds to existing paragraphs (d)(2) and (e). A new provision clarifies that the Board may require a reapplication for an exemption because of amendments to the act or regulation. Depending upon the circumstances, the Board may require a complete reapplication, or may simply require updating of information in the areas affected by the amendments. (The Board is currently considering which of these actions would be appropriate with regard to the presently exempt states in view of the recent amendments to the act and these proposed amendments to the regulation.)

The remainder of proposed paragraph (e) is substantively unchanged, except for the addition of paragraph (e)(5) to address situations when certain of the revocation procedures would be inappropriate.

#### Appendix A—Form HMDA-1 (revised) and instructions.

The proposed standard reporting and disclosure form is similar to the guideline form that appears as an appendix to existing Regulation C. Some of the column headings have been revised to reflect changes in terminology in the regulation itself, and the existing "total residential mortgage loans" column has been deleted because of a proposed change in the regulatory requirement.

The instructions have been changed to reflect changes in the regulatory



requirements, and are more detailed than the existing instructions. The purpose of this change is to make the form easier to use.

#### *Appendix B—Federal enforcement agencies.*

Proposed Appendix B lists the federal enforcement agencies for each type of depository institution covered by the regulation. There is no substantive change from the corresponding list in the present regulation.

(3) *Regulatory analysis.* The regulatory analysis that follows is published pursuant to the Board's policy statement of January 19, 1979 (44 FR 3957), concerning expanded rulemaking procedures. It also satisfies the requirement for an initial regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 603.

The Home Mortgage Disclosure Act amendments of 1980 extend with amendments and a five-year sunset provision the Home Mortgage Disclosure Act of 1975 (HMDA). HMDA was motivated by congressional concern 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.<sup>1</sup>

#### *The purpose of HMDA was*

\* \* \* to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling 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.<sup>2</sup>

The 1980 HMDA amendments to the 1975 act impose substantial additional costs. However, these additional costs largely fall upon either the financial institution regulatory agencies or other federal agencies. The key amendments include: (1) mandatory disclosure of HMDA data on a calendar year basis; (2) establishment by the Federal Reserve Board of a uniform disclosure format; (3) disclosure by census tract for standard metropolitan statistical area (SMSA) counties with populations that exceed 30,000, and disclosure by county name for SMSA counties with 30,000 or fewer residents; (4) establishment of a central repository in each SMSA for HMDA disclosure statements; (5) aggregation of HMDA data for all covered institutions

within each SMSA, and the production of a variety of tables showing the relationship between the geographic distribution of disclosed loans and census tract income level, racial composition, location, and age of housing stock.

#### *Overview of the HMDA amendments*

The 1980 amendments, as implemented by revised Regulation C, require depository institutions with offices located within SMSAs annually to compile and disclose to the public the geographic location of the number and dollar value of the residential loans they either originate or purchase during each calendar year. This residential loan data must be disclosed by census tract number for counties within SMSAs that have populations exceeding 30,000. Residential loans extended on properties within SMSA counties that do not exceed 30,000 residents must be disclosed by county name. The home mortgage disclosure data that are compiled are to be made available to the public and the appropriate supervisory agency by the reporting institution within 90 days of the end of the relevant calendar year. Each institution reporting under the provisions of the act is required to maintain the disclosure statement in at least one office in each SMSA in which it does business.

*Benefits, accuracy and costs.* A basic input in the regulatory analysis of revised Regulation C is a review of the Federal Home Loan Bank Board/Federal Deposit Insurance Corporation (FHLBB/FDIC) study commissioned to evaluate the 1975 Home Mortgage Disclosure Act.<sup>3</sup> Although the FHLBB/FDIC study focused on the 1975 Home Mortgage Disclosure Act and was carried out in 1977, the study remains highly relevant to an evaluation of the benefits, accuracy, and costs of the 1980 act because very few fundamental provisions of the original law have been amended. The following section reviews the basic findings of the FHLBB/FDIC study. The economic impact of the central repository system and HMDA aggregation are also reviewed.

The benefits of HMDA are not quantifiable in dollar terms. However, the FHLBB/FDIC study identified a number of uses that have been made of the disclosure information. First, HMDA has been useful to the financial institution regulatory agencies in fulfilling their statutory responsibilities under the

Community Reinvestment Act (CRA) and civil rights laws. In this context, HMDA data have been used to identify possible discriminatory lending practices related to the geographic location of the dwelling. The disclosure data have also been employed to alert regulators to possible discriminatory lending practices based upon the applicant's race, color, or national origin. Second, HMDA data have been used by local public officials to help determine target areas for public investment. Third, community and public interest groups have made use of HMDA data in evaluating depository institutions' CRA records and have based most CRA protests of depository institution applications on lending patterns developed from the data. Despite their usefulness for CRA protest purposes, relatively few community groups have sought to obtain the information.<sup>4</sup> Moreover, the reporting institutions have received virtually no benefits from HMDA.

In summary, HMDA data have been primarily useful to the regulatory agencies in carrying out their responsibilities under the anti-discrimination regulations and have been of some value to community groups and local public officials. Although community groups have made limited use of HMDA data to date, it is possible that they will increase their utilization of the disclosure information in the future.

Accuracy of the disclosure statements is critical to their utility. The FHLBB/FDIC study found that a significant percentage of the depository institution disclosure statements were too inaccurate to be used for their intended purpose. Based on a survey of a sample of lending institutions from three SMSAs, the study found that: (1) those institutions that failed to use an address coding guide to identify property census tract numbers achieved a poor level of geocoding accuracy; (2) 25 of 43 institutions sampled (58 percent) made aggregation errors in more than 50 percent of the census tract lines; (3) 29 of 43 institutions in the sample (67 percent) had aggregation errors that were so severe that their statements were considered too inaccurate to be used for their intended purpose.

A number of recommendations were offered in the FHLBB/FDIC study to rectify the accuracy problem. One recommendation, adopted as an amendment to the 1975 act, directs the

<sup>1</sup> Home Mortgage Disclosure Act, Pub. L. 94-200, 12 U.S.C. 2801-2809, Sec. 302.

<sup>2</sup> *Ibid.*, Sec. 302.

<sup>3</sup> "Analysis of the Home Mortgage Disclosure Act data from three Standard Metropolitan Statistical Areas," JRB Associates, McLean, Virginia, November 1979.

<sup>4</sup> A United States League of Savings Associations survey of 2,800 savings and loans found that 71 percent of the respondents had not received a single request for their 1977 fiscal year disclosure statements. *American Banker*, August 28, 1978.



Federal Reserve Board to prescribe a standard format for disclosures required under HMDA.<sup>5</sup> The standard format should eliminate some errors with very little additional cost to the institutions. However, the predominant source of disclosure errors—aggregation inaccuracy—is not addressed in the regulation. The study recommended that examination procedures be implemented to assess and improve the accuracy of the geocoding and aggregation of disclosure data. Moreover, the study suggested that additional examination time be established for accuracy reviews of the disclosure statements. It was estimated that implementation of this recommendation would cost approximately 20 additional man-years (at least \$300,000 in the first year) of examination time per year.

The FHLBB/FDIC study assessed the annual costs of HMDA compliance. Cost estimates were calculated on both a per loan and aggregate basis. The study found that nationwide HMDA cost the 8,138 reporting institutions approximately \$5.8 million in 1977. Based on these estimates, reporting institutions incurred an average cost of \$713 to compile and disclose their HMDA data in 1977. The 44 depository institutions in the study incurred an average cost per loan of \$1.42. A cross section analysis of these lenders revealed that: the 13 institutions with automated residential loan files and more than 1,000 loans in their disclosure statements bore an average per-loan cost of \$1.36; the 13 institutions with between 200 and 1,000 loans in their HMDA statements incurred an average cost of \$1.68 per loan; and, the 11 lenders with fewer than 200 loans incurred an average cost of \$3.67 per loan.

In general, the costs of HMDA compliance fall disproportionately on those lenders that are marginally in the residential real estate market. Commercial banks incur a greater average cost per loan than other types of covered lenders because banks typically extend fewer residential loans than other types of covered lenders. According to the FHLBB/FDIC study, institutions that disclose fewer than 200 loans per year incur an average cost per loan that is 2.7 times as great as the average cost per loan of lenders reporting over 1,000 loans per year. Moreover, those institutions least active in residential finance are likely to be the smaller depository institutions. As a

result, the costs of HMDA compliance are borne disproportionately by the smaller depository institutions.

*Establishment of central repositories.* The 1980 amendments to HMDA direct the Federal Financial Institutions Examination Council (FFIEC) in consultation with the Secretary of the Department of Housing and Urban Development (HUD) to establish a central repository for HMDA data for each SMSA. The central data repository will receive and maintain all HMDA statements of the covered institutions with offices located in its SMSA. The statements on file at the central repository will be made available to the public for inspection and copying.

The principal benefit of the central repository system is that users of HMDA data will be able to obtain all of the various institutions' disclosure statements at one location. The current system requires users to contact the institutions on an individual basis to obtain the disclosure data.

The reporting requirements of the central repository system are implemented by § 203.5(d) of the regulation. The reporting institution will incur a slight increase in costs under this section of the regulation. Incremental costs will be those incurred to make two additional copies of the HMDA statement and handling and postage costs to mail the statements to the appropriate supervisory agency. Assuming the typical HMDA statement contains approximately 20 pages, it is estimated that it will cost the average institution approximately \$8.00 annually to copy and forward the statements to the appropriate supervisory agency. Based on 8,138 reporting institutions, the aggregate annual cost to the covered institutions will be approximately \$65,100.

Other costs that arise from the establishment of the central repository system will be borne by the central repository and the regulatory agencies. These costs consist of some handling, training, storage and public information costs. Although the costs to the central repository system are not likely to be excessive, the benefits are also likely to be small. The system does not provide any new information and is solely a convenience for users. Given the limited number of users, it is difficult to justify even the relatively small additional expense of establishing and maintaining this system.

*Aggregation of HMDA data.* The 1980 amendments direct the FFIEC to compile annually for each SMSA aggregate data by census tract for all depository institutions that are required to disclose data under the act. In addition, the

FFIEC is directed to produce tables for each SMSA that aggregate covered institutions' lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level and racial characteristics. According to the act, the Federal Reserve Board is required to provide the resources necessary to perform the aggregation. Tables generated from the aggregation process are to be made available to the public by December 31 of the year following the calendar year on which the data are based.

Aggregation of HMDA data will involve substantial costs. The FDIC/FHLBB HMDA study estimated aggregation costs to be approximately \$1 million annually with a possible variation in actual costs of anywhere from —30 percent to 50 percent of that estimate. Since the estimate was based on a 1977 survey, it is likely that the actual dollar costs will be approximately 30 percent higher due to the effects of general inflation.

Aggregation will impose minor burdens on the reporting institutions. The only aggregation costs imposed on the covered institutions will be those that arise from sending two additional copies of their disclosure statements to the appropriate supervisory agency. In addition, some institutions will bear costs that arise from having to correct incomplete or inaccurate statements that are uncovered in the editing process.

Although the costs of aggregation are quantifiable, the benefits cannot be measured in dollar terms. Two principal benefits were cited to support aggregation. First, it was argued that the utility of using and evaluating individual institutions' HMDA statements will be enhanced if comparisons can be made to aggregate SMSA lending patterns. Second, aggregate lending patterns can be used by public officials to aid in the determination of target areas for public investment.

Although the benefits of aggregation are not quantifiable, it seems unlikely that the first suggested use will actually provide significant benefits. Experience with enforcement of the CRA and anti-discrimination laws suggests that aggregation will not materially aid regulators in their enforcement responsibilities. Home loan information currently is proposed on an individual institution basis and that is the form in which it is principally used. When comparing one institution's record with others, comparisons must be between institutions of similar types and sizes to be meaningful. Having an overall view of SMSA lending patterns will not be

<sup>5</sup> Section 203.4(b) of the regulation specifies the reporting format the Board is proposing to adopt. The prescribed form in revised Regulation C is substantially similar to the form currently employed by the vast majority of covered institutions.



particularly helpful in evaluating the CRA or civil rights records of individual lenders. Aggregate HMDA lending patterns may be a useful tool for public officials efforts to target public investment. However, there is simply no way to determine if the substantial costs of aggregation are outweighed by the benefits some public officials will receive from the availability of the aggregated data. Moreover, if individual states or localities find aggregate lending information valuable for planning purposes, they probably can compile the information more quickly and perhaps in a more useful format than can be done in Washington.

*Economic impact analysis of revised Regulation C*

Section 203.2 of the regulation provides definitions (for example, of the types of depository institutions that are covered by the regulation and of the types of residential loans that must be disclosed). The definitions of home improvement loan and home purchase loan in § 203.2 have been revised in the proposed regulation to reflect more accurately the actual purpose for which the loan was made. In the original regulation, the home improvement loan category did not include first-lien loans that were for the purpose of improving an existing residential structure. In addition, the original regulation did not categorize a loan, whose purpose was to purchase residential property, as a home purchase loan unless the loan was secured by a first lien. The revised definitions may impose some minor additional costs on the institution in terms of retraining staff personnel. However, the new definitions are intuitively appealing and will provide more accurate information about the residential credit activity of covered lenders.

Section 203.3 of the revised regulation includes the same exemption standards as existed under previous Regulation C. These standards provide a blanket exemption for any depository institution that does not have an office in a designated SMSA area. In addition, any depository institution, regardless of location, is exempt if it has year-end assets of less than \$10 million.

The exemption standards in § 203.3 of the revised regulation are identical to those mandated by the statute. These exemption standards appear to reflect several congressional perceptions. The exemption for non-SMSA located institutions reflects the perception that disinvestment by depository institutions is largely an urban problem. The \$10 million asset examination standard was adopted primarily in recognition of the

fact that HMDA disclosure requirements impose a disproportionate burden on small depository institutions.

As noted, the FHLBB/FDIC study of HMDA found that the costs of compliance fall disproportionately on those lenders marginally active in the home loan market. The FHLBB/FDIC study found that the costs of compliance, on a per loan basis, were approximately two times as high for institutions reporting fewer than 200 loans per year than they were for institutions extending between 200 and 1,000 loans per year. The study also found that institutions disclosing fewer than 200 loans per year incur an average cost per loan that is approximately three times higher than the average cost per loan of lenders reporting over 1,000 per year.

While the \$10 million asset exemption does reduce the number of small depository institutions in SMSAs that must comply with HMDA, it results in as inequitable treatment of the different types of institutions covered by the act.<sup>6</sup> The current exemption standards fail to recognize the specialization that exists in the residential loan market between commercial banks and thrift institutions. A comparison between the typical commercial bank and thrift institution, of any similar asset size, will reveal a large disparity in the percentage of lendable funds devoted to home loans. As a result, the \$10 million asset exemption standard allows many thrift institutions that are relatively active residential lenders to be exempt from disclosure requirements and hence public review of their lending activity. At the same time, this exemption standard requires many commercial banks with assets in excess of \$10 million, but many fewer home loans than the smaller exempt thrift institutions, to compile and disclose their home loan activity. Since the reporting costs per loan rise as the number of loans disclosed declines, it follows that smaller-sized commercial banks bear a disproportionate share of the total cost of HMDA reporting.

An alternative exemption standard that is more equitable than the asset size exemption standard would base exemption upon the size of an institution's home purchase and home improvement loan portfolio and the number of loans made by the lender in a

calendar year.<sup>7</sup> This two-part test is better adapted than an asset-size standard to measuring whether an institution is sufficiently active in the home loan market to justify the costs of reporting.

An exemption standard that requires a lender to report if it has a home loan portfolio of more than \$10 million or extends 200 or more home loans in a calendar year is a cost-effective standard to establish. This specific alternative exemption standard reflects the cost findings of the FHLBB/FDIC study. The Board considered incorporating a portfolio exemption in this proposal, in light of its goal to reduce regulatory burdens and of its responsibilities under the new Regulatory Flexibility Act (Pub. L. 96-354).<sup>8</sup> Such an exemption standard would substantially reduce the number of institutions required to report under the act.<sup>9</sup> However, the impact on the proportion of residential loans disclosed would be less substantial since the excluded institutions are the least active home lenders.

The alternative exemption standard would reduce the number of commercial banks required to file disclosure statements by approximately 69 percent (from 5,160 reporting banks to approximately 1,612 covered commercial banks).<sup>10</sup> Although the exemption standard would result in a substantial reduction in the number of reporting commercial banks, it would continue to require the major bank lenders in the residential loan market to file disclosure statements. Under this exemption standard, at least 88 percent of the dollar value of all home purchase and home improvement loans held by commercial banks headquartered in SMSAs would be held by banks subject to reporting requirements.

<sup>7</sup> A similar exemption standard was proposed by the Federal Reserve Board in hearings before Congress on the HMDA amendments in May 1980.

<sup>8</sup> The cutoff of 200 loans is based upon the finding of the FHLBB/FDIC study that per-loan reporting costs escalate sharply when fewer than 200 loans are to be reported. This portion of the exemption standard would be necessary to ensure that institutions extending a significant number of home loans in a given calendar year cannot avoid reporting requirements by selling these loans in the secondary market, thereby keeping their year-end home loan portfolio below \$10 million.

<sup>9</sup> Estimates of the number of covered institutions that would be required to report under this exemption standard are based on December 1979 call report data.

<sup>10</sup> The 1,612 estimate represents the minimum number of commercial banks that would be required to report. At least some banks that originate and sell their residential loans on a regular basis would be excluded under the portfolio exemption but would be required to report because they extend more than 200 home purchase and home improvement loans in a calendar year.

<sup>6</sup> The \$10 million asset standard exempts approximately 826 (14 percent) of the SMSA based commercial banks and 160 (7 percent) of the savings and loan associations with offices in designated SMSA areas.



The exemption standard outlined above would require approximately 2,255 savings and loan associations and 296 mutual savings banks to file disclosure statements. This would reduce the number of savings and loan associations and mutual savings banks that are required to report about 3 percent. These 2,551 thrift institutions held over 99 percent of the dollar value of all home purchase plus home improvement loans held by savings and loan associations and mutual savings banks headquartered in SMSAs at year-end 1979. Overall, the alternative exemption standard would reduce the total number of reporting institutions by approximately 47 percent. Despite the sharp drop in the number of reporting institutions, at least 97 percent of the dollar value of home purchase and home improvement loans held by all commercial banks, savings and loan associations, and mutual savings banks with offices in SMSAs would be disclosed.

The exemption standard outlined above would significantly reduce the number of small institutions that must comply with HMDA. Moreover, the exemption standard would not result in a significant reduction in benefits. In most cases consumer compliance examiners would be able to judge an exempt lender's CRA and civil rights compliance by reviewing a sample of residential loans from the institution loan files. The additional examination burden that results from the alternative exemption standards would offset some of the savings that arise from the reduction in compliance costs.

The Board ultimately decided not to propose a portfolio exemption because of the fact that the Senate had considered, and rejected, a similar proposed amendment.

Section 203.3(b) allows state-chartered institutions, subject to state regulations substantially similar to revised Regulation C, to be exempt from compliance with the federal regulation. This section requires institutions exempt from federal regulation to file two copies of the disclosure statements (prepared under the provisions of their state law) with the appropriate state supervisory agency. This minor additional burden is necessary because exempt-state institutions must be included in the HMDA aggregation process.

Section 203.3(c) allows institutions that lose their exempt status under § 203.3 (a) or (b) of the regulation to report beginning with data for the first existing calendar year after the year in which their exemption was lost. The existing regulation required institutions that lost their exemption to file

disclosure statements not only for the year in which they lost their exemption, but also for the prior year. The revised regulation will reduce compliance burdens on average by about \$1,426 for each institution that loses its exempt status.<sup>11</sup> This figure represents a conservative estimate because it is more costly for institutions to compile data from a prior year than it is to compile the information on a continuous basis. This provision should not result in a significant loss in consumer benefits. Moreover, the data from the year prior to the year in which the exemption was lost will not be available in time to be included in the SMSA aggregation process.

The 1980 HMDA amendments require covered institutions to compile and report their HMDA data on a calendar year basis. Section 203.4(a) of the regulation implements this provision of the act. The goal of this regulation is to establish a uniform reporting period so that data from all covered institutions in an SMSA may be compared over an equivalent time period. The original Regulation C allowed institutions to report on a fiscal year basis. As a result, it was difficult to aggregate and compare different institutions' lending records. The switch to a calendar year reporting period was first implemented by an amendment to Regulation C adopted in November 1980.<sup>12</sup> As a result, the revised regulation does not technically change the reporting period from that which is mandated in the current regulation.<sup>13</sup>

The 1980 HMDA amendments authorize the Federal Reserve Board to

<sup>11</sup> \$1,426 represents the 1977 costs of compiling home mortgage disclosure statements for two years for the average institution covered by the act.  
<sup>12</sup> 45 FR 80613, December 8, 1980.

<sup>13</sup> The regulatory amendment imposes a one-time cost on those institutions disclosing data on other than a calendar year basis. This one-time cost has two components. First, there is the cost associated with changing operating methods to conform with a calendar reporting requirement. These costs involve additional training of institution personnel responsible for preparing the disclosure reports and some minor computer programming adjustments to reflect the calendar year reporting data requirements. These costs are not expected to be significant. Second is the cost associated with preparing a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report. In addition, those institutions reporting on a fiscal year basis which have disclosed their 1980 fiscal year reports will have to duplicate that portion of their fiscal 1980 reports that falls in calendar year 1980.

The FHLBBV/FDIC study found that 85 percent of the covered institutions in their survey currently report on a calendar year basis. Therefore, it is unlikely that this regulation will impose any burden on the bulk of the reporting institutions. However, the regulation will impose an additional burden on those institutions not previously reporting on a calendar year basis.

prescribe a standard format for disclosures of HMDA data. Currently, the vast majority of covered institutions use a reporting form that is quite similar to the one set forth in Regulation C. However, minor variations do exist across institutions. While such variations in format are not significant in a small sample study, they present costly impediments to a cost-effective aggregation of HMDA data on an SMSA basis. Variations in format raise the cost of using the disclosure data substantially, perhaps doubling the costs associated with aggregating the data. Prescription of a standard format will impose some minor one-time costs on the reporting institutions. These one-time costs arise from the need to alter the institution's existing format. In some cases this will impose minor computer programming changes; in all cases it will involve some additional personnel training.

The reporting format prescribed in the revised regulation deletes one column—total residential mortgage loans on 1-to-4 family dwellings—from the HMDA form in old Regulation C. This column is not required under the act and is simply the summation of columns two and three. Deletion of this column should reduce both the number of errors in the institutions' reports, and on net reduce the costs of compliance since the new form will require fewer manual or computer computations and reduced paper work. Moreover, deletion of this column should result in a significant savings in the aggregation process since it will reduce by one-seventh the amount of material that must be aggregated. Based on the FHLBB/FDIC study of HMDA aggregation costs, deletion of one column should result in an annual cost savings of about \$46,000.<sup>14</sup>

Section 203.3(b) of the regulation requires exempt-state institutions to follow the basic reporting format. Aggregation requirements necessitate the establishment of a uniform reporting format because the exempt-state institutions must be incorporated into the aggregation process. This requirement will impose additional costs on some of these institutions. However, most of the exempt-state institutions already compile HMDA data in a format similar to that prescribed in the regulation.

Section 203.4 of revised Regulation C requires covered lenders to compile the geographic disclosure of loan originations and purchases on separate

<sup>14</sup> This estimate was derived by calculating one-seventh of the statement related and tract line related costs of aggregation.



report forms. The previous regulation also required separate disclosure reports for originations and purchases.

Another 1980 amendment to the act requires lenders to geocode all covered loans extended within SMSAs on a census tract basis unless the loan involves a property located in an SMSA county whose population does not exceed 30,000. Section 203.4(b) of the revised regulation allows covered loans extended in the less populous counties to be geocoded by county name. Based upon 1970 census data, approximately 19 percent of the counties located in SMSAs have populations that do not exceed 30,000.

This amendment makes two modifications in the statute. First, it allows lenders extending credit in SMSA counties with small populations (30,000 or less) to geocode these loans by county name. The previous regulation required lenders to geocode these loans by either census tract or ZIP code. The modification in geocoding requirements for loans extended in these less populous areas will reduce the costs of HMDA compliance as well as improve the accuracy of the reports with no associated loss in the usefulness of the data. The amendment will not reduce the usefulness of the data because, in general, loans in such rural areas are already aggregated for CRA or civil rights analysis.

The second modification resulting from this amendment to the act requires lenders to geocode loans by census tract in SMSA counties whose populations exceed 30,000. Complete compliance with this amendment is impossible because there are untraced SMSA counties with populations that exceed 30,000. As a result, the revised regulation allows lenders extending credit in such untraced areas to report the data by county name. Disclosure by county name in these large untraced counties should marginally reduce the costs of compliance and improve the accuracy of the disclosure reports.

According to § 203.4(d) of the revised regulation, depository institutions must use the *1970 Census of Population and Housing: Census Tracts, Final Reports, PHC(1) Series* prepared by the Bureau of Census, U.S. Department of Commerce to determine whether property is in a particular census tract, until the 1980 census material becomes available. The 1970 census tract maps for each SMSA are currently available for purchase at a nominal fee from the Bureau of the Census, Washington, D.C.<sup>15</sup> When the

1980 census material becomes available, the Federal Reserve System will inform lenders that they should begin using this data. At that time the depository institutions will bear additional compliance costs associated with purchasing new geocoding material. These costs will be nominal for an institution. The switch to the 1980 census material is necessary in order for the Federal Reserve to complete the data aggregation required under the act.

Section 203.5 of the regulation prescribes the date and manner by which institutions must make their disclosure statements available. Section 203.5(b) requires that depository institutions make their disclosure statements available at their home office and at one branch in each SMSA in which they have an office, other than the SMSA in which the home office is located. This provision reduces the compliance burden because under the old regulation a lender had to make the statements available at both the home office and at one branch in every SMSA. The revised regulation provides for a more liberal disclosure requirement, because each lender's statement will now be available at the central repository as well as the institution's home office.

Section 203.5(b) of the revised regulation provides for a more liberal branch office disclosure requirement than existing Regulation C. Under the existing regulation, an institution may either make the entire institution-wide disclosure statement available at one branch in each SMSA, or the institution may omit detailed geographic breakdowns for loans on property in other SMSAs at the local branch office. In the latter case the institution's disclosure statement would include a complete geographic breakdown for loans in the local SMSA, a total figure for each other SMSA in which the institution has offices, and an aggregate figure for loans on property located outside SMSAs in which the institution has an office. The revised regulation would permit branch office disclosures to omit all data relating to SMSA other than the SMSA in which the particular branch office is located.

This suggested rule change would result in some reduction in data compilation and reproduction costs for those institutions with branch offices in more than one SMSA. The rule change will not reduce the consumer benefits since the entire disclosure statement

available from the Bureau of the Census. These guides facilitate the itemization of loans by census tract. The 1980 guides are currently available from the Bureau of the Census. They range in price from \$.78 to \$70.27 for an SMSA with an average price of \$.64 per SMSA.

will be available at the institution's home office and at the central repository in each SMSA.

The revised regulation no longer requires covered institutions to annually notify depositors of the availability of HMDA data. A notification provision was not required by the act but was included in the original Regulation C. The Board believes that such notification is largely ineffective and unnecessary. Moreover, the fact that disclosure data for all institutions in an SMSA will be available at a central repository and that this data availability will presumably be publicized makes annual notification even less necessary. Eliminating this requirement will reduce annual compliance costs slightly.

Section 205.3(d) requires lenders to forward two copies of their disclosure statement each year to their appropriate supervisory agency. This additional burden arises from the requirement in the act that an aggregation of HMDA data be prepared each year. The aggregate cost to all covered lenders of this additional reporting requirement is estimated to be about \$65,000 annually.<sup>16</sup>

(4) Pursuant to the authority granted in 12 U.S.C. 2804(a), the Board hereby proposes to revise 12 CFR Part 203, to read as follows:

## PART 203—HOME MORTGAGE DISCLOSURE

### Regulations

#### Sec.

- 203.1 Authority, purpose, and scope.
- 203.2 Definitions.
- 203.3 Exemptions.
- 203.4 Compilation of loan data.
- 203.5 Disclosure and reporting requirements.
- 203.6 Administrative enforcement and sanctions for violations.

### Supplement

- 203.30 Procedures for an exemption application pursuant to § 203.3(b) of Regulation C (Supplement I).

Appendix A—Instructions for Completion of Form HMDA-1 (Revised): "Loan Disclosure Statement".

Appendix B—Federal Enforcement Agencies.

Authority: Home Mortgage Disclosure Act of 1975, as amended, Title III, Pub. L. 94-200, 89 Stat. 1125, et seq. (12 U.S.C. 2801-2811).

### Regulations

#### § 203.1 Authority, purpose and scope.

(a) *Authority.* This regulation is issued by the Board of Governors of the Federal Reserve System pursuant to the

<sup>16</sup> This estimate is based on 8,138 reporting institutions incurring an average cost of \$8.00 to copy and forward two copies of their disclosure statement to the appropriate supervisory agency.

<sup>15</sup> The 1970 PHC(1) Series reports containing the census tract maps were priced in the \$.45 to \$12.75 range in 1976. Street address coding guides are also



Home Mortgage Disclosure Act of 1975, as amended (Title 12, Sections 2801 through 2811 of the United States Code).

(b) *Purpose.* The purpose of this regulation is to provide the public with loan data to determine whether depository institutions are serving the housing needs of the communities and neighborhoods in which they are located. The purpose is also to assist public officials in distributing public sector investments so as to attract private investment to neighborhoods where it is needed. This regulation is not intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

(c) *Scope.* This regulation applies to depository institutions that make federally related mortgage loans. It requires a covered depository institution to disclose loan data at its offices located in standard metropolitan statistical areas and to report the data to its appropriate supervisory agency.

(d) *Central data repositories.* The act requires that the loan data be made available at central data repositories located within each standard metropolitan statistical area. It also requires that mortgage loan data, covering all institutions in each standard metropolitan statistical area and showing lending patterns by geographical location, age of housing stock, income level, and racial characteristics, be aggregated. A listing of central data repositories can be obtained from the Department of Housing and Urban Development, Washington, D.C. 20410, or from any of the agencies listed in Appendix B.

### § 203.2 Definitions.

For the purposes of this regulation, the following definitions apply:

*Act* means the Home Mortgage Disclosure Act of 1975 (Title III of Pub. L. 94-200), as amended in 1980 (Title III of Pub. L. 96-399), codified in Title 12, sections 2801 through 2811 of the United States Code.

*Branch office* means an office approved as a branch of the depository institution by its federal or state supervisory agency. It excludes free-standing automated teller machines and other electronic terminals.

*Depository institution* means a commercial bank, savings bank, savings and loan association, building and loan association, homestead association (including a cooperative bank), or credit union, that makes federally related mortgage loans.<sup>1</sup> A majority-owned non-

depository subsidiary is deemed to be part of its parent depository institution for the purposes of this regulation. A majority-owned depository subsidiary may, at the parent depository institution's option, be treated as part of its parent or as a distinct entity.

*Federal Housing Authority (FHA), Farmers Home Administration (FmHA), or Veterans Administration (VA) loans* means mortgage loans insured under Title II of the National Housing Act or under Title V of the Housing Act of 1949 or guaranteed under Chapter 37 of Title 38 of the United States Code.

*Home improvement loan* means any loan, including a refinancing, (a) whose proceeds, as stated by the borrower to the lender at the time of the loan application, are to be used for repairing, rehabilitating, or remodeling a residential dwelling located in a state; and (b) that is recorded on the depository institution's books as a home improvement loan.

*Home purchase loan* means any loan, including a refinancing, secured by and made for the purpose of purchasing residential real property located in a state (including single-family homes, dwellings for from 2-to-4 families, other multi-family dwellings, and individual units of condominiums or cooperatives). The term does not include temporary financing (such as a bridge loan or temporary construction loan) or the 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).

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

(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 1-to-4 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 an agency of the federal government, or by a depository institution that is regulated by an agency of the federal government; or

(B) Is made in whole or in part, or is 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 such officer or agency; or

(C) Is intended to be sold by the depository institution that originates the loan to the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or to a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation.

### § 203.3 Exemptions.

(a) *Asset size and location.* A depository institution is exempt from all requirements of this regulation

(1) If its total assets on December 31 are \$10,000,000 or less; or

(2) If it has neither a home office nor a branch office in a standard metropolitan statistical area (SMSA) as defined by the U.S. Department of Commerce.

(b) *State law.* A state-chartered depository institution is exempt from the requirements of this regulation if it is subject to state laws that contain, as determined by the Board in accordance with § 203.30 (Supplement I) of this regulation: (1) requirements substantially similar to those imposed by this regulation, and (2) adequate provisions for enforcement. For purposes of data aggregation, however, an institution exempted under this paragraph shall submit the data required by the disclosure laws of its state to its state supervisory agency.

(c) *Loss of exemption.* A depository institution that loses its exemption shall compile loan data beginning with the calendar year following the year in which the exemption was lost.

### § 203.4 Compilation of loan data.

(a) *Data to be included.* A depository institution shall compile data on the number and total dollar amount<sup>2</sup> of home purchase and home improvement loans that it originates and purchases, for each calendar year beginning with calendar year 1981.

(b) *Format.* The loan data shall be compiled separately for originations and purchases, using the form set forth in Appendix A, and shall be itemized as follows:

(1) *Geographic itemization.* The loan data shall be itemized by standard metropolitan statistical area (SMSA). Within each SMSA, the data shall be further itemized by the census tract in which the property to be purchased or improved is located, except that

(i) If the property is located in a county with a population of 30,000 or less, or in an area that has not been assigned census tracts, itemization by county shall be used instead of itemization by census tract.

(ii) If the property is located outside the SMSAs in which the institution has a home or a branch office, no itemization

<sup>2</sup> "Total dollar amount" means (i) the original principal amount of loans originated by the depository institution (to the extent of its ownership interest, when the loan is made jointly or cooperatively) and (ii) the unpaid principal balance of loans purchased by the depository institution (to the extent of its ownership interest in such purchased loans). For purchased home improvement loans, the amount to be reported may include unpaid finance charges.

<sup>1</sup> "Federally related mortgage loan" means any loan (other than temporary financing such as a construction loan) that



(by SMSA, county, or census tract) is required and the data for such loans shall instead be listed as an aggregate sum.

(2) *Type-of-loan itemization.* The loan data within each geographic category described in paragraph (b)(1) of this section shall be further itemized as follows:

(i) FHA, FmHA, and VA loans on 1-to-4 family dwellings;

(ii) Other home purchase (conventional) loans on 1-to-4 family dwellings;

(iii) Home improvement loans on 1-to-4 family dwellings;

(iv) Total home purchase and home improvement loans on dwellings for more than 4 families; and

(v) Total home purchase and home improvement loans on 1-to-4 family dwellings (from categories (i), (ii), and (iii) above) made to any borrower who did not, at the time of the loan application, intend to use the property as a principal dwelling.<sup>3</sup> This addendum item is not required for loans on property in the outside-SMSAs category described in paragraph (b)(1)(ii) of this section.

(c) *Excluded data.* A depository institution shall not disclose loan data for

(1) Loans originated and purchased by the depository institution acting as trustee or in some other fiduciary capacity;

(2) Loans on unimproved land; or

(3) Refinancings that the depository institution originates, if there is no increase in the outstanding principal on the existing loan and if the institution and the borrower are the same parties on the existing loan and the refinancing.

(d) *SMSAs and census tracts.* For purposes of geographic itemization

(1) A depository institution shall use the SMSA boundaries defined by the U.S. Department of Commerce, Washington, D.C. 20233, as of the first day of the calendar year for which the data are compiled.

(2) A depository institution shall use the census tract numbers and boundaries on the census tract maps in the "1980 Census of Population and Housing: CENSUS TRACTS, Final Report, PHC(1) Series" prepared by the Bureau of the Census, U.S. Department of Commerce, Washington, D.C. 20233.<sup>4</sup>

<sup>3</sup> A depository institution may assume, unless its records contain information to the contrary, that a loan that it purchases does not fall within this category.

<sup>4</sup> Until the complete 1980 series is available, institutions shall use the maps in the 1970 series.

A previously untraced area shall be reported by the most recent census tract update, if any, existing on January 1 of the year for which the data are

If a census tract number is duplicated within an SMSA, then the census tract shall also be identified by county, city, or town name.

#### § 203.5 Disclosure and reporting requirements.

(a) *Time requirements for disclosure statements.* A depository institution shall make its loan data disclosure statements available to the public by March 31 following the calendar year for which the data were compiled and shall continue to make them available for five years.

(b) *Offices at which disclosure statements are to be made available.* (1) A depository institution shall make a complete disclosure statement available at its home office.

(2) A depository institution shall also make a disclosure statement available in at least one branch office in each SMSA where it has offices, other than the SMSA in which the home office is located. The statement at a branch office may omit, at the option of the institution, all data other than the data relating to property located in the SMSA where that branch is located.

(3) Upon request, a depository institution shall promptly provide information regarding the office(s) of the institution where its disclosure statements are available.

(c) *Manner of making disclosure statements available.* A depository institution shall make its loan data disclosure statements available to anyone requesting them for inspection or copying during the hours the office is normally open to the public for business. A depository institution that provides photocopying facilities may impose a reasonable charge for this service.

(d) *Reporting requirements.* For purposes of data aggregation, a depository institution shall send two copies of its complete disclosure statement to the regional office of its enforcement agency by March 31 following the calendar year for which the data were compiled.

#### § 203.6 Administrative enforcement and sanctions for violations.

(a) *Administrative enforcement.* As set forth more fully in §§ 305(b) and 306(b) of the act, compliance with the act and this regulation is enforced by the Comptroller of the Currency, the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

(b) *Sanctions for violations.* (1) A violation of the act or this regulation is

compiled. Updates shall not be used for previously traced areas.

subject to administrative sanctions as provided in § 305(c) of the act.

(2) An error in compiling or disclosing required data is not considered a violation of the act or this regulation if the error was unintentional and resulted from a *bona fide* mistake despite the maintenance of procedures reasonably adapted to avoid such an error.

#### Supplement

##### § 203.30 Procedures for an exemption application pursuant to § 203.3(b) of Regulation C (Supplement I).

(a) *Application.* Any state,<sup>1</sup> state-chartered depository institution, or association of such depository institutions may apply to the Board pursuant to this supplement and the Board's Rules of Procedure (12 CFR 262) for an exemption from Regulation C under § 203.3(b). Such an exemption requires a determination that a state-chartered depository institution is subject to state law requirements<sup>2</sup> substantially similar to those imposed by Regulation C (12 CFR 203), and that there is adequate provision for enforcement of those requirements.

(b) *Supporting documents.* The application, which may be made by letter, shall include

(1) A copy of the full text of the relevant state law, including provisions for enforcement;

(2) A statement of reasons why the state requirements are substantially similar to those imposed by the act and Regulation C, including an explanation why any differences are not significant; and

(3) An undertaking to inform the Board within 30 days of the occurrence of any change in the relevant state law.

(c) *Public notice of filing.* The Board will publish in the **Federal Register** notice of the filing of an application that complies with the above requirements. A copy of the application will be made available for examination during business hours at the Board and at the Federal Reserve Bank of each Federal Reserve District in which the applicant is situated. The Board will provide a period of time for interested persons to submit written comments. For multiple applications concerning the same state law, the Board may (1) consolidate the notice of receipt of all such applications in one **Federal Register** notice, and (2) dispense with publication of notice of applications subsequently received.

<sup>1</sup> "State" includes any subdivision of a state.

<sup>2</sup> "State law" includes any regulations which implement the law, any official interpretations of the law, and regulations of a state agency or department that has jurisdiction over a class(es) of depository institutions.



(d) *Grant of exemption.* If the Board determines that some or all state-chartered depository institutions are subject to requirements substantially similar to those imposed by Regulation C, and that there is adequate provision for enforcement, the Board will exempt such institution(s) from the requirements of Regulation C (except as specified in § 203.3(b)) by publishing notice of the exemption in the **Federal Register** and furnishing a copy of the notice to the applicant, to each state authority responsible for administrative enforcement of the state law, to the regulatory authorities specified in § 305(b) of the act, and to each participant in the proceeding.

(e) *Subsequent amendments; revocation of exemption.* (1) The Board will inform the appropriate state official of any subsequent amendments to Regulation C (including published interpretations of the Board) that might require amendment of the state law. The Board may in certain instances require reapplication for an exemption.

(2) The Board reserves the right to revoke an exemption if at any time it determines that state law does not in fact impose requirements substantially similar to those imposed by Regulation C, or that there is not in fact adequate provision for enforcement.

(3) The Board will publish notice of its intent to revoke an exemption in the **Federal Register** and will send the notice to the appropriate state official. A period of time will be allowed from the date of publication for interested persons to submit written comments.

(4) If an exemption is revoked, the Board will publish notice of the revocation in the **Federal Register** and will send a copy of the notice to the appropriate state official and to the regulatory authorities specified in § 305(b) of the act.

(5) The Board may dispense with the procedures set forth in this section in any case in which it finds such procedures unnecessary.

#### Appendix A—Instructions for Completion of FORM HMDA-1 (revised): "Loan Disclosure Statement"

##### General Instructions

1. Dollar amounts should be rounded to the nearest thousand (\$500 and greater is to be rounded up), and shown in terms of thousands.

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 for each SMSA.

3. SMSA boundaries are those defined by the U.S. Department of Commerce as of January 1 of the calendar year to which the loan data relates.

4. Institutions should continue to use census tract numbers appearing on the maps in the Bureau of the Census 1970 PHC(1) Series until the 1980 Series is completely available. A previously untraced area is to be reported by the most recent census tract update, if any, existing on January 1 of the calendar year to which the disclosure statement relates. Updates are *not* to be used for *previously traced* areas.

5. If the census tract number is duplicated within an SMSA, the county, city or town that uniquely identifies the number should be stated.

6. This statement must be retained and made available for five years from March 31 following the calendar year for which the data was compiled.

##### Specific Instructions

##### 1. Geographic Itemization (first column).

(a) *Section 1.* Loan data are to be itemized by SMSA, and further itemized within each SMSA by:

(i) census tract in which the property is located, or

(ii) if property is located in a county with a population of 30,000 or less, or in an area that has not been assigned census tracts on the Bureau of Census 1970 PHC(1) Series maps, then itemization must be by county name (not census tract).

(b) *Section 2.* If the property is located outside the SMSAs in which the institution has a home or branch office, the data for such loans should be listed as an aggregate sum; no geographic itemization is necessary.

2. *Type-of-Loan Itemization* (remaining columns): Each geographic category is to be further itemized by loan type as follows:

(a) *FHA, FmHA, and VA loans* on 1-to-4 family dwellings (second column). This category includes only loans that are secured by and made for the purpose of purchasing residential real property. It does not include, for example, FHA Title I loans, which are to be classified in category (c).

(b) *Other home purchase loans* ("conventional" loans) on 1-to-4 family dwellings (third column).

(c) *Home improvement loans* on 1-to-4 family dwellings (fourth column). This category is limited to loans recorded on the institution's books as home improvement loans.

(d) *Total home purchase and home improvement loans* on dwellings for more than 4 families (fifth column).

(e) *Non-occupant loans* on 1-to-4 family dwellings (sixth column). This is an addendum column; it should include total home purchase and home improvement loans on 1-to-4 family dwellings (from columns 2, 3, and 4) made to any borrower who did not, at the time of the loan application, intend to use the property as a principal dwelling. A depository institution may assume, unless its records contain information to the contrary, that a loan it purchases does not fall within this category.

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Loan Disclosure Statement

Name of Depository Institution:  
 SMSA:  
 Year:

Federal Enforcement Agency for this Institution  
 Name:  
 Address:

Part A - Originations

Section 1 - Data for Property Located Within SMSAs in Which Institution Has Home or Branch Offices

									Addendum Item	
CENSUS TRACT (in numerical sequence) or COUNTY NAME	FHA, FmHA OR VA LOANS (on 1-to-4 family dwellings)		OTHER HOME PURCHASE LOANS ("conventional" loans) (on 1-to-4 family dwellings)		HOME IMPROVEMENT LOANS (on 1-to-4 family dwellings)		TOTAL HOME PURCHASE AND HOME IMPROVEMENT LOANS (on dwellings for more than 4 families)		NON-OCCUPANT LOANS (on 1-to-4 family dwellings)	
	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)

Section 2 - Data for All Property Located Outside SMSAs in Which Institution Has Home or Branch Offices

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Loan Disclosure Statement (cont.)

Part B - Purchases

Section 1 - Data for Property Located Within SMSAs in Which Institution Has Home or Branch Offices

								Addendum Item	
CENSUS TRACT (in numerical sequence) or COUNTY NAME	FHA, FmHA OR VA LOANS (on 1-to-4 family dwellings)	OTHER HOME PURCHASE LOANS ("conventional" loans) (on 1-to-4 family dwellings)	HOME IMPROVEMENT LOANS (on 1-to-4 family dwellings)	TOTAL HOME PURCHASE AND HOME IMPROVEMENT LOANS (on dwellings for more than 4 families)	NON-OCCUPANT LOANS (on 1-to-4 family dwellings)				
	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)	No. of loans	Principal amount (thousands)	
					</				

Section 2 - Data for All Property Located Outside SMSAs in Which Institution Has Home or Branch Offices

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///	///	///	///	///	///	///	///	///	///	///

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**Appendix B—Federal Enforcement Agencies**

The following list indicates which federal agency enforces Regulation C for particular classes of institutions. Any questions concerning compliance by a particular institution should be directed to the appropriate enforcing agency.

**National Banks**

Comptroller of the Currency, Office of Customer and Community Programs, Washington, D.C. 20219.

**State Member Banks**

Federal Reserve Bank serving the district in which the state member bank is located.

**Nonmember Insured Banks and Mutual Savings Banks**

Federal Deposit Insurance Corporation Regional Director for the region in which the bank is located.

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

The Federal Home Loan Bank Board Supervisory Agent in the district in which the institution is located.

**Credit Unions**

Division of Consumer Affairs, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

**Other Depository Institutions**

Federal Deposit Institution Corporation Regional Director for the region in which the institution is located.

(5) *FFIEC's proposed aggregation tables.* General. Section 310 of the Home Mortgage Disclosure Act (HMDA) as amended requires the Federal Financial Institutions Examination Council (FFIEC) to compile, for each standard metropolitan statistical area (SMSA), aggregate residential loan data by census tract for all depository institutions that are required to report under HMDA or similar state regulations. The FFIEC is also directed to produce tables for each SMSA that indicate aggregate residential lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

Under HMDA, depository institutions are required to disclose separately data about originations and purchases. The FFIEC proposes to aggregate only the data about loans *originated* by lenders (as reported in the Board's proposed loan disclosure statement, Part A—Originations, Section I—Data for Property Located Within SMSAs in Which Institution Has Home or Branch Offices; and equivalent data from exempt-state institutions). The FFIEC is proposing to aggregate only loan originations since originations reveal the amount of new funds loaned in a particular census tract or SMSA. Aggregated data on purchases could be misleading, since they could reflect loans

originated in a particular area not only during the current year, but also during any preceding year. In addition, aggregation of purchases could give a false impression of activity since they often reflect another lender's originations and, when aggregated, result in some duplication. Significant cost savings can be achieved by aggregating only origination information. The data on purchases would, of course, be available from individual depository institutions and at the central repository.

The originated loan data reported by covered depository institutions would be aggregated for each of the 288 SMSAs in the country. The tables produced would be available for review by the public at the central data repositories to be established in each SMSA. Copies of the tables would be available from the FFIEC at cost.

The aggregate residential lending patterns reflected by the tables can be used to enhance comparisons of an individual depository institution's residential lending pattern to the aggregate. The aggregate residential lending patterns can also be used by public officials to aid in the determination of target areas for public investment.

Census information to be used initially in the aggregation of the loan disclosure statements (or equivalent exempt-state reports) will be from the 1970 Census of Population and Housing. The 1980 Census of Population and Housing material will be used when the entire series becomes available.

The FFIEC is publishing for comment a package of proposed tables that would be produced for each SMSA. The proposed tables are presented in five sections, each addressing a specific aggregation requirement of the act.

*Proposed Tables.* Section I presents a proposed format for the basic aggregation table to be produced for each SMSA. The table details for each census tract or county the aggregated HMDA disclosure information for all covered depository institutions in a particular SMSA. In addition, the racial, income, and age of housing stock characteristics of each census tract are included.

Section II presents a proposed format to satisfy the requirement that aggregate lending patterns be shown for various groups of census tracts in an SMSA, categorized by the income characteristics of their population. Three broad categories are proposed:

(a) Low income census tracts (those tracts with median family income less than 80 percent of the SMSA median family income),

(b) Middle income census tracts (those tracts with median family income between 80 and 120 percent of the SMSA median family income), and

(c) Upper income census tracts (those tracts with median family income greater than 120 percent of the SMSA median family income).

Section III presents a proposed format to satisfy the requirement that aggregate lending patterns be shown for various groups of census tracts in an SMSA, categorized by the racial characteristics of their population. The table proposes that the tracts be grouped within three broad categories:

(a) Census tracts with less than 15 percent minority population,

(b) Census tracts with between 15 and 75 percent minority population, and

(c) Census tracts with greater than 75 percent minority population.

Section IV presents a proposed format to satisfy the requirement that aggregate lending patterns be shown for various groups of census tracts in an SMSA, categorized according to their location. Two broad categories of data aggregation are proposed:

(a) Central city (those census tracts that comprise the core city of the SMSA), and

(b) SMSA less central city (those census tracts and small counties that fall outside the SMSA core city).

Section V presents a proposed format to satisfy the requirement that aggregate lending patterns be shown for various groups of census tracts in an SMSA, categorized by the age of the housing stock. Three categories are proposed:

(a) Census tracts whose median housing stock age is less than the SMSA median housing stock age,

(b) Census tracts whose median housing stock age is equal to the SMSA median housing stock age, and

(c) Census tracts whose median housing stock age is greater to the SMSA median housing stock age, and

*Comments.* The FFIEC is particularly requesting comments on the proposed tables grouping census tracts according to income characteristics (Section II) and racial characteristics (Section III) of their population. In the case of income characteristics, will the census tract groupings of low, middle, and upper income using the SMSA median family income as a base provide users with sufficient data to analyze aggregate lending patterns? In the case of racial characteristics, will the proposed census tract groupings provide users with sufficient data to analyze aggregate lending patterns? Specific comments relating to these two tables should include suggestions based on the information available from the 1970 Census of Population and Housing.

**Proposed Aggregation Tables****Section I. Aggregate Data**

Aggregation of HMDA data for all covered depository institutions in each SMSA disclosed by either census tract or county name in which an institution has offices. Tables also provide racial, income, and



housing unit age characteristics for each geographic area.

#### Section II. Income Categories

Each census tract in an SMSA is categorized by the relationship between its median family income and the median family income of the entire SMSA:

- (a) Low income areas—census tracts with median family income less than 80 percent of SMSA median family income.
- (b) Middle income areas—census tracts with median family income between 80 percent and 120 percent of SMSA median family income.
- (c) Upper income areas—census tracts with median family income greater than 120 percent of SMSA median family income.

#### Section III. Race Categories

Each census tract in an SMSA is categorized by the racial characteristics of its population:

- (a) Census tracts with less than 15 percent minority population.
- (b) Census tracts with between 15 and 75 percent minority population.
- (c) Census tracts with greater than 75 percent minority population.

#### Section IV. Location Categories

Each census tract in an SMSA is categorized by its general location; that is central SMSA city(s) or within the SMSA but outside the central city:

- (a) Central SMSA city(s)—SMSA census tracts that fall in the core SMSA city(s).
- (b) SMSA less central city(s)—all SMSA census tracts and counties not included in the core city.

#### Section V. Age of Housing Stock Categories

Each census tract in an SMSA is categorized by the median age of its housing stock relative to the SMSA median housing stock age:

- (a) Census tracts whose median housing unit age is less than the SMSA median housing unit age.
- (b) Census tracts whose median housing unit age is equal to the SMSA median housing unit age.
- (c) Census tracts whose median housing unit age is greater than the SMSA median housing unit age.

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Section I SMSA "NAME" ORIGINATIONS													
Census Tract Number, or County Name <sup>1/</sup>	FHA, FmIA or VA Loans (1-4 family dwellings)		Other Residential Mortgage Loans ("Conventional") (1-4 family dwellings)		Total Home Improvement Loans (1-4 family dwellings)		Total Mortgage Loans on Multi- Family Dwellings		Non-Occupant Loans (1-4 family dwellings)		Percentage Minority Population	Median income as a percent of SMSA Median income	Median age of housing stock <sup>2/</sup>
	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	Percentage	Percentage	Years
Census Tract 0001													
.													
.													
.													
9999													
County Name													
.													
.													
.													
SMSA Total													
<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto; background: repeating-linear-gradient(45deg, transparent, transparent 2px, black 2px, black 4px);"></div>													
Total													
SMSA percentage of minority population:													
SMSA median income:													
SMSA median age of housing stock:													

<sup>1/</sup> If a census tract number is duplicated within an SMSA, a county designation will be included.

<sup>2/</sup> Because the census data on housing stock age is categorized in intervals of several years, the median housing stock age of a census tract is determined by calculating the midpoint of the interval in which the median unit falls.



Section II SMSA "NAME" ORIGINATIONS										
Census Tract Income Category	FHA, FmHA or VA Loans (1-4 family dwellings)		Other Residential Mortgage Loans ("Conventional") (1-4 family dwellings)		Total Home Improvement Loans (1-4 family dwellings)		Total Mortgage Loans on Multi- Family Dwellings		Non-Occupant Loans (1-4 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
Low Income Areas:										
Middle Income Areas:										
Upper Income Areas:										
Column Total										

Section III SMSA "NAME" ORIGINATIONS										
Census Tract Racial Category	FHA, FmHA or VA Loans (1-4 family dwellings)		Other Residential Mortgage Loans ("Conventional") (1-4 family dwellings)		Total Home Improvement Loans (1-4 family dwellings)		Total Mortgage Loans on Multi- Family Dwellings		Non-Occupant Loans (1-4 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
Less than 15% minority tracts:										
15% to 75% minority tracts:										
greater than 75% minority tracts:										
Column Total										



Section IV SMSA "NAME" ORIGINATIONS										
Location Category 1/	FHA, FmHA or VA Loans (1-4 family dwellings)		Other Residential Mortgage Loans ("Conventional") (1-4 family dwellings)		Total Home Improvement Loans (1-4 family dwellings)		Total Mortgage Loans on Multi- Family Dwellings		Non-Occupant Loans (1-4 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
Central City(s):										
SMSA Less Central City(s):										
Total										

1/ SMSA less central city includes all census tracts and noncontracted counties outside the central city(s) but within the SMSA.

Section V SMSA "NAME" ORIGINATIONS										
Housing Stock age:	FHA, FmHA or VA Loans (1-4 family dwellings)		Other Residential Mortgage Loans ("Conventional") (1-4 family dwellings)		Total Home Improvement Loans (1-4 family dwellings)		Total Mortgage Loans on Multi- Family Dwellings		Non-Occupant Loans (1-4 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
Census Tract: Median housing age greater, less than, or equal to SMSA median housing unit age 1/										
Less than SMSA median:										
Equal to SMSA median:										
Greater than SMSA median:										

1/ Because the census data on housing stock age is categorized in intervals of several years, the median housing stock age of a census tract is determined by calculating the mid-point of the interval in which the median unit falls.

By order of the Board of Governors,  
February 3, 1981.

James McAfee,  
Assistant Secretary of the Board.

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