FEDERAL RESERVE BANK
OF NEW YORK

Circular No. 9125
August 7, 1981

HOME MORTGAGE DISCLOSURE
Revision of 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 revised its Regulation C, "Home Mortgage Disclosure," in order 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. Institutions with more than $10 million in assets are covered.

The Board's action, effective immediately for the most part, followed amendment of the Act by the Congress and extension of 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 further revisions of the regulation implement the other changes in the Act.

At the same time the Board has further revised the regulation — in keeping with the Board's Regulatory Improvement Project for review and simplification of all of its regulations — to simplify the language and substance of Regulation C, to focus disclosure requirements on those that are most useful and that can be provided at reasonable cost, and to make the regulation more concise. The revised regulation is nearly a third shorter than the existing regulation.

The principal revisions of Regulation C:

—Require depsoitory institutions to report the location of property on which they make mortgage or home improvement loans, and related data, to their primary Federal regulators. The data will be forwarded to the Federal Reserve for compilation and aggregation. To this end the Board has prepared a standard reporting form, which will be supplied to lenders in the near future.

—Require covered institutions, effective September 30, 1981, to display a notice in their lobby that information about the institution's mortgage lending is available. The Board will furnish such a notice upon request.

—Permit the use of either 1970 or 1980 census tracts as a basis for reporting, pending full availability of 1980 census tract maps from the Census Bureau.

—Permit most institutions that have been exempt (on grounds of size or location) 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.

—Avoid duplicate reporting of loans by a branch and a head office of a lending institution located in the same SMSA.

—Limit reports by branch offices to data on loans made on property in the SMSA where the branch is located.

Printed on the following pages is a summary description of the revised Regulation C. The complete text of the revised regulation and the official notice of the Board's action, including the Board's regulatory analysis, will be published in the *Federal Register*. Single copies of that text may be obtained from the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (Tel. No. 202-452-2412), or from the Circulars Division of this Bank (Tel. No. 212-791-5216).

Printed copies of the revised Regulation C, in pamphlet form, will be sent to all member banks in the Second Federal Reserve District and others who maintain sets of the Board's regulations as soon as they are available. Questions regarding Regulation C may be directed to our Consumer Affairs and Bank Regulations Department (Tel. No. 212-791-5914).

ANTHONY M. SOLOMON,
President.

FEDERAL RESERVE SYSTEM

[12 CFR Part 203]

[Regulation C; Docket No. R-0350]

HOME MORTGAGE DISCLOSURE

Revision of Regulation C

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form a revised version of Regulation C. Regulation C implements the Home Mortgage Disclosure Act 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. Institutions with less than $10 million in assets are exempt from coverage.

The revision implements certain amendments to the act made by the Housing and Community Development Act of 1980, and simplifies the regulation generally. The proposed revision was published for comment at 46 FR 11780 (February 10, 1981).

A regulatory analysis has been prepared, 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). Copies may be obtained from the Consumer Affairs office of any Federal Reserve Bank or from the Board's Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D. C. 20551.

The Board also adopted mortgage loan disclosure form HMDA-1, whose use will be mandatory for the reporting of 1981 loan data. This form has been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act. The Board will issue it in final form once the OMB review procedures have been completed.

EFFECTIVE DATES: The regulation takes effect immediately, except that a lobby notice requirement takes effect on September 30, 1981.

FOR FURTHER INFORMATION, CONTACT: John C. Wood, Senior Attorney, or Claudia Yarus, Jesse Filkins, or Lynn Goldfaden, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) General. Regulation C implements the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 et seq., and requires depository institutions over $10 million in assets that have offices in SMSAs to make annual disclosure of their mortgage lending activity. On October 8, 1980, provisions of the Housing and Community Development Act of 1980 (Pub. L. 96-399) amended HMDA and extended it for a five-year period. The amendments require (1) that depository institutions change their data compilation and disclosures 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 in each SMSA; 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 and subsequent years (45 FR 80813).

On February 10, 1981, the Board published a proposed revision of Regulation C to implement the remaining statutory changes (46 FR 11780), and received approximately 225 comments. The Board is now adopting a revised Regulation C in final form.

The Board has also adopted a revised version of the HMDA-1 form. As required by the Paperwork Reduction Act (Pub. L. 96-511), the form must still undergo OMB review. The Board will publish the final version after that review has been completed.

Under 5 U.S.C. 553(d), the general requirement to delay the effective date of a rule until 30 days or more after its publication does not apply where, as in this case, the rule relieves restrictions. Accordingly, the regulation is effective immediately, with the exception of a lobby notice requirement which becomes effective on September 30, 1981, to allow time for achieving compliance.

(2) Revised regulation. 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. The revised regulation is approximately 30 percent shorter than the original version, and should be easier to use and comply with. Some of the principal changes in the revised regulation are as follows. First, disclosures are no longer required at a branch office in the SMSA where the institution's home office is located. A disclosure statement will continue to be available at the home office; it will contain complete data for all SMSAs in which the institution has offices. Second, disclosures at other branch offices are only required to give data about loans on property in the SMSA where the branch is located.

Third, the "total residential mortgage loans" category (that is, the sum of the FHA/FmHA/VA loan category and the conventional loan category) is no longer required. Fourth, geographic breakdowns are to be given in terms of census tracts or counties; ZIP codes are no longer used. Fifth, an institution may use either 1970 or 1980 census tract boundaries in geocoding loans. Sixth, a lobby notice is required regarding the availability of HMDA data. Finally, an institution that has exempt status and that subsequently loses its exemption must begin to compile and report data only, in general, for the calendar year following the loss of exemption (rather than for the preceding year, as in the present regulation).

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[NOTE: The complete text of the Federal Register notice, including the regulatory text, can be obtained from any Federal Reserve Bank or from the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D. C. 20551.

REGULATORY ANALYSIS OF REVISED REGULATION C (HOME MORTGAGE DISCLOSURE)

Board of Governors of

the Federal Reserve System

August 4, 1981

REGULATORY ANALYSIS OF REVISED REGULATION C (HOME MORTGAGE DISCLOSURE)

Introduction. The regulatory analysis that follows has been prepared pursuant to the Board's policy statement of January 19, 1979 (44 FR 3957), concerning expanded rulemaking procedures. It also satisfies the requirement for a final regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 604.

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." 1/

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." 2/

The 1980 HMDA amendments to the 1975 act impose substantial additional costs that fall largely 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

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

2/ Ibid., Sec. 302.

and disclose to the public, by geographic location, 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. One of the studies considered in the regulatory analysis of revised Regulation C was the Federal Home Loan Bank Board/ Federal Deposit Insurance Corporation (FHLBB/FDIC) study commissioned to evaluate the 1975 Home Mortgage Disclosure Act. 3/ Although the FHLBB/FDIC study focused on the 1975 Home Mortgage Disclosure Act and was carried out in 1977, the study remains 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, although the FHLBB/FDIC study did identify 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 the data's usefulness for CRA protest purposes, relatively few community groups have sought to obtain the information, at least in the early years.4/ Actual usage by

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3/ "Analysis of the Home Mortgage Disclosure Act Data from Three Standard Metropolitan Statistical Areas," JRB Associates, McLean, Virginia, November 1979.

4/ A U. S. 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. Similarly, the FHLBB/FDIC study of HMDA found that requests for HMDA statements from institutions in the three survey areas were infrequent; 41 percent of the institutions reported no requests, while an additional 18 percent of the institutions reported receiving only one request.

community groups is difficult to assess, however, because a single umbrella organization may obtain the disclosure data and disseminate the information widely throughout its membership. Although community groups have not made much publicized use of HMDA data to date, their utilization of the disclosure information may increase in the future.

Finally, based on the findings of the FHLBB/FDIC study and a review of the comments on the proposed regulation, it appears that the vast majority of reporting institutions have received few 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 also been of value to community groups and local public officials.

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) 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 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 act in 1980, directs the Federal Reserve Board to prescribe a standard format for disclosures required under HMDA. 5/ The standard format should eliminate some errors with very little additional cost to the institutions. The study also 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 allotted for accuracy reviews of the disclosure statements. It was estimated that implementation of the latter 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 an aggregate basis. The study estimated that, nationwide, HMDA cost the 8,138 reporting institutions approximately $5.8 million in 1977. Based on these estimates, reporting institutions would have 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 incurred an average per loan

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

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 typically incur a greater average cost per loan than either savings and loan associations or mutual savings banks because commercial banks typically extend fewer residential loans than these other 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 financing are likely to be the smaller depository institutions. As a result, the costs of HMDA compliance are borne disproportionately by the smaller depository institutions, which in turn pass these costs on to their customers.

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 institutions 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.

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 will probably not be excessive, the benefits also are likely to be small. The system does not provide any new information and is solely a convenience for users.

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. 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, largely to the financial institution regulatory agencies. The FHLBB/ FDIC HMDA study estimated aggregation costs to be approximately $1 million annually with a possible variation in actual costs of anywhere from minus-30 percent to 50 percent of that estimate. A cost analysis prepared by Federal Reserve System staff during 1980 estimated that aggregation of HMDA data will cost approximately $300,000 in the first year.

Aggregation will impose minor burdens on the reporting institutions, arising from the need to send 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 in the 1980 HMDA hearings and in public comments received on the proposed regulation to support aggregation. First, it was argued that the utility of using and evaluating the HMDA statements of individual institutions will be enhanced if comparisons can be made of 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.

It seems unlikely that the first suggested use will 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 prepared on an individual institution basis and that is the form in which it is principally used. Usually, when comparing one institution's record with others, comparisons must be between institutions of similar types and sizes to be analytically sound. Having an overall view of SMSA lending patterns is not likely to be 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, it is difficult to determine whether 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 could 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 original regulation defined a first lien loan secured by residential property even if it was for

home improvement purposes, as a residential mortgage loan. This resulted in some distortion of the data because it essentially required lenders to categorize home improvement loans secured by a first lien as home purchase loans. The proposal that was published for comment would have required lenders to categorize loans as either home purchase or home improvement loans according to their purpose as stated by the borrower. The proposed definitions were intuitively appealing and would have provided more accurate information about the residential credit activity of covered lenders. However, some commenters stated that the proposed change would be burdensome because they generally record all first lien loans together on their books. From their perspective, the original definitions were satisfactory. Other commenters favored the proposed definitions because they are in accord with their own loan classification procedures.

The final regulation gives institutions the option to treat a first lien loan for rehabilitation or repair as a home purchase or home improvement loan, depending on how the institution normally records such loans on its books. The final regulation is a clear improvement over the original definition. It will reduce distortion in the data and allow lenders to choose the least burdensome alternative in categorizing their loans for purposes of the act. While some continued distortion of the data is likely, it should be reduced because institutions that prefer to categorize first lien home improvement loans as such, will not be required to categorize them as home purchase loans. The final regulation will not impose any new costs on the reporting institutions and may reduce costs for lenders that previously had to set up a separate data collection system for purposes of HMDA compliance.

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 an area designated as an SMSA. 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 the congressional perceptions that disinvestment by depository institutions is largely an urban problem, and that HMDA requirements should not 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 ($3.67) 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

inequitable treatment of the different types of institutions covered by the act.[6] 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 residental 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 making 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 such loans made by the lender in a calendar year.[7] 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.[8] Such an exemption standard would substantially reduce the number of institutions required to report under the act.[9] However, the impact on the proportion of residential loans disclosed would be less substantial since the excluded institutions are the least active home lenders.

6/ 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.

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

8/ 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.

9/ 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.

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). 10/ 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.

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 by 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's 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. As noted in the public comments received on the proposed regulation, adoption of the portfolio exemption standard would reduce the communities' ability to evaluate the residential lending record of exempt institutions. However, these institutions are only exempt because of their limited residential lending and therefore have very little loan data to evaluate. Answering the more basic question of whether or not they should be more extensively involved in residential lending would not be materially affected by their exemption from HMDA.

In light of its goal to reduce regulatory costs and in consideration of its responsibilities under the new Regulatory Flexibility Act (Pub. L. 96-354) the Board weighed the possibility of adopting the portfolio exemption standard. The Board ultimately decided not to adopt a portfolio exemption partly because the Senate had considered, and rejected, a similar proposed amendment during the debate on the re-enactment of HMDA in 1980.

10/ 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.

In a letter to Congress, the Board later recommended that Congress reconsider a revised mortgage portfolio exemption standard. The letter suggested that, in addition to the $10 million residential loan portfolio standard and the 200 loan criterion, Congress might choose to designate an upper limit on the size of institution that could avoid reporting. If this amendment were added to the original proposal large institutions would report irrespective of the size of their residential loan portfolio. If $100 million in assets were established as the standard, an additional 227 commercial banks would be required to report. These 227 commercial banks held 1.1 percent of the mortgage plus home improvement loans held by SMSA based commercial banks as of December 31, 1979. Table 1 provides a categorization of commercial banks by asset size under the portfolio exemption standard proposed by the Board.

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 their 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 become subject to reporting requirements during a calendar year to report beginning with data for the first calendar year after the year in which their exemption was lost. The previous 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 becomes subject to reporting requirements.[11]/ 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 would not be available in time to be included in the SMSA aggregation process. Note: this rule will not hold for institutions that lose their state-exempt status. These institutions will be required to begin compiling federal disclosure statements for the calendar year following the year in which they compiled their last annual state disclosure statement. This exemption will ensure an uninterrupted series of annual disclosure statements by institutions that lose their state exemption.

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

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11/ $1,426 represents the 1977 costs of compiling home mortgage disclosure statements for two years for the average institution covered by the act.

TABLE 1

Distribution of Exempt and Covered Commercial Banks Categorized by Asset Size Under $10 Million Portfolio Exemption Standard 1/

Asset Size 2/ (millions of dollars)	Exempt 3/ (number of institutions)	Percentage of Mortgage Plus Home Improvement Loans Held by Exempt Commercial Banks (Percentage)	Covered (number of institutions)	Percentage of Mortgage Plus Home Improvement Loans Held by Covered Commercial Banks 4/ (Percentage)
$10 - 50	2778	7.5	156	1.6%
50 - 100	591	2.4	418	5.5
100 - 200	171	0.8	436	8.7
200 - 300	31	0.2	172	4.9
300 - and over	25	0.1	430	68.0
TOTAL	3596	11.0	1612	88.7

Impact of the $10 Million Portfolio Exemption Standard on Savings and Loan Association and Mutual Savings Banks

	Number Currently Required to Report Under the $10 Million Asset Exemption	Number Required to Report Under $10 Million Portfolio Exemption	Percentage of Mortgage Plus Home Improvement Loans Held by S&Ls and MSBs Covered by the $10 Million Portfolio Exemption
S&L	2339	2255	99.5%
MSB	298	296	99.9

1/ All calculations are based on year-end 1979 Call Report data. All commercial bank estimates are influenced slightly by the fact that commercial banks with less than $100 million in assets do not separately report unsecured home improvement loans. Therefore, estimates for these banks are based solely on mortgages and home improvement loans secured by real estate.

2/ Under the existing statute all of the 5208 commercial banks in the table are required to report.

3/ Some of the commercial banks in the exempt category would be required to report because they extend more than 200 home loans per year even though they maintain home loan portfolios of less than $10 million.

4/ This column indicates that 88.7% of the dollar value of mortgage plus home improvement loans held by commercial banks currently required to report under the $10 million asset exemption standard will still be covered under the proposed $10 million portfolio exemption standard. Because of rounding, columns three and five do not sum to 100%.

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. 12/ As a result, the revised regulation does not technically change the reporting period from that which is mandated in the current regulation. 13/

The 1980 HMDA amendments direct the Federal Reserve Board to 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 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 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 paperwork. Moreover, deletion of this

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12/ 45 FR 80813, December 8, 1980.

13/ The regulatory amendment imposed 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 1979-80 reports that falls in calendar year 1980. The FHLBB/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.

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. 14/

Section 203.3(b) of the regulation in effect requires exempt-state institutions to follow the basic reporting format. Because of the aggregation requirements specified in the Act, state exemptions from HMDA will only be given by the Board if the state disclosure statement is substantially similar to the HMDA-1 Form contained in the regulation. Aggregation requirements necessitate the establishment of a uniform reporting format because the exempt-state institutions must be incorporated into the aggregation process. This requirement may impose additional costs on some of these institutions, although 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 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 untracted SMSA counties with populations that exceed 30,000. As a result, the revised regulation allows lenders extending credit in such untracted areas to report the data by county name. Disclosure by county name in these large untracted counties should marginally reduce the costs of compliance and improve the accuracy of the disclosure reports.

14/ This figure was derived by calculating one-seventh of the statement related and tract line related costs of aggregation estimated in the 1979 FHLBB/FDIC study. This cost savings estimate may be somewhat overstated if the Federal Reserve's more recent estimates of aggregation costs prove accurate.

Section 203.4(d) of the revised regulation requires depository institutions to use the 1980 Census of Population and Housing: CENSUS TRACTS, Final Reports, PHC80-2 series prepared by the Bureau of the Census, U.S. Department of Commerce, to determine whether property is located in a particular census tract. According to the Census Bureau, 1980 census tract outline maps will not be completely available until January 1983. Currently the Bureau of the Census has available for purchase street address coding guides based on the 1980 census tract boundary definitions that may be used by institutions to geocode their home loans. However, such guides are not available for recently designated SMSAs, and may not be comprehensive enough to allow an institution to geocode every covered loan in an SMSA for which the guide is available.

In recognition of the fact that the 1980 census tract outline maps are not currently available, the regulation allows depository institutions to continue reporting on the basis of the 1970 census tract definitions until the complete 1980 census tract outline map series is available. The 1970 census tract maps for each SMSA have been available for some time and may be purchased from the Bureau of the Census. In addition, street address coding guides based on the 1970 census tract definitions are available at a nominal fee from the Bureau of the Census. 15/ Because reporting institutions have the option of using the 1970 census tract definitions or switching to the 1980 definitions during this transition period, it is important that the disclosure statement clearly identify which census served as the basis for the report.

The decision to allow reporting on the basis of either the 1980 or 1970 census tract definitions during this transition period was based on comments received from the public indicating that many institutions had already switched to the 1980 census tract definitions. Because the final regulation will not be published until mid-1981, it could be more costly to require those institutions that have already made the transition to the 1980 census tract definitions to switch back again to the 1970 definitions. It is believed that as long as the disclosure statements clearly identify which census was used as the basis for the report the usefulness of the reports will be largely unaffected.

A switch from the 1970 to the 1980 census is clearly desirable in order to take advantage of the most recent demographic information. However, the changeover from preparation of disclosure statements on the basis of the 1970 census tract definitions to the 1980 definitions will create some problems for users. These problems are mitigated by the fact that only 8 percent of the 1970 census tracts have had substantial boundary changes in the transition from the 1970 to 1980 census. Nonetheless, the changeover will complicate analysis of a given institution's residential lending record over time. This problem may be overcome by users when a copy of the 1980-1970 Census Tract Equivalency List becomes available from the Bureau of the Census. The equivalency list will allow users to determine the principal boundary changes that have occurred in the transition from the 1970 to 1980 census.

15/ 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 for both the 1970 and 1980 census are also available from the Bureau of the Census. The 1980 guides range in price from $.78 to $70.27 for an SMSA with an average price of $6.54 per SMSA.

The reporting option authorized in § 203.4(d) will create a problem for individual users of the HMDA data. The problem arises if users want to compare an institution that prepared its disclosure statement on a 1980 census tract basis with another institution that prepared the report on a 1970 census tract basis. This problem is mitigated by the fact that most users of the data are primarily concerned with the small subset of census tracts that comprise their neighborhood. Once again the comparability problem may be overcome by using the Census Tract Equivalency List.

The option to compile statements on either a 1970 or 1980 census tract basis will not create a problem for the HMDA aggregation project. A 1980 to 1970 census tract conversion file is available for purchase for $9470. This file will be employed to convert institutions' reports prepared on a 1980 census tract basis into their 1970 equivalents. The converted reports will be combined with the reports prepared on the 1970 census tract basis in each SMSA. The combined reports will then be matched with socioeconomic data from the 1970 census to produce the aggregation tables required by the Act. Use of the 1970 socioeconomic data will be necessary until the final count of the 1980 census is released.

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 SMSAs other than the SMSA in which the particular branch office is located.

This rule change should 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 will be available at the institution's home office.

Section 203.5(d) of the final regulation requires covered institutions to post a lobby notice in all of their SMSA based offices. The lobby notice should indicate that the institution's annual HMDA statement is available for

review by the public. This is a more restrictive requirement than that which existed under the previous regulation. The proposed regulation that was published for comment suggested that all notification requirements would be dropped. The decision to require a lobby notice is based on the belief that the prior notification requirement (which also permitted notice to be given with periodic statements or in a newspaper) did not assure that the public would be effectively informed of the availability of the HMDA information.

The lobby notification requirement will impose some costs on those institutions that previously used a medium of communication other than a lobby notice. It is believed that on net there will be an increase in cost due to this requirement. Specific costs are difficult to calculate because the number of institutions that currently use lobby notices is unknown. If all 8700 institutions had to produce or purchase a lobby notice for each head office and their approximately 50,000 branch offices, the net costs could be relatively large in the aggregate. Two factors mitigate against a large cost increase. First, some institutions already use lobby notices. Second, those institutions that are currently using alternative notification methods will not have to expend those funds under the new regulation. On the other hand, if most institutions chose to place a good quality notice in their lobbies the aggregate costs could be in excess of $225,000. 16/

These costs can be substantially reduced by utilization of a standard HMDA lobby notice provided by the Federal Reserve. The cost to the Federal Reserve is approximately 40 cents a piece.

Section 205.3(e) 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. 17/

16/ The $225,000 estimate is based on 8700 institutions spending 20 dollars each for one master poster and $1 each for copies for their approximately 50,000 other offices. The $20 estimate is based upon information from banks and Washington area print-shops.

17/ 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.

FEDERAL RESERVE SYSTEM

[12 CFR Part 203]

[Regulation C; Docket No. R-0350]

HOME MORTGAGE DISCLOSURE

Revision of Regulation C

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form a revised version of Regulation C. Regulation C implements the Home Mortgage Disclosure Act 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. Institutions with less than $10 million in assets are exempt from coverage.

The revision implements certain amendments to the act made by the Housing and Community Development Act of 1980, and simplifies the regulation generally. The proposed revision was published for comment at 46 FR 11780 (February 10, 1981).

A regulatory analysis has been prepared, 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). Copies may be obtained from the Consumer Affairs office of any Federal Reserve Bank or from the Board's Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D. C. 20551.

The Board also adopted mortgage loan disclosure form HMDA-1, whose use will be mandatory for the reporting of 1981 loan data. This form has been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act. The Board will issue it in final form once the OMB review procedures have been completed.

EFFECTIVE DATES: The regulation takes effect immediately, except that a lobby notice requirement takes effect on September 30, 1981.

FOR FURTHER INFORMATION, CONTACT: John C. Wood, Senior Attorney, or Claudia Yarus, Jesse Filkins, or Lynn Goldfaden, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) General. Regulation C implements the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 et seq., and requires depository institutions over $10 million in assets that have offices in SMSAs to make annual disclosure of their mortgage lending activity. On October 8, 1980, provisions of the Housing and Community Development Act of 1980 (Pub. L. 96-399) amended HMDA and extended it for a five-year period. The amendments require

(1) that depository institutions change their data compilation and disclosures 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 in each SMSA; 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 and subsequent years (45 FR 80813).

On February 10, 1981, the Board published a proposed revision of Regulation C to implement the remaining statutory changes (46 FR 11780), and received approximately 225 comments. The Board is now adopting a revised Regulation C in final form.

The Board has also adopted a revised version of the HMDA-1 form. As required by the Paperwork Reduction Act (Pub. L. 96-511), the form must still undergo OMB review. The Board will publish the final version after that review has been completed.

Under 5 U.S.C. 553(d), the general requirement to delay the effective date of a rule until 30 days or more after its publication does not apply where, as in this case, the rule relieves restrictions. Accordingly, the regulation is effective immediately, with the exception of a lobby notice requirement which becomes effective on September 30, 1981, to allow time for achieving compliance.

(2) Revised regulation. 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. The revised regulation is approximately 30 percent shorter than the original version, and should be easier to use and comply with. Some of the principal changes in the revised regulation are as follows. First, disclosures are no longer required at a branch office in the SMSA where the institution's home office is located. A disclosure statement will continue to be available at the home office; it will contain complete data for all SMSAs in which the institution has offices. Second, disclosures at other branch offices are only required to give data about loans on property in the SMSA where the branch is located.

Third, the "total residential mortgage loans" category (that is, the sum of the FHA/FmHA/VA loan category and the conventional loan category) is no longer required. Fourth, geographic breakdowns are to be given in terms of census tracts or counties; ZIP codes are no longer used. Fifth, an institution may use either 1970 or 1980 census tract boundaries in geocoding loans, until the 1980 census tract outline maps for the SMSA are issued by the Census Bureau. Sixth, a lobby notice is required regarding the availability of HMDA data. Finally, an institution that has exempt status and that subsequently loses its exemption must begin to compile and report data only, in general, for the calendar year following the loss of exemption (rather than for the preceding year, as in the present regulation).

These changes are discussed in greater detail below, along with other changes contained in the revised regulation.

§ 203.1 Authority, purpose and scope.

Section 203.1 corresponds to § 203.1(a) of the existing regulation. (Existing § 203.1(b) now appears in § 203.6.) It gives users of the regulation a brief overview of the purpose, coverage, and requirements of the act and regulation. It does not, however, provide definitive answers on matters of coverage and regulatory requirements; these are found in the remainder of the regulation.

Paragraph (d) references the system of central data repositories and data aggregation mandated by the amended act. 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.

A number of the definitions differ from the existing regulation. Several of the defined terms in the existing regulation have been deleted and incorporated into other definitions.

Branch office. The definition continues to define branch office in terms of approval as a branch by a supervisory agency. A specific exclusion has been added for automated teller machines and other electronic terminals. Although such machines may require approval as branches, they are not branch 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. The definition conditions coverage on the making of federally related mortgage loans. "Federally related mortgage loan" is defined in a footnote (it appears as a separately defined term in the existing regulation) and is 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.

The revised definition incorporates Board Interpretation § 203.001, concerning the treatment of majority-owned subsidiaries (both depository and non-depository) of an institution. (Since Board Interpretation § 203.001 is now redundant, it is rescinded.)

Federal Housing Authority (FHA), Farmers Home Administration (FmHA), or Veterans Administration (VA) loans. These loans are defined by reference to the authority in federal law for their insurance or guarantee. The definition is virtually unchanged from the existing regulation.

Home improvement loan. This definition has been changed in several ways. The existing regulation required that a secured home improvement loan be secured by collateral other than a first lien on residential real property. The February proposal would have required classification of any loan made for home improvement purposes -- including a loan secured by a first lien -- as a home improvement loan. Under the revised regulation, institutions may treat first-lien loans for home improvement purposes in the same way they normally record them. Thus, they may classify them either as home improvement loans or as home purchases. Footnote 2 directs attention to this special rule, which is set forth in footnote 3.

A refinancing for home improvement purposes is to 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 in contained in § 203.4(c)(3).

Like the existing definition, the revised version requires both that the loan be for home improvement purposes (as stated by the borrower) 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. The word "application" replaces the word "transaction" because the Board believes that it more precisely defines the time at which the intent of the borrower is expressed.

Home purchase loan. This definition corresponds to the existing definition of residential mortgage loan. It has been substantially rewritten.

The existing definition covered any loan secured by a first lien on residential real property. The revised regulation gives institutions the option to classify first-lien home improvement loans as home improvement loans if that is the way the institution normally records them. Footnote 3 to the revised home purchase loan definition sets forth this option.

Any secured home purchase loan is covered by the definition, regardless of the type of lien. The requirement that it be secured by a first lien has been eliminated. Similarly, the revised definition includes all refinancings for home purchase purposes (other than those expressly excluded under § 203.4(c)(3)).

The revised definition clarifies the exclusion applicable to other than permanent financing, by a parenthetical reference to construction and bridge loans. These are to be excluded whether or not there is a firm take-out commitment for permanent financing. It also incorporates the definition of residential real property, which appears as a separate definition in the existing regulation.

§ 203.3 Exemptions.

The categories of depository institutions eligible for exemption from Regulation C are the same as in the existing regulation.

In paragraph (a)(1), the only difference in the asset size exemption from existing § 203.3(a)(1) is the use of December 31 as the date for determining an institution's asset size; the existing regulation used the phrase "the last day of its last full fiscal year."

In paragraph (a)(2), the substitution of the U.S. Department of Commerce for the Office of Management and Budget (OMB) reflects an amendment to the act.

The state law exemption set forth in paragraph (b) is available to state-chartered depository institutions that are subject to state laws containing requirements substantially similar to those of Regulation C, if there is also adequate provision for enforcement of the state law. The procedures to be followed in applying to the Board for an exemption appear in Appendix B to the revised regulation.

A new provision in the revised regulation implements certain amendments to the act. These amendments require that loan data for all depository institutions, including those that are subject to state law in place of the federal law, be aggregated and that disclosure statements be made available at the central repository in each SMSA. Institutions exempt under the terms of this provision must submit the data required by their state law to their state supervisory agencies. These agencies will then forward the data for transmittal to the appropriate central repository and to the Board for aggregation.

Paragraph (c) corresponds to existing § 203.3(b), covering loss of exemption. The existing rule required that an institution compile and disclose data beginning with the last full fiscal year preceding the year in which the exemption was lost. The new rule requires an institution that becomes subject to the reporting requirements during a calendar year to compile loan data beginning with the calendar year following the year in which the institution became subject to the regulation. This rule does not apply to an institution exempt under the state law exemption. If such an institution loses its exemption, it must compile loan data beginning with the first calendar year for which it does not file a report under state law.

Some examples may help to illustrate how the new rule works. First, if an institution opens a home or branch office in an SMSA on April 1, 1982, thereby losing its exempt status, it must compile and report its 1983 data. (The report would have to be available by March 31, 1984.)

On the other hand, if an institution has been exempt because it is subject to a state disclosure law, and the institution loses that exemption on April 1, 1982, the result is different. Assuming the institution has made its state-required report covering 1981, and does not have to make a state report for 1982, then it must begin compiling and reporting data under Regulation C for 1982, making it available by March 31, 1983.

Finally, if on December 31, 1982, an institution's assets exceed $10 million dollars for the first time, the institution must compile and report its 1983 data and make it available by March 31, 1984.

The rule in paragraph (c) covers not only an institution that loses its exemption, but also a newly covered institution that was not previously subject to the regulation. For example, an institution that does not make federally related mortgage loans as defined in footnote 1 under § 203.2 is not subject to the regulation. If the institution then begins making such loans, the rule in paragraph (c)(1) applies.

Although not expressly stated in the regulation, new exemptions will become effective immediately. Thus, a newly exempt institution need not report loan data for the year in which it becomes exempt or for subsequent years, so long as it remains exempt.

The new rules on change of status make existing Board Interpretation § 203.002 no longer applicable; this interpretation is therefore rescinded.

§ 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. It contains some substantive changes from the existing regulation and also has been significantly rewritten.

Paragraph (a) describes the mortgage loan data to be compiled on a calendar year basis. The changeover from fiscal year compilation reflects one of the amendments to the act; the existing regulation was amended last year to implement this change (45 FR 80813, December 8, 1980).

The revised regulation (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 4. The existing regulation essentially defined total dollar amount as the principal balance due on a loan (either the original balance or the balance due at the time the loan was purchased from another lender). The regulation permitted inclusion of unpaid finance charges in the case of purchased home improvement loans. The option to include unpaid finance charges now extends to originated as well as purchased home improvement loans.

Paragraph (b), 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 existing regulation), and requires institutions to use a standard disclosure format prescribed by the Board, in keeping with a statutory amendment.

The Board has adopted a standard form and accompanying instructions, but is not publishing them today because they must be submitted to OMB for review. After the review procedure, the final form and instructions will be published in the Federal Register, and they will become Appendix C to the regulation.

Paragraph (b)(1) describes the required geographic itemization of data. As in the existing regulation, data generally 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.

Paragraph (b)(1)(i) sets forth two 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.

The revised regulation specifies that the 1980 census count is to be used for determining whether a county has a population of 30,000 or less. In order to provide a simple rule, the regulation does not require adjustment of the 1980 census figures in later years. For example, if according to the 1980 census the county had a population of 28,000, an institution may disclose loans on property in that county by the county name (rather than census tract) for 1981 and later years, even if the population of the county subsequently surpasses 30,000.

The second exception to census tract reporting is that an institution must also itemize loans by county if the property is in an area that has not been assigned census tract numbers on the maps in the "CENSUS TRACTS, PHC80-2" series (or on the corresponding 1970 series). This rule applies even to counties with populations over 30,000. It corresponds to the current provision in Regulation C permitting compilation on the basis of ZIP code for untracted areas.

The rule set forth in paragraph (b)(1)(ii) is unchanged from the existing regulation: the data need not be broken down at all for loans on property located outside any SMSA in which the institution has a home or branch office. The institution may simply report all such loans as a lump sum figure. This rule applies both to loans on property outside any SMSA and to loans on property in an SMSA where the institution has no home or branch office.

Paragraph (b)(2) requires that loan data for each geographic category (census tract, county, etc.) 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. That category represented the sum of the preceding two home purchase categories (FHA/ FmHA/VA loans and conventional mortgage loans); it did not provide new or different information, and hence is unnecessary. Deletion of this category will mean immediate cost savings for many institutions and ultimately will result in savings even to institutions that must reprogram their computers because of this deletion.

Paragraph (b)(2)(v) requires an institution to present, as an addendum item, data about loans made to non-occupant borrowers (those who did not intend -- at the time of loan application -- to use the property as a principal dwelling). This requirement, however, does not apply to loan data in the outside-SMSA category.

Footnote 6 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 to an occupant borrower. The phrase in existing § 203.4(c) limiting this presumption to loans on 1-to-4 family dwellings has been deleted as unnecessary, since paragraph (b)(2)(v) applies only to such loans.

Paragraph (c), listing certain mortgage loan data that are to be excluded from data compilation, 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."

Paragraph (d), defining geographic units for compilation purposes, parallels § 203.4(b) of the existing regulation. The reference to the Office of Management and Budget, as the agency responsible for defining SMSA boundaries, has been replaced by a reference to the U.S. Department of Commerce, reflecting an amendment to the act.

Paragraph (d)(1) provides that for compilation purposes, SMSA boundaries are those in effect on January 1 of the year in which the loans are made, reflecting the statutory change from fiscal to calendar year compilation. Thus, even if a county becomes part of an SMSA during the reporting year, all loans made in the county in that year are to be reported as being outside the SMSA. For the succeeding year, loans made in that county will be reported as being within the SMSA.

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. Because of the need for uniformity in aggregation, the Board has eliminated this option. As noted above, the regulation 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.

Paragraph (d)(2) requires, in general, that 1980 census tract maps be used for compilation purposes. Because the complete series of tract maps for the 1980 census is not yet available footnote 7 provides flexibility for an interim period. An institution may continue to use the 1970 census tracts until the 1980 series maps are available for its SMSA. Institutions that report loans in several SMSAs may continue to use the 1970 census tracts, switching to the 1980 series maps for any given SMSA when that series becomes available. This differs from the proposal, which would have required institutions to use the 1970 census tract maps until the complete series of 1980 maps for all SMSAs became available.

Institutions are not required to switch to the 1980 series maps mid-year. Once the 1980 series maps are issued by the Bureau of the Census for any given SMSA, institutions must use those maps for that SMSA beginning with January 1 of the next calendar year. The Board believes that allowing use of either 1970 or 1980 census tracts, pending availability of the 1980 series, provides needed flexibility. Some institutions have already begun to geocode loans on the basis of 1980 census tracts, using street address indexes which are currently available for the urban areas of many SMSAs. Mandating an immediate changeover to 1980 tracts for all institutions is not feasible in the absence of the complete series of 1980 census tract maps.

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

§ 203.5 Disclosure and reporting requirements.

The title of revised § 203.5 reflects the fact 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 by the Federal Financial Institutions Examination Council. This section contains several changes from existing § 203.5.

Paragraph (a) 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 provided by the existing regulation. The five-year retention period applies only to disclosure statements at an institution's offices. The act and regulation do not set a retention period for data on file at the central data repositories.

Paragraph (b) represents a substantial revision of its counterpart in the existing regulation. It requires availability of the entire disclosure statement at the home office, but permits a branch office disclosure statement to omit all the data relating to property located outside the SMSA where that branch office is located. A branch office disclosure under the revised regulation need only contain data concerning loans on property located in that branch's SMSA. This data must, of course, be broken down by census tract (or by county, if one of the available exceptions applies). Institutions may provide more than the minimum disclosures required, if they wish -- such as total figures by SMSA for other SMSAs in which the institution has offices, and a total figure for all loans outside such SMSAs. Institutions also continue to have the option of making the entire disclosure statement available at branch offices.

Paragraph (b)(2) also differs from existing § 203.5(b)(1)(ii) in that it no longer requires 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.

Paragraph (b)(3), like existing § 203.5(b)(4), 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. It dealt with the availability of disclosure statements at institutions (such as some credit unions) whose offices are inaccessible to the general public. The Board believes that if an institution does not accept deposits from the general public, it is less essential to make its statements available in a public place. These institutions remain subject, of course, to the requirements regarding availability of disclosure statements at home and branch offices. In addition, the disclosure statements of these institutions will now be available to the general public at the central data repositories.

Paragraph (c), concerning photocopying and hours of availability, incorporates minor language changes for clarification but is substantively unchanged from § 203.5(c) of the existing regulation.

Notification of the availability of mortgage loan data, required by existing § 203.5(b)(3), had been deleted by the proposal. After consideration of the comments, the Board believes that the notice serves the useful purpose of advising interested parties about the availability of the data. Section 203.5(d) of the revised regulation requires a lobby notice.

This new requirement differs from the existing regulation, which required notice and listed three examples of methods that satisfied the requirement: notice in an account statement to depositors, publication in a newspaper, and notice posted in lobbies of the institution's offices.

A simple poster giving notice of the availability of the institution's HMDA data will suffice. There are no special format or type-size requirements, and no required terminology. To minimize the costs to institutions, the Board will provide posters that institutions may use if they wish.

Paragraph (e) is new. It requires that a depository institution send two copies of its entire disclosure statement -- the same statement that it makes available at its home office -- to the appropriate regional office of its supervisory agency (as listed in Appendix A). This transmittal to the supervisory agency will 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. The due date for reporting to the supervisory agency is the same as that for disclosure at home and branch offices.

§ 203.6 Administrative enforcement and sanctions for violations.

Paragraph (a), which corresponds to existing § 203.1(b) and lists the agencies responsible for enforcing the act and regulation, has been relocated to this section for consistency in format with other regulations issued by the Board.

Paragraph (b) corresponds to § 203.6 of the existing regulation. It states that depository institutions found to be in violation are subject to administrative sanctions set forth in § 305 of the act. It also provides relief for an unintentional error in compilation or disclosure resulting from a bona fide mistake as long as the depository institution maintains procedures reasonably adapted to avoid any such error.

Appendix A -- Federal enforcement agencies.

Appendix A lists the federal enforcement agencies for the various types of depository institutions subject to Regulation C.

Appendix B -- State exemptions.

Appendix B describes the procedures for seeking a Board determination of exemption in accordance with § 203.3(b). If the Board determines that certain state-chartered depository institutions are subject to state laws that are substantially similar to the federal law and that provide adequate provision for enforcement, the Board may exempt these institutions from the requirements of the federal law.

The procedures set forth in Appendix B correspond to those found in the state exemption supplement to the existing regulation, with editorial revisions and a few additional provisions. Paragraph (d) contains a parenthetical reference to § 203.3(b) to note the requirement that exempt institutions send the state-required loan data to their state supervisory agencies.

Paragraph (e) corresponds to original paragraphs (d)(2) and (e). Paragraph (e)(1) clarifies that the Board may require a reapplication for an exemption because of amendments to the act or regulation. Depending upon the extent of the amendments, the Board may require a complete application or simply updating of information in areas affected by the amendment.

In the case of the most recent amendments to the act, which required the Board to promulgate this revised regulation, the Board will require a complete reapplication by the currently exempt states.

Paragraph (e)(5) was added to the supplement to address situations when certain of the revocation procedures might be inappropriate.

Appendix C -- Mortgage Loan Disclosure Form (HMDA-1).

The Board has adopted a revised version of the mortgage loan disclosure form HMDA-1, which institutions must use to report loan data for 1981 and subsequent years. This form is not being published at this time. It is being submitted to the Office of Management and Budget for review, in keeping with the requirements of the Paperwork Reduction Act. The Board will publish it in final form once the OMB review procedures have been completed.

(3) Regulatory analysis. A regulatory analysis was published with the proposed regulation in February, 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). A final regulatory analysis has been prepared, but is not being published in the Federal Register. Copies may be obtained from the Consumer Affairs office of any Federal Reserve Bank or from the Board's Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D. C. 20551.

(4) FFIEC's aggregation tables. The 1980 amendments to HMDA require that the FFIEC aggregate the loan data covering all institutions in each SMSA, and that it publish tables showing lending patterns on the basis of location, income level, age of housing stock, and racial characteristics. The Board published proposed formats for the tables, on behalf of the FFIEC, when it published the proposed revision of the regulation in February. The comments received concerning the proposed tables have been transmitted to the FFIEC for its consideration. No further versions of the tables are being published at this time.

(5) Text of revised regulation. In consideration of the foregoing and pursuant to the authority granted in 12 U.S.C. 2804(a), the Board hereby amends Regulation C (12 CFR Part 203) to read as follows:

PART 203 -- HOME MORTGAGE DISCLOSURE

§ 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 Home Mortgage Disclosure Act of 1975, as amended (Title 12, §§ 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 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 certain of its offices and to report the data to its 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 the Federal Financial Institutions Examination Council to aggregate mortgage loan data for all institutions in each standard metropolitan statistical area, showing lending patterns by location, age of housing stock, income level, and racial characteristics. 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 A.

§ 203.2 Definitions.

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

(a) Act means the Home Mortgage Disclosure Act of 1975 (Title III of Public Law 94-200), as amended in 1980 (Title III of Public Law 96-399), codified in Title 12, §§ 2801 through 2811 of the United States Code.

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

(c) 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. 1/ 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.

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

(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.

(d) 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.

(e) Home improvement loan means any loan, including a refinancing, (i) 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 (ii) that is recorded on the depository institution's books as a home improvement loan. 2/

(f) 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). 3/ The term does not include temporary financing (such as a bridge loan or a 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).

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

§ 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 Appendix B, (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.

2/ See footnote 3.

3/ An institution may categorize a first-lien loan made for home improvement purposes as a home purchase loan if that is the manner in which it normally records first-lien loans.

(c) Change of status. (1) An institution that becomes subject to the requirements of this regulation shall compile loan data beginning with the calendar year following the year in which it becomes subject, except that:

(2) An institution that is exempt under § 203.3(b) and that subsequently loses its exemption shall compile loan data in compliance with this regulation beginning with the calendar year following the year for which it last reported loan data under the state disclosure law.

§ 203.4 Compilation of loan data.

(a) Data to be included. A depository institution shall compile data on the number and total dollar amount 4/ 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 C, 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 5/ 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 any SMSA, or is located in an SMSA in which the institution has neither a home nor a branch office, no itemization (by SMSA, county, or census tract) is required and the data for all such loans shall instead be listed as an aggregate sum.

4/ "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 balance of loans purchased by the depository institution (to the extent of its ownership interest in such purchased loans). For home improvement loans, whether originated or purchased, the amount to be reported may include unpaid finance charges.

5/ The population is to be determined by reference to the "1980 Census of Population, NUMBER OF INHABITANTS, PC80-1-A" series prepared by the Bureau of the Census, U.S. Department of Commerce, Washington, D.C. 20233. Until this publication becomes available, county population shall be determined using the "1980 Census of Population and Housing, FINAL POPULATION AND HOUSING UNIT COUNTS (Advance Reports), PHC80-V" series, also prepared by the Bureau of the Census.

(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. 6/ 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 principal that is outstanding on the existing loan at the time of the refinancing 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.

6/ 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.

(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, PHC80-2" series prepared by the Bureau of the Census.7/ 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 from that date.

(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) Notice of availability. A depository institution shall provide notice of the availability of its mortgage loan data by posting a notice in the lobbies of its home and branch offices that are located in SMSAs.

(e) 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.

7/ An institution may use either 1970 or 1980 census tract boundaries in geocoding loans in an SMSA until the 1980 census tract outline maps for that SMSA become available from the Bureau of the Census.

§ 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 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.

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

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

OTHER DEPOSITORY INSTITUTIONS

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

STATE EXEMPTIONS

(a) Application. Any state, 1/ state-chartered depository institution, or association of such depository institutions may apply to the Board pursuant to this appendix and the Board's Rules of Procedure (12 CFR 262) for an exemption under § 203.3(b). Such an exemption requires a determination that a state-chartered depository institution is subject to state law requirements 2/ substantially similar to those imposed by this regulation, 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 this regulation, 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.

(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 this regulation, and that there is adequate provision for enforcement, the Board will exempt such institution(s) from

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1/ "State" includes any subdivision of a state.

2/ "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.

the requirements of this regulation (except as specified in § 203.3(b)) by publishing notice of the exemption in the Federal Register. The Board also will furnish 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 this regulation (including published interpretations of the Board) that might require amendment of the state law. The Board may 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 this regulation, 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. The Board will allow time after 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.

By order of the Board of Governors, August 4, 1981.

[signed] William W. Wiles
William W. Wiles
Secretary of the Board

[SEAL]