

FEDERAL RESERVE BANK
OF NEW YORK

Af-cir.no.10335

March 1, 1990

HOME MORTGAGE DISCLOSURE

Termination of Exemptions Under Regulation C for Banks in Connecticut,
Massachusetts, and New Jersey

To All State-Chartered Banking Institutions in New Jersey Subject to the
Home Mortgage Disclosure Act, and Others Concerned:

The Board of Governors of the Federal Reserve System has terminated the exemptions from the Home Mortgage Disclosure Act (HMDA) and its Regulation C, "Home Mortgage Disclosure," heretofore granted to State-chartered financial institutions subject to the mortgage disclosure laws of Connecticut, Massachusetts, and New Jersey, effective January 1, 1990. (Notice of the Board's intent to terminate those exemptions was contained in our Circular No. 10330, dated December 29, 1989, and sent to you for comment; a new Loan/Application Register form to be used for HMDA reporting was also sent to you with that circular.)

Printed below is the text of the Board's order in this matter, which has been reprinted from the *Federal Register* of February 15. Questions may be directed to the Community Affairs Staff of our Compliance Examinations Department (Tel. No. 212-720-1591).

E. GERALD CORRIGAN,
President.

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0681]

Order Terminating Exemptions for
Connecticut, Massachusetts, and New
Jersey

AGENCY: Board of Governors of the
Federal Reserve System.

ACTION: Order terminating state
exemptions.

SUMMARY: Certain financial institutions
in Connecticut, Massachusetts, and New
Jersey have previously been exempted
from the Home Mortgage Disclosure Act
because the Board determined that they
were subject to substantially similar
mortgage disclosure requirements under
state law. Recent amendments to the act
and to the Board's implementing rule,
Regulation C, have produced

discrepancies between the federal
provisions and current state laws such
that the state laws are no longer
substantially similar to the federal
statute and regulation, as amended. The
Board is formally terminating the
exemptions as of January 1, 1990, the
date the amended federal act and
regulation took effect.

EFFECTIVE DATE: January 1, 1990.

Applications that are received prior to
March 1, 1990, by a previously exempt
institution, data on race or national
origin and sex are to be reported if the
institution has this information;
institutions need not contact applicants
again in order to obtain the data.

FOR FURTHER INFORMATION CONTACT:
Thomas J. Noto or W. Kurt Schumacher,
Staff Attorneys, Division of Consumer
and Community Affairs, Board of
Governors of the Federal Reserve
System, Washington, DC 20551, at (202)
452-2412 or (202) 452-3667; for the

hearing impaired only, contact
Earnestine Hill or Dorothea Thompeon,
Telecommunications Device for the
Deaf, at (202) 452-3544.

SUPPLEMENTARY INFORMATION:

(1) Introduction

The Board's Regulation C (12 CFR part
203) implements the Home Mortgage
Disclosure Act of 1975 (HMDA) (12
U.S.C. 2801 *et seq.*). Prior to
amendments that took effect January 1,
1990, the regulation required depository
institutions, mortgage banking
subsidiaries of holding companies, and
savings and loan service corporations
with more than \$10 million in assets and
with offices in metropolitan statistical
areas to disclose annually their
originations and purchases of home
mortgage and home improvement loans.
Institutions compiled data about loans,
itemizing this information by census
tract (or by county, in some instances)

(OVER)

and also by type of loan. The institutions disclosed this information to the public by March 31 following the calendar year for which the data were compiled. Copies were sent to the institutions' federal supervisory agencies for aggregation on an MSA-wide basis by the Federal Financial Institutions Examination Council.

The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), which was signed into law on August 9, 1989, made major revisions to HMDA. (FIRREA, Pub. L. No. 101-73, 103 Stat. 183 (1989).) The Board amended Regulation C to implement the provisions of section 1211 of FIRREA, publishing the revised regulation in final form in the Federal Register on December 15, 1989 (54 FR 51356). First, the coverage of HMDA and of Regulation C was expanded to include mortgage lenders that are not affiliated with depository institutions or holding companies. Second, the FIRREA amendments require reporting of data regarding loan applications; previously, institutions reported only data regarding loans originated or purchased. Third, the amendments require most covered lenders to report the race or national origin, sex, and income of mortgage applicants and borrowers (depository institutions with assets of \$30 million or less are exempt from this particular requirement). Fourth, the FIRREA amendments require that lenders identify the class of purchaser for mortgage loans that they sell. Fifth, the amendments permit lenders to explain the basis for lending decisions to their supervisory agency. Finally, the revised Regulation C provides for a "register" form of reporting. Lenders will record certain data for each application that they receive (whether granted, denied, or withdrawn) and for each home purchase or home improvement loan that they originate or purchase, and will submit the registers to their supervisory agency at the close of the calendar year. Thus, covered institutions will no longer be required to cross-tabulate loan data, as was the case under Federal law previously.

Under HMDA and Regulation C, the Board may grant exemptions to state-chartered or state-licensed financial institutions subject to state mortgage disclosure laws that are substantially similar to the Federal law and that contain adequate provision for enforcement. Exemptions are subject to termination if the Board determines that the state laws no longer meet these two conditions.

Based on the act and regulation in effect prior to the 1989 amendments, exemptions were previously granted for

state-chartered financial institutions subject to the state mortgage disclosure laws of Connecticut, Massachusetts, and New Jersey. Following the adoption of the revised Regulation C, the Board published a notice of intent to terminate these state exemptions on December 15, 1989 (54 FR 51404), for a 30-day comment period.

Two comments were received. A state banking official from Connecticut noted that the state intends to amend its version of the Home Mortgage Disclosure Act and implementing regulation to make them substantially similar to Federal law, and requested either a continuance of the Connecticut exemption or its reinstatement upon the adoption of the requisite changes. The other comment, submitted by an industry group, did not take issue with the Board's position that substantial similarity no longer exists between the Federal and state laws, but suggested that the revocation should not take effect on January 1, 1990, as proposed, but at a later date. In addition, officials from Massachusetts and New Jersey informally advised the Board of plans to change their laws to parallel the federal requirements.

The Board has determined that substantial similarity between the federal and state laws no longer exists. Thus, it is terminating the exemptions as of January 1, 1990, the effective date of the changes to HMDA and Regulation C. State-chartered institutions previously exempted from HMDA and Regulation C by virtue of the disclosure laws of Connecticut, Massachusetts, and New Jersey must comply with the data collection requirements of the federal law as of that date. Accordingly, these institutions must maintain loan/application registers showing the required information on the loans they originate or purchase, and for applications they receive, beginning January 1, 1990, except that for institutions prior to March 1, 1990, data on race or national origin and sex are to be reported if the institution has this information; institutions are not required to contact applicants again in order to obtain the data.

The loan/application registers are to be submitted to institutions' Federal supervisory agencies by March 1, 1991. If a state subsequently adopts new requirements that are substantially similar to the federal law, and those requirements are made effective as of January 1, 1990, the Board may grant a reinstatement of the exemption. If an exemption is reinstated, covered institutions would submit data about

their mortgage lending only to the state supervisory agency, instead of having to send separate reports to federal and state regulators.

To meet the "substantially similar" test, it will be necessary for the state law to cover applications as well as loans granted and purchased; to require reporting of information on the location of the properties to which the covered loans or applications relate, and on the race or national origin, sex, and income of applicants and borrowers; to provide disclosure of the type of purchaser for loans sold by an institution; and to call for a register form of reporting.

The termination of these state exemptions in no way affects the mortgage disclosures required for loans made or purchased in calendar year 1989. Institutions previously exempt must submit reports on these loans to their state supervisory agency in keeping with state law requirements.

(2) Order of Termination. The Board granted exemptions from the federal Home Mortgage Disclosure Act to state-chartered financial institutions in Connecticut, Massachusetts, and New Jersey in 1978, 1976, and 1978, respectively, based on the existence of substantially similar requirements imposed by state law and on the states' provisions for their enforcement. These exemptions were renewed in 1982 following changes in the federal act and regulation and corresponding changes in the state law.

Because the federal law was amended in 1989, and no comparable changes in the state laws have followed to date, the substantial similarity required for an exemption no longer exists between the federal and state laws. The Board is therefore terminating the exemptions for Connecticut, Massachusetts, and New Jersey. State-chartered financial institutions in these states that were previously exempted from the federal law shall comply with the federal Home Mortgage Disclosure Act and Regulation C beginning January 1, 1990, the date the amendments to HMDA and Regulation C became effective. In the case of applications received by these institutions prior to March 1, 1990, data on race or national origin and sex are to be reported if the institution has this information; institutions are not required to contact applicants again in order to obtain that data.

By order of the Board of Governors of the Federal Reserve System, February 9, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-3542 Filed 2-14-90; 8:45 am]

BILLING CODE 6210-01-M