

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. **10627**]
March 19, 1993]

REGULATION C — HOME MORTGAGE DISCLOSURE
— **Disclosure of Loan Application Register Data**
— **Use of MSA Designations During 1993**
— **Correction of Regulation C Pamphlet**

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

Loan Application Register Data

Following is the text of a statement issued by the Board of Governors of the Federal Reserve System:

The Federal Reserve Board has published a final rule to amend Regulation C (Home Mortgage Disclosure) to carry out provisions of the Housing and Community Development Act of 1992.

That Act contains amendments to HMDA that require financial institutions to make their loan application register data available to the public beginning March 31, 1993. This register must be modified in accordance with Board regulations before release to the public.

The Act also requires institutions to make their disclosure statement available to the public within three business days of receiving it from the Federal Financial Institutions Examination Council. Currently, they have 30 days to do so.

The revised rules will apply beginning with loan and application data collected for calendar year 1992. The new rule became effective March 1, 1993.

Enclosed, for depository institutions and others maintaining sets of the Board's regulations, is the text of the Board's final rule, as published in the *Federal Register* of March 11, 1993. Questions regarding this matter may be directed to our Compliance Examinations Department (Tel. No. 212-720-5914).

MSA Designations

The Board of Governors has also ruled that lenders covered by Regulation C should continue to use, through 1993, the MSA (metropolitan statistical area) designations that were in place during most of 1992. The following is from the Board's statement on this matter:

The Office of Management and Budget issued new designations before year-end 1992 and lenders covered by HMDA ordinarily would be required to use the new MSA boundaries for identifying property locations beginning on January 1, 1993. The Board, however, has decided to delay implementing this change in MSA designations so that lenders may have adequate time to make the necessary programming changes for data collection.

(OVER)

Enclosed, for depository institutions and others maintaining sets of the Board's regulations, is the text of the Board's official notice, as published in the *Federal Register* of February 1, 1993. Questions regarding this matter may also be directed to our Compliance Examinations Department (Tel. No. 212-720-5914).

Correction

Also enclosed, for depository institutions and others maintaining sets of the Board's regulations, is a copy of a form that was inadvertently omitted by the Board from the Regulation C pamphlet, as amended effective January 1, 1992. The form should be inserted in the pamphlet following page 13.

* * * * *

Additional, single copies of the enclosures can be obtained at this Bank (33 Liberty Street) from the Issues Division on the first floor, or by calling the Circulars Division (Tel. No. 212-720-5215 or 5216).

E. GERALD CORRIGAN,
President.

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Rules and Regulations

Federal Register

Vol. 58, No. 19

Monday, February 1, 1993

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL RESERVE SYSTEM

12 CFR Part 203

Regulation C; Docket No. R-0794]

Home Mortgage Disclosure; Use of MSA Designations for 1993 Data Collection and for Determining Coverage for 1993

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: MSA designations to be used for collecting 1993 HMDA data and for determining coverage under HMDA for 1993.

SUMMARY: The Federal Reserve Board announces that lenders should continue to use, through 1993, the MSA designations that were in place prior to the Office of Management and Budget's recent redesignation of areas boundaries, for collecting HMDA data and for determining coverage under HMDA. The Board has delayed implementing these designations in order to provide adequate time for lenders to make the necessary changes to data collection.

EFFECTIVE DATES: January 1, 1993, through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell 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) 552-2412 or (202) 452-3667. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544.

SUPPLEMENTARY INFORMATION: 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.*). HMDA requires lenders located in metropolitan statistical areas (MSAs) to annually report information on the geographic

distribution of their home mortgage and home improvement loans, and to provide information on the race or national origin, sex, and income of applicants and borrowers for such loans. Regulation C requires institutions covered by HMDA to give the location of the property to which the loan or application relates (MSA, state, county, and census tract) for MSAs in which they have an office. These requirements apply to depository institutions that have more than \$10 million in assets and to nondepository lenders that either meet the \$10 million asset test or that originated 100 or more home purchase loans in the preceding calendar year.

The instructions to the HMDA loan application register (HMDA-LAR) direct lenders to use the MSA boundaries that are in effect on January 1 of the calendar year covered by the data. On December 28, 1992, the Office of Management and Budget (OMB) issued a revised list of metropolitan areas, having redefined their boundaries based on changes in population and economic patterns revealed in the 1990 decennial census. Given that OMB's designations were issued before year-end 1992, lenders covered by HMDA ordinarily would be required to use the new designations beginning on January 1, 1993.

The Federal Reserve Board has decided to delay implementing the numerous boundary changes in OMB's new MSA designations until calendar year 1994 because of the general difficulty that lenders would have in doing so for 1993 in a timely and orderly fashion. Because of the need to provide guidance to lenders as quickly as possible, this Board action is being taken without notice and comment rulemaking.

This delayed implementation of reporting and coverage requirements will reduce the overall compliance burden for lenders. Many lenders use software packages that have built-in edit-checks to help catch erroneous entries by identifying all "valid" codes for counties and census tracts located in MSAs. The HMDA software developed and distributed by the FFIEC is among those that incorporate these edit-checks.

The software already distributed by the agencies for lenders to use in the geocoding of 1993 loan activity does not reflect the revised MSA designations. Comparable software packages provided by vendors also may not reflect the new

boundaries. Modifying and replacing geocoding software is a costly and time-consuming process. Moreover, lenders and appraisers who rely on census tract maps for geocoding purposes would face difficulties in obtaining the necessary information from the Government Printing Office as quickly as they need it.

Given the importance of data quality in the collection and reporting of HMDA data, the Board believes it is necessary to provide adequate time for lenders to implement the required changes to ensure that data are accurate and complete. When the regulatory provision was first enacted, geocoding typically was done at year-end. Covered lenders are now encouraged (and in the case of one agency are required) to geocode as loan and application information is entered in the HMDA-LAR. It would be difficult for lenders to obtain the necessary information to begin coding immediately, and inefficient to delay coding until the information became available.

The new MSA designations also affect lenders who were previously exempt from HMDA because they did not have an office in an MSA pursuant to § 203.3(a). Under HMDA, an institution with an office in a newly-designated MSA on December 31, 1992, would be required to begin collecting data on January 1, 1993. Because the HMDA data collected and compiled by lenders for 1993 will be based on previous MSA designations and not the newly-designated boundaries, the Board sees little purpose in covering for 1993 institutions whose coverage came about as a result of the new designations. These institutions will be required to collect data beginning January 1, 1994. This delay in coverage applies only in regard to newly designated areas. Institutions that established or acquired offices during calendar year 1992 in other MSAs are required to comply beginning January 1, 1993.

By order of the Board of Governors of the Federal Reserve System, January 26, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-2253 Filed 1-29-93; 8:45 am]

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Rules and Regulations

Federal Register

Vol. 58, No. 46

Thursday, March 11, 1993

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FEDERAL RESERVE SYSTEM

2 CFR Part 203

Regulation C; Docket No. R-0789]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation C, which implements the Home Mortgage Disclosure Act (HMDA), to incorporate new statutory provisions. The Housing and Community Development Act of 1992 contains amendments to HMDA that require financial institutions to make their loan application register data available to the public beginning March 1, 1993; the register must be modified in accordance with Board regulations before release to the public. The act also requires institutions to make their disclosure statement—as compiled by the Federal Financial Institutions Examination Council later in the year—available to the public within three business days of receiving it from the Examination Council; they currently have 30 days to do so.

EFFECTIVE DATE: March 1, 1993. The revised rules apply to the disclosure of the loan and application data collected for calendar year 1992.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell or W. Kurt Schumacher, Staff Attorneys, or John C. Wood, Senior Attorney (202/452-2412 or 202/452-667), Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) Background

The Home Mortgage Disclosure Act (HMDA) requires certain depository and nondepository mortgage lenders that have offices in metropolitan areas to disclose their housing-related lending activity each year. The Housing and Community Development Act of 1992 (Pub. L. 102-550, 106 Stat. 3672) amended HMDA in several respects.

The statutory amendments require institutions to make a modified version of their loan application register, modified in accordance with Board regulations, available in response to requests from the public. The requirement applies beginning with data submitted for the 1992 calendar year. Institutions will have a 30-day period in which to respond. The modified registers for 1992 must be available by March 31 for requests received on or before March 1, 1993, and within 30 days for requests made after March 1. The amendments direct the Board to specify deletions or modifications from institutions' registers to protect the privacy interests of applicants and borrowers, and to protect institutions from liability under federal or state privacy laws.

The statutory revisions also amend HMDA to require institutions to make their mortgage loan disclosure statements publicly available, upon request, within three business days after receiving them from the Federal Financial Institutions Examination Council (FFIEC) later this year. Regulation C previously required financial institutions to make their disclosure statements publicly available no later than 30 calendar days after they received them from the FFIEC.

The statutory provisions also address the time periods within which the federal supervisory agencies must complete processing the HMDA data for 1993 and subsequent years so that disclosure statements and aggregate tables can be made available to the public. For HMDA data collected in 1993, disclosure statements must be available before September 1, 1994. The aggregate data that are compiled by the FFIEC for each metropolitan area are to be available (in central data depositories) before December 1, 1994. For data collected in 1994 and subsequent years, the statute directs the federal supervisory agencies to make every effort to ensure that disclosure

statements are available before July 1 (and that aggregate disclosure reports before September 1) following the year for which the data are compiled.

In January 1993 the Board published a proposal to implement these amendments (58 FR 31, January 4, 1993). The Board received 85 comment letters on its proposal. After review of these comments and upon further analysis, the Board has adopted a final rule.

(2) Summary of Regulatory Amendments

The following material discusses the amendments to Regulation C section by section.

Section 203.5 Disclosure and Reporting Section 203.5(a) Reporting to Agency

As revised, this section requires institutions to retain copies of their complete loan application register for a minimum of three years, instead of two years. This change is consistent with the statute.

Section 203.5(b) Public Disclosure of Statement

The amended statute requires an institution to make its disclosure statement publicly available, upon request, no later than three business days after its receipt from the FFIEC. Although many commenters believed that three business days is not sufficient time in which to ensure public availability, the statutory language requires the adoption of this rule in lieu of the 30 calendar days previously allowed. The Board proposed applying this three-business-day rule only to disclosures made available at an institution's *home office*. Lenders also must make statements available in at least one branch office in each additional MSA where they have physical offices, regarding loan activity for that MSA. However, because institutions receive only one set of disclosures and must produce copies for public release and for their own use, the Board proposed allowing 10 business days for availability at branch offices.

Based on review of the comments and its own analysis, the Board believes that it is reasonable to allow the longer time period for availability of disclosure statements at branch offices. Commenters representing several large institutions (with disclosure statements

between 6,000 and 8,000 pages long) stated that applying a three-business day rule to availability at branch offices would be extremely difficult, because of the number of pages to be duplicated and distributed. Smaller institutions also voiced concerns with a three-business day requirement, due to limited staff and resources. Moreover, community organizations and other members of the public are likely to want an institution's full disclosure statements, which lenders may but are not required to make available at branch offices. For this reason, most requests may in any event be directed to the home office.

Section 203.5(c) Public Disclosure of Loan Application Register

The statutory revisions require institutions to make their loan application registers available to the public upon request, modified to protect the privacy interests of applicants and borrowers and to protect institutions from liability under federal or state privacy laws. The statute specifies three items to be deleted—application or loan number, date application received, and date of action taken. The Board's rule conforms to this provision.

Under the final rule, an institution must make its modified register available to the public at its home office beginning March 31, 1993. They will have the option of preparing a modified loan application register for public disclosure prior to receiving a request for the data. Alternatively, they may wait until they actually receive a request, as long as they are able to make necessary modifications in time to meet the 30-calendar-day requirement.

Section 203.5(d) Availability of Data

In keeping with the statutory changes, this section requires institutions to retain modified loan application register information and to make it publicly available for a period of three years.

The Board has incorporated statutory language regarding the imposition of fees by an institution. The final rule makes clear that institutions may impose a reasonable fee for any cost incurred in providing or reproducing the modified loan application register or the disclosure statement.

Section 203.5(e) Notice of availability

Given the fact that there is no required or model language for the lobby notice that institutions must display at home and branch offices, the Board has not modified this section. However, if they so desire, institutions are free to modify the notice to reflect the fact that the modified loan

application register data will be available to the public.

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

III. Submission of HMDA-LAR and Public Release of Data

D. Availability of disclosure statement. The instructions incorporate the new rule that an institution must make its disclosure statement available at its home office within three business days of receiving it from the FFIEC. The Board has also specified that disclosure statements must be made available in at least one branch office in each additional MSA within ten business days after receipt from the FFIEC. In the proposal, the Board solicited comment on whether the rule could state that copies of disclosure statements must be made available at a branch office within ten business days or within a "reasonable time". The majority of commenters who addressed the issue stated that they would need additional time to ensure availability at branch offices and favored a precise rule to provide certainty.

Most commenters believed that ten business days was an insufficient time for delivery at the branch offices. Many requested that the Board retain the previous 30-calendar-day rule, and a few believed that no fewer than 15 business days would be necessary for them to reproduce and deliver the required copies. Other commenters, however, objected to allowing longer than three business days for disclosure at branch offices. The Board considered all of these views. Given the clear Congressional intent to require availability without undue delay, but at the same time seeking to minimize costs and burdens associated with disclosure, the Board has retained the ten-business-day rule for the disclosure statements at an institution's branch offices. Finally, in the interest of certainty the Board has defined "business day."

E. Availability of modified loan application register. Paragraph 1 specifies the deletions that an institution must make to its register to protect the privacy interests of applicants and borrowers. These deletions conform to the amended statute, and correspond to those that the FFIEC removes in creating the public tapes of the edited raw data that it makes available.

F. Location and format of disclosed data. The statutory amendments strongly encourage institutions to make their modified register data available in census tract order. They allow the public release of this information (and

of disclosure statements) in any media—including hard copy or in automated form—that is not prohibited by the Board. The statute makes clear that aside from the specified deletions; institutions are not required to change the format of the data from that used by institutions to internally maintain this information. However, the Board strongly encourages institutions, when feasible, to provide these data in the format requested by the public and in census tract order.

The agencies make free software available to covered institutions for collecting and maintaining their data. To facilitate compliance with the disclosure requirement in future years, the software for use in collecting and reporting 1993 data allows institutions to produce modified loan application registers suitable for public release; it deletes the applicable fields to protect the privacy interests of applicants and borrowers. The software does not sort the data by census tract, however. Plans are under way to add this sorting feature to the software version that will be available for data collection in 1994. (Software developed by some private vendors may already offer this capability.)

The revisions to HMDA require a clear and conspicuous notice on disclosure statements that they are subject to final review and revision, if necessary. Given that the FFIEC compiles the disclosure statements of financial institutions for public release by the institutions, the FFIEC plans to add this notice to the disclosure statements, thus eliminating the need for financial institutions to supply the notice.

Several commenters suggested that a similar notice should be provided on the modified loan application registers released by financial institutions, which too are subject to review and revision. Institutions may provide such a notice on the modified registers, if they wish.

(3) Regulatory Flexibility Act Analysis

HMDA does not cover small depository institutions (those with assets of \$10 million or less), or small nondepository mortgage lenders (those with fewer than 100 home purchase loan originations and assets of \$10 million or less). HMDA also exempts from coverage institutions that have neither a home nor a branch office in an MSA. Covered institutions must provide their loan/application registers to their supervisory agencies by March 1 for the preceding calendar year. Under this final rule, they are now also required to make a modified version of their registers available to the public in the manner

specified by the Board. Additionally, institutions must now make their disclosure statements available at home offices within 3 business days of their receipt (and at branch offices, within 10 business day of receipt). Any incremental burdens associated with this final rule result from these statutory requirements. Small financial institutions will likely have fewer modifications to make to their registers, and less lengthy registers and disclosure statements to make publicly available based on their fewer numbers of reportable transactions). This rule is therefore not expected to have a significant impact on the costs of small institutions.

4) Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. ch. 35; 5 CFR 1320.13), these revisions have been reviewed by the Board, under the authority delegated to the Board by the Office of Management and Budget, after consideration of the comments received during the public comment period. The final rule's requirements do not exceed those of the statute. Where appropriate, steps have been taken to minimize any increase in burden caused by the implementation of the statute.

List of Subjects in 12 CFR Part 203

Banks, banking, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 203 as follows.

PART 203—HOME MORTGAGE DISCLOSURE

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801-2810.

2. Section 203.5 is revised to read as follows:

203.5 Disclosure and reporting.

(a) *Reporting to agency.* By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send two copies of its complete loan application register (if submitted in paper form) to the agency office specified in appendix A of this regulation, and shall retain a copy for its records for a period of not less than three years. A financial institution need only submit one copy when the submission is on computer tape or diskette.

(b) *Public disclosure of statement.* A financial institution shall make its mortgage loan disclosure statement (to be prepared by the Federal Financial

Institutions Examination Council) available to the public at its home office no later than three business days after receiving it from the Examination Council. A financial institution shall also make its disclosure statement available to the public within ten business days in at least one branch office in each additional MSA where it has offices. The disclosure statement at a branch office need only contain data relating to properties in the MSA where the branch office is located.

(c) *Public disclosure of loan application register.* A financial institution shall make its loan application register available to the public after modifying it in accordance with appendix A. An institution shall make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1. The modified register made available at a branch office need only contain data relating to properties in the MSA where the branch office is located.

(d) *Availability of data.* A financial institution shall make its modified register available to the public for a period of three years and its disclosure statement available for a period of five years. An institution shall make the data available for inspection and copying during the hours the office is normally open to the public for business. It may impose a reasonable fee for any cost incurred in providing or reproducing the data.

(e) *Notice of availability.* A financial institution shall post a general notice about the availability of its disclosure statement in the lobbies of its home office and any physical branch offices located in an MSA. Upon request, it shall promptly provide the location of the institution's offices where the statement is available. At its option, an institution may include the location in its notice.

3. Appendix A to part 203 is amended by revising the heading of section III., by revising section III.D., and by adding new sections III.E., F., and G., to read as follows:

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/ Application Register

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III. Submission of HMDA-LAR and Public Release of Data

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D. Availability of disclosure statement. The Federal Financial Institutions Examination Council (FFIEC) will prepare a disclosure

statement from the data you submit. Your disclosure statement will be returned to the name and address indicated on the transmittal sheet. Within three business days of receiving the disclosure statement, you must make a copy available at your home office for inspection by the public. You also must make the disclosure statement available, within ten business days after receiving it from the FFIEC, in at least one branch office in each additional MSA where you have physical offices. For these purposes, a business day is any calendar day other than a Saturday, Sunday, or legal public holiday.

E. Availability of modified loan application register.

1. To protect the privacy of applicants and borrowers, an institution must modify its loan application register by removing the following information before releasing it to the public: the application or loan number, date application received, and date of action taken.

2. A financial institution must make its modified register available following the calendar year for which the data are compiled, by March 31 for a request received on or before March 1, and within 30 days for a request received after March 1.

F. Location and format of disclosed data. A financial institution must make a complete copy of its disclosure statement and modified register available to the public at its home office. Institutions may make these data available in hard copy or in automated form (such as by floppy disk or computer tape). Although you are not required to make the modified loan application register available in census-tract order, you are strongly encouraged to do so in order to enhance its utility to users. If you have physical branch offices in other MSAs, you must make available, in at least one branch office in each of those MSAs, either a complete copy of the disclosure statement or the portion of it that relates to properties in that MSA. Similarly, a modified register at a branch office need only reflect data concerning properties within the MSA where the branch is located.

You are not required to prepare a modified loan application register in advance of receiving a request from the public for this information, but must be able to respond to a request within 30 days.

G. Posters. Your agency can provide you with HMDA posters that you can use to inform the public of the availability of your disclosure statement, or you may print your own posters.

By order of the Board of Governors of the
Federal Reserve System, March 3, 1993.

William W. Wiles,
Secretary of the Board.

[FR Doc. 93-5408 Filed 3-10-93; 8:45 am]

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