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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 203

[Regulation C; Docket No. R-1120]

#### Home Mortgage Disclosure

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The Board is publishing amendments to Regulation C (Home Mortgage Disclosure). The amendments require lenders to ask applicants their race or national origin and sex in applications taken by telephone, conforming the telephone application rule to the rule applicable to mail and Internet applications.

**DATES:** The amendments are effective January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** John C. Wood, Counsel, Kathleen C. Ryan, Senior Attorney, or Dan S. Sokolov, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3667 or (202) 452-2412. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263-4869.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Home Mortgage Disclosure Act (HMDA) requires certain depository and for-profit nondepository institutions to collect, report, and publicly disclose data about originations and purchases of home mortgage and home improvement loans. Institutions must also report data about applications that do not result in originations. The Board's Regulation C implements HMDA.

On January 23, 2002, the Board approved a final rule amending Regulation C, effective January 1, 2003. 67 FR 7222, February 15, 2002. The

Board subsequently delayed the effective date of the amendments from January 1, 2003, until January 1, 2004. 67 FR 30771, May 8, 2002.

At the same time that the final rule was published, the Board issued a proposed rule for comment on three items related to the final rule: (1) The appropriate thresholds for purposes of reporting pricing data on loan originations; (2) whether lenders should report lien status; and (3) whether lenders should be required to ask applicants for monitoring information on ethnicity, race, and sex in applications taken entirely by telephone. 67 FR 7252, February 15, 2002.

The Board has issued a final rule, adopting the three proposed items, in a notice published elsewhere in today's **Federal Register**. For reasons discussed in that notice, the revised rule regarding the collection of monitoring information about ethnicity, race, and sex is effective as of January 1, 2003. Because the final rule published today amends the revised regulation—which does not take effect until January 1, 2004—the Board is publishing a rule with respect to monitoring information, set forth in this notice, to cover the period from January 1, 2003, to December 31, 2003. The rule amends the portions of the current Appendices A and B to Regulation C that set forth instructions for collecting monitoring information in telephone applications.

Thus, for applications taken beginning January 1, 2003, lenders must ask telephone applicants for monitoring information under Appendix A, Paragraph V.D.2, and Appendix B, Paragraph I.B.4., as revised by the Board in this notice. For these applications, lenders must use the race or national origin categories in current Appendix A, Paragraph V.D.3., and in the sample data collection form in current Appendix B. For applications taken on or after January 1, 2004, lenders are required to ask telephone applicants for monitoring information under Appendix A, Paragraph I.D.2., and Appendix B, Paragraph II.A., as revised in the notice published elsewhere in today's **Federal Register**, using the revised ethnicity and race categories in Appendix A, Paragraphs I.D.3. and 4., and the sample data collection form in Appendix B approved by the Board on January 23, 2002.

### 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 amends 12 CFR Part 203 as follows:

#### PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

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

**Authority:** 12 U.S.C. 2801–2810.

2. Appendix A is amended by revising Paragraph V.D.2. to read as follows:

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

\* \* \* \* \*

V. Instructions for Completion of Loan/Application Register

\* \* \* \* \*

D. Applicant Information—Race or National Origin, Sex, and Income

\* \* \* \* \*

2. *Mail, Internet, or Telephone Applications.* All loan applications, including applications taken by mail, Internet, or telephone, must use a collection form similar to that shown in appendix B regarding race or national origin and sex. For applications taken by telephone, the information in the collection form must be stated orally by the lender, except for information that pertains uniquely to applications taken in writing. If the applicant does not provide these data in an application taken by mail, Internet or telephone, enter the code for “information not provided by applicant in mail or telephone application” specified in paragraphs V.D.3. and 4. of this appendix. (See appendix B for complete information on the collection of these data in mail, Internet, or telephone applications.)

\* \* \* \* \*

3. Appendix B is amended by revising paragraph I.B.4. to read as follows:

#### Appendix B to Part 203—Form and Instructions for Data Collection on Race or National Origin and Sex

\* \* \* \* \*

I. Instructions on collection of data on race or national origin and sex

\* \* \* \* \*

B. Procedures

\* \* \* \* \*

4. You must ask the applicant for this information (but you cannot require the applicant to provide it) whether the application is taken in person, by mail or telephone, or on the Internet. For

applications taken by telephone, the information in the collection form must be stated orally by the lender, except for that information which pertains uniquely to applications taken in writing. You need not provide the data when you take an application by mail or telephone or on the Internet, if the applicant fails to answer. You should indicate whether an application was received by mail, telephone, or the Internet, if it is not otherwise evident on the face of the application.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, June 21, 2002.

**Jennifer J. Johnson,**

*Secretary of the Board.*

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 203

[Regulation C; Docket No. R-1120]

#### Home Mortgage Disclosure

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

**ACTION:** Final rule; staff interpretation.

**SUMMARY:** The Board is publishing amendments to Regulation C (Home Mortgage Disclosure). The amendments establish the thresholds for determining the loans for which financial institutions must report loan pricing data (the spread between the annual percentage rate on a loan and the yield on comparable Treasury securities) as required under a final rule approved in January 2002; the thresholds are a spread of 3 percentage points for first-lien loans and 5 percentage points for subordinate-lien loans. The amendments require lenders to report the lien status of a loan or application. The amendments also require that lenders ask applicants their ethnicity, race, and sex in applications taken by telephone; this monitoring requirement is made applicable as of January 1, 2003, through a rule published elsewhere in today's **Federal Register**.

**DATES:** The amendments are effective January 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** John C. Wood, Counsel, Kathleen C. Ryan, Senior Attorney, or Dan S. Sokolov, Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452-3667 or (202) 452-2412. For users of Telecommunications Device for the Deaf (TDD) *only*, contact (202) 263-4869.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Home Mortgage Disclosure Act (HMDA) (12 U.S.C. 2801-2810) has three purposes. One is to provide the public and government officials with data that will help show whether lenders are serving the housing needs of the neighborhoods and communities in which they are located. A second purpose is to help public officials target public investment to promote private investment where it is needed. A third purpose is to provide data that assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

HMDA accordingly requires certain depository and for-profit nondepository lenders to collect, report, and publicly disclose data about originations and purchases of loans secured by residential real property and of home improvement loans. Lenders must also report data about applications that did not result in originations.

The Board's Regulation C implements HMDA. Regulation C generally requires that lenders report data about:

- *Each application or loan*, including the application date; the action taken and the date of that action; the loan amount; the loan type and purpose; and, if the loan is sold, the type of purchaser;
- *Each applicant or borrower*, including ethnicity, race, sex, and income; and
- *Each property*, including location and occupancy status.

Lenders report this information to their supervisory agencies on an application-by-application basis using a loan application register format (HMDA/LAR). Lenders must make their HMDA/LARs—with certain fields redacted to preserve applicants' privacy—available to the public. The Federal Financial Institutions Examination Council (FFIEC), acting on behalf of the supervisory agencies, compiles the reported information and prepares an individual disclosure statement for each institution. The FFIEC also aggregates data and prepares reports for all lenders in each metropolitan area and for the nation. These disclosure statements and reports are available to the public.

On January 23, 2002, the Board approved amendments to Regulation C after a comprehensive review of the regulation. 67 FR 7222, February 15, 2002. Among other things, the final rule requires lenders to report the spread between the APR on loans and the yield on Treasury securities with comparable maturity periods, if the spread meets or exceeds certain thresholds specified by the Board.

At the same time that the final rule was published, the Board issued a proposed rule for comment on whether thresholds of 3 percentage points above the yield on comparable Treasury securities for first-lien loans and 5 percentage points for subordinate-lien loans (which generally have a higher APR) are appropriate thresholds for identifying the loans for which financial institutions must report loan pricing data. 67 FR 7252, February 15, 2002. The Board also proposed to require lenders (1) to report the lien status on loans and applications and (2) to ask telephone applicants their ethnicity, race, and sex.

The Board received approximately 250 comments on the proposed rule; commenters were generally divided on the issues. Industry commenters provided differing views on the appropriate thresholds for reporting pricing data and on the burden associated with reporting lien status. They were generally opposed to the proposed collection of applicants' ethnicity, race, and sex in telephone applications.

Commenters representing community groups, researchers, and state, local and tribal officials generally urged the Board to require lenders to report pricing information on all loans. These commenters supported the reporting of lien status for originations and applications, and argued for extending the requirement to purchased loans. They believed that lenders should be required to ask for applicants' ethnicity, race, and sex in telephone applications.

Many industry commenters, in addition to commenting on the proposed rule, also requested a delay in the effective date of the final rule published on February 15, 2002. On May 2, 2002, the Board delayed the effective date of the final rule to January 1, 2004. Lenders must, however, use the census tract numbers and corresponding geographic areas from the 2000 Census for all applications and loans recorded on their 2003 HMDA/LAR and reported to the supervisory agencies by March 1, 2004. 67 FR 30771, May 8, 2002.

Industry commenters also requested guidance on how to collect and report data when an application is received before—and final action is taken after—January 1, 2004, the effective date of the revised rule. In some instances, several months may elapse between application and final action, and applications taken in 2003 may not be acted upon until 2004.

Lenders generally must comply with the revised rules for all applications upon which final action is taken on and after January 1, 2004. The Board plans