

**Supporting Statement for the
Home Mortgage Disclosure Act - Loan/Application Register
(FR HMDA-LAR; OMB No. 7100-0247)
(Docket No. R-1321)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to revise, without extension, the Home Mortgage Disclosure Act (HMDA) Loan/Application Register (LAR), which is prescribed by the Federal Reserve as part of its Regulation C implementing HMDA.¹ The Federal Reserve is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation C as “required information collections.”

On July 30, 2008, a notice of proposed rulemaking was published in the *Federal Register* for public comment (73 FR 44189). The Federal Reserve proposes to amend Regulation C by revising the rules for reporting price information on higher-priced loans. The rules would be conformed to the definition of “higher-priced mortgage loan” adopted by the Board under Regulation Z (Truth in Lending).² The Federal Reserve received 19 comment letters from industry and consumers. On October 24, 2008, a notice of final rulemaking was published in the *Federal Register* adopting the amendments largely as proposed (73 FR 63329). The final rule is effective October 1, 2009. Compliance is mandatory for loan applications taken on and after that date and for loans that close on and after January 1, 2010 (regardless of their application dates).

The information reported and disclosed pursuant to this collection is used to further the purposes of HMDA. These include: (1) to help determine whether financial institutions are serving the housing needs of their communities, (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed, and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes. The information collection is mandatory.

The Federal Reserve’s Regulation C, including the information collection, applies both to depository and for-profit nondepository institutions and is enforced by six agencies, including the Federal Reserve.³ Federal Reserve staff collects and processes information obtained through the data collection for all the agencies except HUD. However, each agency accounts separately for the paperwork burden that Regulation C imposes on the institutions that the agency regulates. Thus, the Federal Reserve accounts only for state member banks, their subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a; 611-631). The Federal Reserve estimates that respondents regulated by the Federal Reserve would take, on average, 16 hours

¹ HMDA is codified at 12 U.S.C. § 2801-2810; Regulation C is codified at 12 C.F.R. Part 203.

² 73 FR 44522 (July 30, 2007)

³ The five other agencies are the Department of Housing and Urban Development (HUD), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS). Except for HUD, these agencies, like the Federal Reserve, are members of the Federal Financial Institutions Examination Council.

(two business days) to revise and update their systems to comply with the proposed threshold for rate spread reporting. This one-time revision would increase the total annual burden by 10,880 hours to 167,790 hours.

Background

HMDA was enacted in 1975 and amended extensively in 1989, when Congress extended the Act to independent mortgage companies and added requirements to report data on denials of mortgage applications and to identify the race, sex, and income of applicants and borrowers. In 1998, the Federal Reserve initiated a major review of its rules implementing HMDA. After issuing two proposals and receiving extensive comments, the Board adopted final rules in 2002, which took effect on January 1, 2004.

Under the new rules, Regulation C was amended to improve the quality, consistency, and utility of data reported under HMDA. The revisions expanded coverage of nondepository lenders; streamlined the definitions of “refinancing” and “home improvement loan;” revised the definition of “application” to include requests for preapproval; mandated the collection of additional items of information, including the spread between the annual percentage rate on a loan and the rate on the comparable Treasury security (for APRs above certain thresholds); and required lenders to request race, ethnicity, and sex data from telephone applicants.

Justification

The Federal Reserve, on behalf of the Federal Financial Institutions Examination Council (FFIEC), prepares a disclosure statement for each institution based on that institution’s LAR. Also on behalf of the FFIEC, the Federal Reserve combines the data submitted by all reporting institutions and produces aggregate data for each Metropolitan Statistical Area (MSA). The disclosure statements and aggregate data are publicly available.

Supervisory agencies, state and local public officials, and members of the public use data from the disclosure statements produced by the FFIEC to aid in the enforcement of the Community Reinvestment Act, the Equal Credit Opportunity Act, and the Fair Housing Act; to aid in identifying areas for residential redevelopment and rehabilitation; and to evaluate the extent to which mortgage lenders are serving local housing needs.

From January 2004 to date, the Federal Reserve, on behalf of the FFIEC, has received approximately 1,770 orders for the purchase of products presenting data resulting from this information collection. Most orders came from financial institutions; others came from government agencies, members of the media, and the general public. Much of the mortgage loan information published by the FFIEC is not available to the public from any other source.

Description of Information Collection

The Board's Regulation C applies to depository and for-profit nondepository institutions that meet certain criteria relating to asset size, presence in an MSA, activity in the home mortgage lending market, and, in the case of depository institutions, FDIC membership or other relationships with the Federal government or government-sponsored enterprises. 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 (for example, government guaranteed or not) and purpose (for example, home purchase); 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.

In March 2007, 680 Federal Reserve-regulated institutions submitted LARs identifying approximately 6.2 million loans and applications for 2006. A total of 8,886 institutions reported approximately 34.1 million loans and applications. The number of respondents changes annually – for example, as institutions merge, or as their assets rise above or fall below the applicable threshold for coverage.

The Federal Reserve and the FFIEC have taken many steps to minimize the burden of compliance with the information collection and assist in accurate and timely reporting. These steps include providing free HMDA-LAR data entry software; maintaining the FFIEC HMDA web site, which includes a free “geocoding” utility that returns census tract information for a specified property address;⁴ and publishing the FFIEC handbook, A Guide to HMDA Reporting: Getting It Right!.⁵

Proposed Revision for High Priced Loans

Regulation C currently requires lenders to report the spread between the annual percentage rate (APR) on a loan and the yield on Treasury securities of comparable maturity if the spread meets or exceeds 3.0 percentage points for a first-lien loan (or 5.0 percentage points for a subordinate-lien loan).

The Federal Reserve proposes to modify the method for determining when price information is reported. Instead of yields on Treasury securities of comparable maturity, the proposed rule would use a survey-based⁶ estimate of market rates for the lowest-risk prime mortgages, referred to as the “average prime offer rate,” for comparable types of transactions.

The reporting threshold would be set at 1.5 percentage points above the average prime offer rate for first-lien loans, and 3.5 points for subordinate-lien loans. The lender would report

⁴ According to the Federal Reserve staff, the geocoding utility web page (www.ffiec.gov/geocode) was accessed (opened or downloaded) approximately 34.9 million times since January 2004.

⁵ According to the Federal Reserve staff, there were approximately 2.35 million visitors to the FFIEC HMDA web site since January 2004. During that time the HMDA Guide (2004 or 2006 version) (<http://www.ffiec.gov/hmda/guide.htm>) was accessed (opened or downloaded) approximately 3.3 million times.

⁶ Primary Mortgage Market Survey conducted by Freddie Mac.

the difference between the transaction's APR and the average prime offer rate on a comparable type of transaction if the difference met or exceeded the threshold.

The proposed amendments are intended to facilitate regulatory compliance and parallel the test for rate spread reporting under Regulation C to the definition of higher-priced mortgage loans under Regulation Z. The proposed amendments would also provide better and more useful pricing data on higher-priced loans reported under Regulation C.

Time Schedule for Information Collection

An institution generally must record data on each application and loan within thirty days after the end of the calendar quarter during which the institution took final action. To comply with statutory requirements, each covered lender must submit the completed LAR to the applicable supervisory agency by March 1 of the year following the year covered by the LAR. Institutions that submit incorrect information may be required to correct and resubmit the information.

After all the institutions' data have been edited, the FFIEC sends each institution a disclosure statement. Within three business days of receiving its statement, an institution must make a copy available at its home office. In addition, within ten days of receiving its statement, the institution must either: (1) make the statement available in at least one branch office per MSA where it has an office; or (2) post a notice stating that the statement is available upon written request (including the mailing address). The institution must mail or deliver a copy within fifteen calendar days of receiving a written request. The disclosure statement need only contain the portion of data relating to the MSA for which the request is made. Each institution must make its disclosure statement available to the public for five years.

Each institution must retain its completed LAR for three years. It must also make its LAR available to the public after redacting certain information to protect the privacy of its applicants and borrowers. The redacted LAR must also remain available, on request, for three years. If the institution receives a request for the prior year's LAR on or before March 1, the institution must make the LAR available within thirty calendar days. Institutions must post notices about the availability of their HMDA data in the lobbies of their home and branch offices. Institutions may impose reasonable fees for any costs incurred in providing or reproducing LAR data in response to requests for such data.

Sensitive Questions

Institutions must generally request applicants for covered loans to provide information about their sex, race, and ethnicity. For applications taken in person, the institution must generally infer the information based on visual observation and surname if an applicant declines to provide the information. The purpose of these features of the information collection is to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

Legal Status

The Board's Legal Division has determined that HMDA data collection and reporting are required by law (12 U.S.C. 2803(j)); completion of the LAR, submission to the Federal Reserve, and disclosure to the public upon request are mandatory. After the data are redacted as required by the statute and regulation, they are made publicly available and are not considered confidential. Data that the statute requires to be redacted (loan number, date application received, and date action taken) are given confidential treatment under exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(6)) and section 304 (j)(2)(B) of HMDA.

Consultation Outside the Agency

The Board consults regularly with HUD and with the other member agencies of the FFIEC about matters concerning this data collection. All of the Board's rulemaking activities under HMDA are subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. 551 *et seq.* On July 30, 2008, a notice of proposed rulemaking was published in the *Federal Register* for public comment (73 FR 44189). On October 24, 2008, a notice of final rulemaking was published in the *Federal Register* adopting the amendments largely as proposed (73 FR 63329). The final rule is effective October 1, 2009. Compliance is mandatory for loan applications taken on and after that date and for loans that close on and after January 1, 2010 (regardless of their application dates).

Estimate of Respondent Burden

The reporting, recordkeeping, and disclosure burden for this information collection is estimated to vary from 12 to 12,000 hours per respondent per year, with an average of 242 hours for state member banks and an average of 192 hours for mortgage banking subsidiaries and other respondents. This estimated burden includes time to: gather and maintain the data needed, review the instructions, and complete the register. The current total annual burden for entities regulated by the Federal Reserve is estimated to be 156,910 hours.

The Federal Reserve estimates that its respondents would take, on average, 16 hours (two business days) to revise and update their systems to comply with the proposed threshold for rate spread reporting. This one-time revision would increase the burden by 10,880 hours to 167,790. The burden represents approximately less than 4 percent of total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current				
State member banks	527	1	242	127,534
Mortgage subsidiaries of state member banks	153	1	192	<u>29,376</u>
	<i>Total</i>			156,910
Proposed				
State member banks	527	1	242	127,534
Mortgage subsidiaries of state member banks	153	1	192	29,376
One time system update	680	1	16	<u>10,880</u>
	<i>Total</i>			167,790
	<i>Change</i>			+10,880

The total annual cost to Federal Reserve respondents is estimated to increase from \$9,673,502 to \$10,344,254.⁷

Estimate of Cost to the Federal Reserve System

The total annual cost to the federal agencies responsible for this data collection is estimated to be \$2.3 million. The estimate includes, among other things, processing the information generated by the collection, producing a disclosure statement for each institution, and producing aggregate data for each MSA. This cost is allocated among the member agencies of the FFIEC and HUD based on the time spent by Federal Reserve analysts and computers working on the data relating to the respective agencies' regulated institutions.

⁷ Total annual cost to the Federal Reserve respondents was estimated using the following formula. Percent of staff time, multiplied by annual burden hours, multiplied by hourly rate: 30% - Clerical @ \$25, 45% - Managerial or Technical @ \$55, 15% - Senior Management @ \$100, and 10% - Legal Counsel @ \$144. Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics, *Occupational Employment and Wages*, news release.