

## Title 12, Code of Federal Regulations

### § 203.1 Authority, purpose, and scope.

(a) *Authority.* This regulation is issued by the Board of Governors of the Federal Reserve System ("Board") pursuant to the Home Mortgage Disclosure Act ("HMDA") (12 U.S.C. 2801 *et seq.*), as amended. The information-collection requirements have been approved by the U.S. Office of Management and Budget ("OMB") under 44 U.S.C. 3501 *et seq.* and have been assigned OMB numbers for institutions reporting data to the Office of the Comptroller of the Currency (1557–0159), the Federal Deposit Insurance Corporation (3064–0046), the Office of Thrift Supervision (1550–0021), the Federal Reserve System (7100–0247), and the Department of Housing and Urban Development ("HUD") (2502–0529). A number for the National Credit Union Administration is pending.

(b) *Purpose.* (1) This regulation implements the Home Mortgage Disclosure Act, which is intended to provide the public with loan data that can be used:

- (i) To help determine whether financial institutions are serving the housing needs of their communities;
- (ii) To assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and
- (iii) To assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

(2) Neither the act nor this regulation is intended to encourage unsound lending practices or the allocation of credit.

(c) *Scope.* This regulation applies to certain financial institutions, including banks, savings associations, credit unions, and other mortgage lending institutions, as defined in §203.2(e). The regulation requires an institution to report data to its supervisory agency about home purchase loans, home improvement loans, and refinancings that it originates or purchases, or for which it receives applications; and to disclose certain data to the public.

### § 203.2 Definitions.

In this regulation:

(a) *Act* means the Home Mortgage Disclosure Act ("HMDA") (12 U.S.C. 2801 *et seq.*), as amended.

(b) *Application*—(1) *In general.* Application means an oral or written request for a home purchase loan, a home improvement loan, or a refinancing that is made in accordance with procedures used by a financial institution for the type of credit requested.

(2) *Preapproval programs.* A request for preapproval for a home purchase loan is an application under paragraph (b) (1) of this section if the request is reviewed under a program in which the financial institution, after a comprehensive analysis of the creditworthiness of the applicant, issues a written commitment to the applicant valid for a designated period of time to extend a home purchase loan up to a specified amount. The written commitment may not be subject to conditions other than:

- (i) Conditions that require the identification of a suitable property;
- (ii) Conditions that require that no material change has occurred in the applicant's financial condition or creditworthiness prior to closing; and
- (iii) Limited conditions that are not related to the financial condition or creditworthiness of the applicant that the lender ordinarily attaches to a traditional home mortgage application (such as certification of a clear termite inspection).

(c) *Branch office* means:

(1) Any office of a bank, savings association, or credit union that is approved as a branch by a federal or state supervisory agency, but excludes free-standing electronic terminals such as automated teller machines; and

(2) Any office of a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that takes applications from the public for home purchase loans, home improvement loans, or refinancings. A for-profit mortgage-lending institution is also deemed to have a branch office in an MSA or in a Metropolitan Division, if, in the preceding calendar year, it received applications for, originated, or purchased five or more home purchase loans, home improvement loans, or refinancings related to property located in that MSA or Metropolitan Division, respectively.

(d) *Dwelling* means a residential structure (whether or not attached to real property) located in a state of the United States of America, the District of Columbia, or the Commonwealth of Puerto Rico. The term includes an individual condominium unit, cooperative unit, or mobile or manufactured home.

(e) *Financial institution* means:

(1) A bank, savings association, or credit union that:

(i) On the preceding December 31 had assets in excess of the asset threshold established and published annually by the Board for coverage by the act, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve month period ending in November, with rounding to the nearest million;

(ii) On the preceding December 31, had a home or branch office in an MSA;

(iii) In the preceding calendar year, originated at least one home purchase loan (excluding temporary financing such as a construction loan) or refinancing of a home purchase loan, secured by a first lien on a one-to four-family dwelling; and

(iv) Meets one or more of the following three criteria:

(A) The institution is federally insured or regulated;

(B) The mortgage loan referred to in paragraph (e)(1)(iii) of this section was insured, guaranteed, or supplemented by a federal agency; or

(C) The mortgage loan referred to in paragraph (e)(1)(iii) of this section was intended by the institution for sale to Fannie Mae or Freddie Mac; and

(2) A for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that:

(i) In the preceding calendar year, either:

(A) Originated home purchase loans, including refinancings of home purchase loans, that equaled at least 10 percent of its loan-origination volume, measured in dollars; or

(B) Originated home purchase loans, including refinancings of home purchase loans, that equaled at least \$25 million; and

(ii) On the preceding December 31, had a home or branch office in an MSA; and

(iii) Either:

(A) On the preceding December 31, had total assets of more than \$10 million, counting the assets of any parent corporation; or

(B) In the preceding calendar year, originated at least 100 home purchase loans, including refinancings of home purchase loans.

(f) *Home-equity line of credit* means an open-end credit plan secured by a dwelling as defined in Regulation Z (Truth in Lending), 12 CFR part 226.

(g) *Home improvement loan* means:

(1) A loan secured by a lien on a dwelling that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located; and

(2) A non-dwelling secured loan that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located, and that is classified by the financial institution as a home improvement loan.

(h) *Home purchase loan* means a loan secured by and made for the purpose of purchasing a dwelling.

(i) *Manufactured home* means any residential structure as defined under regulations of the Department of Housing and Urban Development establishing manufactured home construction and safety standards (24 CFR 3280.2).

(j)(1) Metropolitan Statistical Area or MSA means a metropolitan statistical area as defined by the U.S. Office of Management and Budget.

(2) Metropolitan Division or MD means a metropolitan division of an MSA, as defined by the U.S. Office of Management and Budget.

(k) *Refinancing* means a new obligation that satisfies and replaces an existing obligation by the same borrower, in which:

(1) For coverage purposes, the existing obligation is a home purchase loan (as determined by the lender, for example, by reference to available documents; or as stated by the applicant), and both the existing obligation and the new obligation are secured by first liens on dwellings; and

(2) For reporting purposes, both the existing obligation and the new obligation are secured by liens on dwellings.

[67 FR 7236, Feb. 15, 2002, as amended at 68 FR 74830, Dec. 29, 2003]

### **§ 203.3 Exempt institutions.**

(a) *Exemption based on state law.* (1) A state-chartered or state-licensed financial institution is exempt from the requirements of this regulation if the Board determines that the institution is subject to a state disclosure law that contains requirements substantially similar to those imposed by this regulation and that contains adequate provisions for enforcement.

(2) Any state, state-chartered or state-licensed financial institution, or association of such institutions, may apply to the Board for an exemption under paragraph (a) of this section.

(3) An institution that is exempt under paragraph (a) of this section shall use the disclosure form required by its state law and shall submit the data required by that law to its state supervisory agency for purposes of aggregation.

(b) *Loss of exemption.* An institution losing a state-law exemption under paragraph (a) of this section shall comply 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 format and itemization.* A financial institution shall collect data regarding applications for, and originations and purchases of, home purchase loans, home improvement loans, and refinancings for each calendar year. An institution is required to collect data regarding requests under a preapproval program (as defined in §203.2(b)) only if the preapproval request is denied or results in the origination of a home purchase loan. All reportable transactions shall be recorded, within thirty calendar days after the end of the calendar quarter in which final action is taken (such as origination or purchase of a loan, or denial or withdrawal of an application), on a register in the format prescribed in Appendix A of this part. The data recorded shall include the following items:

- (1) An identifying number for the loan or loan application, and the date the application was received.
- (2) The type of loan or application.
- (3) The purpose of the loan or application.
- (4) Whether the application is a request for preapproval and whether it resulted in a denial or in an origination.
- (5) The property type to which the loan or application relates.
- (6) The owner-occupancy status of the property to which the loan or application relates.
- (7) The amount of the loan or the amount applied for.
- (8) The type of action taken, and the date.
- (9) The location of the property to which the loan or application relates, by MSA or by Metropolitan Division, by state, by county, and by census tract, if the institution has a home or branch office in that MSA or Metropolitan Division.
- (10) The ethnicity, race, and sex of the applicant or borrower, and the gross annual income relied on in processing the application.
- (11) The type of entity purchasing a loan that the institution originates or purchases and then sells within the same calendar year (this information need not be included in quarterly updates).
- (12) For originated loans subject to Regulation Z, 12 CFR part 226, the difference between the loan's annual percentage rate (APR) and the yield on Treasury securities having comparable periods of maturity, if that difference is equal to or greater than 3 percentage points for loans secured by a first lien on a dwelling, or equal to or greater than 5 percentage points for loans secured by a subordinate lien on a dwelling. The lender shall use the yield on Treasury securities as of the 15th day of the preceding month if the rate is set between the 1st and the 14th day of the month and as of the 15th day of the current month if the rate is set on or after the 15th day, as prescribed in appendix A to this part.
- (13) Whether the loan is subject to the Home Ownership and Equity Protection Act of 1994.
- (14) The lien status of the loan or application (first lien, subordinate lien, or not secured by a lien on a dwelling).

(b) *Collection of data on ethnicity, race, sex, and income.* (1) A financial institution shall collect data about the ethnicity, race, and sex of the applicant or borrower as prescribed in Appendix B of this part.

(2) Ethnicity, race, sex, and income data may but need not be collected for loans purchased by the financial institution.

(c) *Optional data.* A financial institution may report:

- (1) The reasons it denied a loan application;

- (2) Requests for preapproval that are approved by the institution but not accepted by the applicant; and
- (3) Home-equity lines of credit made in whole or in part for the purpose of home improvement or home purchase.

(d) *Excluded data.* A financial institution shall not report:

- (1) Loans originated or purchased by the financial institution acting in a fiduciary capacity (such as trustee);
- (2) Loans on unimproved land;
- (3) Temporary financing (such as bridge or construction loans);
- (4) The purchase of an interest in a pool of loans (such as mortgage-participation certificates, mortgage-backed securities, or real estate mortgage investment conduits);
- (5) The purchase solely of the right to service loans; or
- (6) Loans acquired as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office as defined in §203.2(c)(1).

(e) *Data reporting for banks and savings associations that are required to report data on small business, small farm, and community development lending under CRA.* Banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) shall also collect the location of property located outside MSAs and Metropolitan Divisions in which the institution has a home or branch office, or outside any MSA.

[ 67 FR 7236, Feb. 15, 2002, as amended at 67 FR 43223, June 27, 2002; 68 FR 74830, Dec. 29, 2003]

### **§ 203.5 Disclosure and reporting.**

(a) *Reporting to agency.* (1) By March 1 following the calendar year for which the loan data are compiled, a financial institution shall send its complete loan/application register to the agency office specified in Appendix A of this part. The institution shall retain a copy for its records for at least three years.

(2) A subsidiary of a bank or savings association shall complete a separate loan/application register. The subsidiary shall submit the register, directly or through its parent, to the agency that supervises its parent.

(b) *Public disclosure of statement.* (1) The Federal Financial Institutions Examination Council ("FFIEC") will prepare a disclosure statement from the data each financial institution submits.

(2) An institution shall make its disclosure statement (prepared by the FFIEC) available to the public at its home office no later than three business days after receiving it from the FFIEC.

(3) In addition, an institution shall either:

(i) Make its disclosure statement available to the public, within ten business days of receiving it, in at least one branch office in each other MSA and each other Metropolitan Division where the institution has offices (the disclosure statement need only contain data relating to the MSA or Metropolitan Division where the branch is located); or

(ii) Post the address for sending written requests in the lobby of each branch office in other MSAs and Metropolitan Divisions where the institution has offices; and mail or deliver a copy of the disclosure statement within fifteen calendar days of receiving a written request (the disclosure statement need only contain data relating to the MSA or Metropolitan Division for which the request is made). Including the address in the general notice required under paragraph (e) of this section satisfies this requirement.

(c) *Public disclosure of modified loan/application register.* A financial institution shall make its loan/application register available to the public after removing the following information regarding each entry: the application or loan number, the date that the application was received, and the date action was taken. 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 thirty calendar days for a request received after March 1. The modified register need only contain data relating to the MSA or Metropolitan Division for which the request is made.

(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 HMDA data in the lobby of its home office and of each branch office located in an MSA and Metropolitan Division. An institution shall provide promptly upon request the location of the institution's offices where the statement is available for inspection and copying, or it may include the location in the lobby notice.

(f) *Loan aggregation and central data depositories.* Using the loan data submitted by financial institutions, the FFIEC will produce reports for individual institutions and reports of aggregate data for each MSA and Metropolitan Division, showing lending patterns by property location, age of housing stock, and income level, sex, ethnicity, and race. These reports will be available to the public at central data depositories located in each MSA and Metropolitan Division. A listing of central data depositories can be obtained from the Federal Financial Institutions Examination Council, Washington, DC 20006.

[67 FR 7236, Feb. 15, 2002, as amended at 68 FR 74830, Dec. 29, 2003]

### **§ 203.6 Enforcement.**

(a) *Administrative enforcement.* A violation of the Act or this regulation is subject to administrative sanctions as provided in section 305 of the Act, including the imposition of civil money penalties, where applicable. Compliance is enforced by the agencies listed in section 305(b) of the Act (12 U.S.C. 2804(b)).

(b) *Bona fide errors.* (1) An error in compiling or recording loan data is not a violation of the act or this regulation if the error was unintentional and occurred despite the maintenance of procedures reasonably adapted to avoid such errors.

(2) An incorrect entry for a census tract number is deemed a *bona fide* error, and is not a violation of the act or this regulation, provided that the institution maintains procedures reasonably adapted to avoid such errors.

(3) If an institution makes a good-faith effort to record all data concerning covered transactions fully and accurately within thirty calendar days after the end of each calendar quarter, and some data are nevertheless inaccurate or incomplete, the error or omission is not a violation of the act or this regulation provided that the institution corrects or completes the information prior to submitting the loan/application register to its regulatory agency.