

**Office of the Comptroller of the Currency**  
**Supporting Statement**  
**Fair Housing Home Loan Data System Regulation**  
**OMB Control No. 1557-0159**

**A. Justification**

**1. Circumstances that make the collection necessary:**

The Fair Housing Act<sup>1</sup> prohibits discrimination in the financing of housing on the basis of race, color, religion, national origin, sex, handicap, or familial status. The Equal Credit Opportunity Act<sup>2</sup> (ECOA) prohibits discrimination in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of income from public assistance, or exercise of any right under the Consumer Credit Protection Act<sup>3</sup> (CCPA). The OCC is responsible for ensuring that national banks and federal savings associations comply with those laws. This information collection is needed to promote compliance and for OCC to fulfill its statutory responsibilities.

The CFPB published a final rule on October 28, 2015, that expanded the data collected and reported under HMDA, as implemented by Regulation C, and published a final rule on September 13, 2017, with additional corrections and clarifications (final rules). The final rules also modified the types of lenders and loans covered under Regulation C. First, for data collected in 2017, and reported in 2018, the rule simply reduces the number of institutions covered under Regulation C because only depositories originating more than 25 closed end loans must report.

Then, starting January 1, 2018, an institution will collect expanded data under HMDA if it either originates 25 or more closed-end mortgage loans or 500 or more open-end lines of credit secured by a dwelling in each of the two preceding years, in addition to meeting other criteria. These institutions will begin reporting the expanded HMDA data in 2019. Starting in 2020, an institution will collect data on open-end lines of credit if it originates more than 100 open-end lines of credit secured by a dwelling in each of the two preceding years (and report that open-end lines of credit data beginning in 2021). An institution also will collect and report covered loans and applications quarterly if it received a total of at least 60,000 covered loans and applications in the preceding calendar year. An institution must report a covered loan if it has met the loan origination volume threshold for that loan category (open-end or closed-end); an institution that is not required to report data may voluntarily do so subject to the limitations enumerated in 12 CFR 1002.5(b).

In addition, the types of loans covered under Regulation C will change under the final rules beginning in 2018. Covered institutions will be required to collect and report any

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1 42 U.S.C. 3605.

2 15 U.S.C. 1691 *et seq.*

3 15 U.S.C. 1601 *et seq.*

mortgage loan secured by a dwelling, including open-end lines of credit, regardless of the loan's purpose. Dwelling-secured loans that are made principally for a commercial or business purpose, as well as agricultural-purpose loans and other specified loans will be excluded.

HMDA requires covered institutions to collect, record, report, and disclose information about their mortgage lending activity. Currently, Regulation C requires a covered institution to collect and report data about:

- (i) 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;
- (ii) Each applicant or borrower, including ethnicity, race, sex, and income; and
- (iii) Each property, including location and occupancy status.

Beginning in 2018, the final rules will require collection of additional data, which covered institutions will report in 2019:

- (i) Additional information about the applicant or borrower, such as age and credit score;
- (ii) Information about the loan pricing, such as the borrower's total cost to obtain a mortgage, temporary introductory rates, and borrower-paid origination charges;
- (iii) Information about loan features, such as the loan term, prepayment penalties, or non-amortizing features (such as interest only or balloon payments); and
- (iv) Additional information about property securing the loan, such as property value and property type.

In addition, existing requirements, including the requirements for collection and reporting of information regarding an applicant's or borrower's ethnicity, race, and sex are being amended.

The OCC is responsible for ensuring that national banks and federal savings associations comply with the Fair Housing Act and ECOA. This information collection is needed to promote compliance and for the OCC to fulfill its statutory responsibilities.

## **2. *Use of the information:***

The OCC uses the data collected pursuant to part 27 to determine whether an institution treated applicants consistently and made credit decisions commensurate with the applicants' qualifications and in compliance with the ECOA and the Fair Housing Act.

The information collection requirements in part 27 are as follows:

(i) Section 27.3(a) requires national banks that are required to collect data on home loans under Regulation C<sup>4</sup> to present the data in accordance with the HMDA-LAR instructions. Section 27.3(a) also lists exceptions to the HMDA-LAR recordkeeping requirements. Federal savings associations are also required to report this information to the OCC pursuant to 12 CFR 128.6 and Regulation C.

(ii) Section 27.3(b) lists the information national banks shall attempt to obtain from an applicant as part of a home loan application and sets forth the information that banks must disclose to an applicant.

(iii) Section 27.3(c) sets forth additional information national banks must maintain in the loan file.

(iv) Section 27.4 states that the OCC may require a national bank to maintain a Fair Housing Inquiry/Application Log found in Appendix III to part 27 if there is reason to believe that the bank is engaging in discriminatory practices or if analysis of the data compiled by the bank under the Home Mortgage Disclosure Act ([12 U.S.C. 2801](#) et seq.) and Regulation C indicates a pattern of significant variation in the number of home loans between census tracts with similar incomes and home ownership levels differentiated only by race or national origin. Section 27.4(a)(2) also requires a log if complaints filed with the Comptroller or letters in the Community Reinvestment Act file are found to be substantive in nature, indicating that the bank's home lending practices are, or may be, discriminatory.

(v) Section 27.5 requires a national bank to maintain the information required by § 27.3 for 25 months after the bank notifies the applicant of action taken on an application or after withdrawal of an application.

(vi) Section 27.7 requires a national bank to submit the information required by §§ 27.3(a) and 27.4 to the OCC upon its request prior to a scheduled examination using the Monthly Home Loan Activity Format form in Appendix I to part 27 and the Home Loan Data Form in Appendix IV to part 27. Section 27.7(c)(3) states that a bank with fewer than 75 home loan applications in the preceding year will not be required to submit such forms unless the home loan activity is concentrated in the few months preceding the request for data, indicating the likelihood of increased activity over the subsequent year, or there is cause to believe that a bank is not in compliance with the fair housing laws based on prior examinations and/or complaints, among other factors.

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<sup>4</sup> This regulation has been transferred to the CFPB (12 CFR part 1003).

(vii) Section 27.7(d) provides that if there is cause to believe that a bank is in noncompliance with fair housing laws, the Comptroller may require submission of additional Home Loan Data Submission Forms. The Comptroller may also require submission of the information maintained under § 27.3(a) and Home Loan Data Submission Forms at more frequent intervals.

OCC-regulated institutions have access to a CFPB-developed web-based data submission and edit-check system ([the HMDA Platform](#)) that may be used to process HMDA data. Some institutions, typically those with small volumes of reported loans or those that do not use a vendor or other software to prepare their HMDA data for submission, still need to use a software solution for integrating HMDA data from paper records or electronic systems. Therefore, the CFPB created a prototype “LAR Formatting Tool” which will allow financial institutions with small volumes of reported loans, or those that do not use a vendor or other software, to prepare their HMDA data for submission.

**3. *Consideration of the use of information technology:***

Institutions may use any information technology that allows them to meet the requirements of this collection.

**4. *Efforts to identify duplication:***

The information collected is unique. No duplication exists.

**5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden:***

There are no alternatives that would result in lowering the burden on small institutions, while still accomplishing the purpose of the rule.

**6. *Consequences to the Federal program if the collection were conducted less frequently:***

The OCC requires reports only on an as-needed basis. Less frequent collection would impair program effectiveness.

**7. *Special circumstances necessitating collection inconsistent with 5 CFR part 1320:***

This information collection is conducted in a manner that is consistent with guidelines set forth in 5 CFR part 1320.

**8. *Efforts to consult with persons outside the agency:***

The OCC issued a notice for 60 days of comment regarding proposed revisions to this collection on September 26, 2017, 82 FR 44873. No comments were received.

**9. Payment to respondents:**

There is no payment to respondents.

**10. Any assurance of confidentiality:**

The information collection is kept private to the extent permitted by law.

**11. Justification for questions of a sensitive nature:**

No personally identifiable information is collected. However, questions of a sensitive nature are included under the monitoring information requirement. For example, institutions must ask applicants for home loans to indicate their sex and race/national origin. If the applicant chooses not to furnish the information, the bank must note the applicant's race and sex based on visual observation or surname.

The regulations are designed to identify possible discriminatory practices. Such discrimination would tend to occur on how the lender perceives the applicant, rather than how the applicant characterizes himself or herself.

While an applicant's color or sex may be evident when they come to inquire about an application, a practice of discrimination cannot be ascertained unless the examiner has the information on the applicant's race or sex. Also, without this information in each file, corrective action for the class of persons who may have been discriminated against cannot be undertaken.

The collection by the OCC of sex and race/national origin information is exempted under the supervisory agency provision of 12 U.S.C. 3413(b), which permits the examination by or disclosure to any such agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions.

**12. Burden estimate:**

Section Number	Requirements	Type of Burden	Number of National Banks	Number of Federal Savings Associations	Time Required to Comply	Totals
§27.3(a) § 128.6	Quarterly Recordkeeping: o Institutions required to collect home loan data under Reg	Recordkeeping	480 (all NB-HMDA Reporters)	222 (12 CFR 1003)	4	2,808

Section Number	Requirements	Type of Burden	Number of National Banks	Number of Federal Savings Associations	Time Required to Comply	Totals
	C (12 CFR Part 1003) must use Form FR HMDA-LAR <ul style="list-style-type: none"> <li>o Maintain reasons for denial</li> </ul>					
§27.3(b)	Informational Required on Applications for Home Loans: <ul style="list-style-type: none"> <li>o (b)(1) lists information to be obtained</li> <li>o (b)(2): <ul style="list-style-type: none"> <li>o Lists disclosures to applicant</li> <li>o Allows for use of form in Appendix II</li> </ul> </li> </ul>	Recordkeeping	947 (all NBs-exclude Trusts and Credit Card Banks)	N/A	4	3,788
§27.3(c)	Additional Information Required in the Loan File: <ul style="list-style-type: none"> <li>o List of required files to be kept</li> </ul>	Recordkeeping	947 (all NBs-exclude Trusts and Credit Card Banks)	N/A	4	3,788
§27.4	Inquiry/Application Log: <ul style="list-style-type: none"> <li>o Requires use of log in Appendix III</li> </ul>	Recordkeeping	956 (all NBs-exclude Trusts)	N/A	4	3,824
§27.5	Record Retention Period: <ul style="list-style-type: none"> <li>o Bank must maintain information for 25 months after it notifies applicant of action taken on application, or after withdrawal of application</li> </ul>	Recordkeeping	947 (all NBs-exclude Trusts and Credit Card Banks)	N/A	4	3,788
§27.7	Availability, Submission, and Use of Data: <ul style="list-style-type: none"> <li>o OCC may request information maintained under §§27.3(a)(2) and</li> </ul>	Reporting	467 (all NBs-Non-HMDA-exclude Trusts and Credit Card Banks)	N/A	4	1,868

Section Number	Requirements	Type of Burden	Number of National Banks	Number of Federal Savings Associations	Time Required to Comply	Totals
	<p>27.4 prior to exam; to be submitted using form in Appendix I</p> <p>o If statistical analysis is warranted, bank must submit form in Appendix IV</p> <p>If there is cause to believe that a bank is in noncompliance, submission of additional Home Loan Data Submission Forms and submission of information under § 27.3(a) and Home Loan Data Submission Forms at more frequent intervals may be required.</p>					
	Totals		956	222		19,864

**Cost of Hour Burden:**

**19,864 x \$114 = \$2,264,496**

To estimate average hourly wages we reviewed data from May 2016 (released in March 2017) for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$114 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2 percent), plus an additional 30 percent to cover private sector benefits. Thirty percent represents the average private sector costs of employee

benefits.

**13. Estimate of the total annual cost to respondents (excluding the cost of any hour burden shown in Item 12):**

Not applicable.

**14. Estimate of annualized cost to the federal government:**

Not applicable.

**15. Changes in burden:**

Prior Burden: 31,704 Burden Hours.  
Current Burden: 19,864 Burden Hours.  
Difference: - 11,840 Burden Hours.

The reduction in burden is due to the changes to Regulation C.

**16. Information regarding collections whose results are planned to be published for statistical use:**

There are no plans to publish the information collected.

**17. Display of expiration date:**

Not applicable.

**18. Exceptions to certification statement:**

Not applicable.

**B. Collections of Information Employing Statistical Methods**

Not applicable.