

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:

Part 27 requires certain national banks to record certain information, and all national banks to retain certain information.¹ Specifically, national banks must record certain home loan data if they: (1) are otherwise required to maintain and report data pursuant to Regulation C,² which implements the Home Mortgage Disclosure Act (HMDA),³ in which case they are HMDA reporters, or (2) receive more than 50 home loan applications annually. Specifically, national banks that are HMDA reporters meet the part 27 requirement by recording HMDA data along with the reasons for denying any loan application on the HMDA Loan Application/Register (LAR).⁴ A national bank that is not a HMDA reporter but that receives more than 50 home loan applications annually must comply with part 27 by either: (1) recording and reporting HMDA data and denial reasons on the LAR as if they were a HMDA reporter,⁵ or (2) recording and maintaining part 27-specified activity data relating to aggregate numbers of certain types of loans by geography and action taken.⁶ Part 27 also requires that all national banks, including those not subject to the recording requirements, maintain certain application and loan information in loan files. It further provides that the OCC may require national banks to maintain and submit additional information if there is reason to believe that the bank engaged in discrimination.

This information collection supports the OCC's fair lending supervision of national banks and federal savings associations.

2. Use of the information:

¹ The OCC issued part 27 as part of a settlement agreement in a case in which the plaintiffs alleged that Federal agencies, including the OCC, were obligated to exercise supervisory and regulatory powers to prevent discrimination in home mortgage lending under Title VIII of the Civil Rights Act of 1968 (Fair Housing Act). See *National Urban League, et al. v. Office of the Comptroller of the Currency, et al.*, 78 F.R.D. 543, 544 (D.D.C. May 3, 1978) (Defendants were the OCC, FRB, FDIC, and FHLBB). For discussion of this case, see 44 FR 63084, 63084 (Nov. 2, 1979).

² 12 CFR Part 1003.

³ 12 U.S.C. 2801 et seq.

⁴ 12 CFR 27.3(a)(1)(i).

⁵ 12 CFR 27.3(a)(5).

⁶ 12 CFR 27.3(a)(2).

The data collected pursuant to part 27 supports the OCC's assessment of whether an institution treated applicants consistently and made credit decisions commensurate with the applicants' qualifications and in compliance with the ECOA⁷ and the Fair Housing Act.⁸

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 can be found in other sources but not in the format set forth in Part 27.

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 the renewal of this collection on November 5, 2020, 85 FR 70711.

9. *Payment to respondents:*

There is no payment to respondents.

10. *Any assurance of confidentiality:*

⁷ 15 U.S.C. 1691 et seq.

⁸ 42 U.S.C. 3605.

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 submitted to the OCC. 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: <ul style="list-style-type: none"> o Institutions required to collect home loan data under Reg C (12 CFR Part 1003) must use Form FR HMDA-LAR o Maintain reasons for denial 	Recordkeeping	480 (all NB-HMDA Reporters)	222 (12 CFR 1003)	4	2,808
§27.3(b)	Informational Required on Applications for Home Loans: <ul style="list-style-type: none"> o (b)(1) lists information to be 	Recordkeeping	947 (all NBs-exclude Trusts and Credit Card)	N/A	4	3,788

Section Number	Requirements	Type of Burden	Number of National Banks	Number of Federal Savings Associations	Time Required to Comply	Totals
	<ul style="list-style-type: none"> o obtained (b)(2): <ul style="list-style-type: none"> o Lists disclosures to applicant o Allows for use of form in Appendix II 		Banks)			
§27.3(c)	<p>Additional Information Required in the Loan File:</p> <ul style="list-style-type: none"> o List of required files to be kept 	Recordkeeping	947 (all NBs-exclude Trusts and Credit Card Banks)	N/A	4	3,788
§27.4	<p>Inquiry/Application Log:</p> <ul style="list-style-type: none"> o Requires use of log in Appendix III 	Recordkeeping	956 (all NBs-exclude Trusts)	N/A	4	3,824
§27.5	<p>Record Retention Period:</p> <ul style="list-style-type: none"> o Bank must maintain information for 25 months after it notifies applicant of action taken on application, or after withdrawal of application 	Recordkeeping	947 (all NBs-exclude Trusts and Credit Card Banks)	N/A	4	3,788
§27.7	<p>Availability, Submission, and Use of Data:</p> <ul style="list-style-type: none"> o OCC may request information maintained under §§27.3(a)(2) and 27.4 prior to exam; to be submitted using form in Appendix I o If statistical analysis is warranted, bank must submit form in Appendix IV 	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
	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.					
	Totals		956	222		19,864

Cost of Hour Burden:

19,864 x \$115.19 = \$2,288,134.16

To estimate wages the OCC reviewed May 2019 data for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for credit intermediation and related activities excluding nondepository credit intermediaries (NAICS 5220A1). To estimate compensation costs associated with the rule, the OCC uses \$115.19 per hour, which is based on the average of the 90th percentile for six occupations adjusted for inflation (3.1 percent as of Q1 2020 according to the BLS), plus an additional 33.4 percent for benefits (based on the percent of total compensation allocated to benefits as of Q4 2019 for NAICS 522: credit intermediation and related activities).

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:*

None.

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.