



Updating Home Mortgage Disclosure Act

by Carol Lewis

The Federal Reserve Board approved revisions to Regulation C and its Official Staff Commentary at its meeting on January 23, 2002. Regulation C, which implements the Home Mortgage Disclosure Act (HMDA), annually requires certain lenders to collect, report, and disclose data about loan originations, purchases, and refinancings of home purchase and home improvement loans. HMDA's purpose is threefold. First, HMDA provides the public with data to show whether financial institutions are serving the community's housing needs. Second, the Regulation helps public officials target public investments to areas where they are needed (thereby attracting private investment); and third, it provides data about borrowers that can be used to identify discriminatory lending patterns or practices.

Lenders will be required to report information on loan pricing. . . . in response to subprime lending

The Board imposed several changes to Regulation C to improve the integrity and usefulness of the HMDA data and to streamline the Regulation. Specifically, the Board's intent was to improve the data in order to facilitate fair lending analysis and provide more accurate information regarding the home mortgage market and subprime lending. In its review of the proposed amendments and comments received, the Board weighed the benefit of the regulatory changes against the burden they would impose on lenders.

In general, the amendments increase the number of nondepository lenders required to collect and report data, impose additional data reporting requirements, including reporting pricing data on higher-cost loans, and revise several regulatory definitions. The amendments will become effective January 1, 2004.¹

Expanding Coverage

The Board expanded the Regulation's coverage of nondepository lenders to provide the public with more complete information on the mortgage market. Regulation C covers two categories of financial institutions: depository institutions and for-profit nondepository lenders engaged in mortgage lending. Under the current Regulation, in general, a nondepository mortgage lender is covered if, in the preceding calendar year, its home purchase loan originations, including refinancings of home purchase loans, equaled or exceeded 10 percent of its total loan originations and its total assets are over \$10 million. The Board noted that there are nondepository lenders that originate

a large number of reportable loans, but are not covered by the Regulation because they have a significant amount of lending in other areas. Under the revised Regulation, the Board added a dollar volume test of \$25 million. A nondepository lender will be covered by Regulation C if its prior year home purchase loan originations, including refinancing of home purchase loans, equals or exceeds the threshold amount, even if those loans do not equal at least 10 percent of the institution's loan-origination volume, measured in dollars.

Additional Data Reporting Requirements

The revised Regulation contains several changes with regard to the compilation of loan data. Lenders will be required to report information pertaining to loan pricing. This revision is in response to the substantial growth in subprime lending and the increased variation in loan pricing and its relationship to the assessment of credit risk.

The Board's original proposal would have required lenders to report and disclose the annual percentage rate (APR), as determined by Regulation Z, Truth in Lending, for all loan applications and originations. Under the final rule, lenders will report the rate spread between the APR on a loan and the yield on Treasury securities with comparable maturity periods, for loan originations in which the APR exceeds the applicable Treasury yield by a percentage or threshold specified by the Board. The Board concluded that this approach would adjust pricing data for changes in market conditions over

time, focus on higher cost (subprime) loans, and limit reporting burden because fewer loans would be subject to the reporting requirement.

The Board has set tentative thresholds of 3 percentage points for first lien loans and 5 percentage points for subordinate lien loans. The Board sought public comment by April 12, 2002 to determine the appropriateness of these thresholds. It will announce its decision via a press release.

Lenders will only be required to report this information for originations of home purchase loans, secured home improvement loans, and refinancings. This reporting requirement does not apply to incomplete, withdrawn, denied, or approved (but not accepted) applications. It also does not apply to purchased loans and unsecured home improvement loans.

The amended Regulation will also require lenders to identify loans involving manufactured housing. HMDA reporters will refer to the U.S. Department of Housing and Urban Development definition of manufactured homes to determine whether a loan should be reported as such. If the lender does not reasonably know whether the loan is for a manufactured home, and cannot determine through reasonable means, the lender will report the property type as a one-to-four family dwelling. The Board believes that identifying applications and loans for manufactured housing will improve the integrity of HMDA data because manufactured housing loans are underwritten differently from other housing loans and have higher denial rates.

Additional Amendments

- The revised Official Staff Commentary redefines a home purchase loan to include a second mortgage loan that finances all or part of the borrower's down payment for the first mortgage. The first and second mortgage are reported separately as home purchase loans.
- The Loan Application Register (LAR) will have separate entries for loan purpose and type of property involved.
- The Board deleted the provision that permits, but does not require, depository institutions with assets in the preceding year of \$30 million or less to collect data on applicants' race, ethnicity, sex, and income.
- The term metropolitan statistical area (MSA) will be replaced with "Metropolitan Area," a term used by the Office of Management and Budget.
- The term "dwelling" has been further clarified in the Official Staff Commentary to exclude transitory residences such as hotels, hospitals, and college dormitories, whose occupants have principal residences elsewhere.
- The revised Staff Commentary clarifies that an institution must report a denial on the original terms requested by the applicant when the institution makes a counteroffer and the applicant does not accept the offer or does not respond.

The revised Regulation will require lenders to report certain requests for preapprovals of home purchase loans. A preapproval is deemed an application (and therefore reportable) if the lender completes a comprehensive credit check and issues a written commitment to the applicant that extends a home purchase loan for a designated period of time. The covered preapproval may be subject only to a limited set of conditions as set out in the regulation.

Lenders will be required to report preapproval denials as well as originations.² The Board is including denials in order to provide more complete data on home financing availability and more useful data for fair lending analyses. Lenders have always been required to report preapprovals that resulted in loan originations. The preapprovals, however, were indistinguishable from other loan originations. The revised Regulation will require lenders to enter a separate code for preapprovals resulting in originations.

Lenders may, but are not required to, report preapprovals that are approved but not accepted by the applicant. The Regulation has not changed with regard to prequalifications: prequalifications are not applications under Regulation C.

The Board is also requiring lenders to report the HOEPA (Home Ownership and Equity Protection Act) status of its loans. HOEPA provides special disclosure protections to consumers entering into certain high-cost mortgage loan transactions. While such information can be obtained from lenders during bank examinations, the Board felt that such data could be obtained more efficiently from the HMDA Loan Application Register (LAR). This amendment will also ensure that HOEPA status can be obtained from nondepository lenders that are not subject to regular examinations. This is important because nondepository lenders extended 57 percent of the dollar volume of loan originations reported under HMDA for year 2000.³

The Board revised Appendices A and B to conform collection of ethnicity and race data under Regulation C to Office of Management and Budget (OMB) guidance. The OMB recommended that the question of Hispanic ethnicity be posed separately from the question of race. The

Board believes that it is important to have uniform standards throughout the federal government. Under the new system, the ethnicity and race questions posed for self-identification will be separate. For ethnicity, the data will show whether the applicant is Hispanic, Latino, or neither. In addition, there will be five racial categories: American Indian or Alaska native; Asian; Black or African American; Native Hawaiian or other Pacific Islander; and White. The applicant will no longer have the option of checking off "other" but will be able to select more than one category.

Definition Changes

Refinancings will continue to be reported under Regulation C, but the Board has tightened the definition. A refinancing is a transaction in which a new obligation satisfies and replaces an existing obligation by the same borrower. The present Regulation requires a lender to report refinancings of home purchase and home improvement loans and allows lenders to choose from four scenarios in deciding which refinancings to report. To promote more consistent data reporting among HMDA reporters, the Board has narrowed the definition of a reportable refinancing to those transactions in which both the existing and the new loan are secured by a lien on a dwelling. The definition will not include refinancings of unsecured debt.

The Board has also amended the definition of a home improvement loan. Under the current Regulation, reportable home improvement loans are defined as loans made in whole or in part for home improvement purposes and that are classified by the lender as home improvement loans. The amended Regulation removes the classification requirement for dwelling-secured home improvement loans. Dwelling-secured home improvement loans will be reported regardless of how the lender classifies the loan. The Board indicated that for dwelling-secured loans, it is not unduly burdensome for lenders to ascertain the intended purpose of the loan because of the documentation and the interaction already involved between the lender and applicant in a secured transaction. The lender may rely solely on the applicant's statements to determine the purpose of the loan.

The Board, however, maintained the classification test for unsecured home improvement loans, recognizing the greater burden of determining the purpose for an unsecured loan. Lenders will not have to determine the purpose of every loan and can depend on their own classification systems: if the lender chooses not to classify the loans as home improvement loans, then they are not reportable.

This review of the changes to Regulation C is by no means all-inclusive. Readers should refer to the amended Regulation and the Official Staff Commentary for a more in-depth review of the changes to the Regulation. (The web address is: www.federalreserve.gov/regulations/regref.htm#c.) There may be further changes to the Regulation in the near future as well. When the Board announced changes to Regulation C in February 2002, it also requested public comment on three proposed changes to the Regulation. The first, as mentioned above, pertains to the appropriate threshold for collecting pricing data on higher cost (subprime) loans. The second proposal would require lenders to ask telephone applicants for their race, ethnicity, and sex. The final proposal would require lenders to report lien status for applications and originated loans. The comment period for these proposals ended on April 12, 2002 and the Board will issue a press release when it has decided whether to implement these changes. Readers who have questions regarding Regulation C or other Federal Reserve regulations are encouraged to call the Federal Reserve Bank of Boston consumer regulation hotline at (617) 973-3755.

Endnotes

1. A May 2, 2002 Board press release noted the delay of the effective date from January 1, 2003 to January 1, 2004. It also informed of an interim amendment mandating the use of 2000 Census data in HMDA reporting beginning January 1, 2003.
2. Regulation C continues to require that the financial institution collect data regarding applications for originations and purchases of home purchase loans, home improvement loans, and refinancings.
3. HOEPA is implemented in section 226.32 of Regulation Z.

About the Author

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