



BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Revisions;

Submission for OMB Review; Regulation C; Fair Housing Home Loan Data System

Regulation

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the revision of its information collections titled "Regulation C" and "Fair Housing Home Loan Data System Regulation." The OCC also is giving notice that it has sent the collections to OMB for review.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject

to delay, commenters are encouraged to submit comments by e-mail, if possible.

Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0176; 1557-0159, 400 7th Street, SW., suite 3E-218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0159; 1557-0176, U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503 or by email to *oira_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC proposes to revise the following collections:

Titles: Regulation C; Fair Housing Home Loan Data System Regulation.

OMB Control Nos.: 1557-0176; 1557-0159.

Type of Review: Regular review.

Description: Regulation C,¹ which implements the Home Mortgage Disclosure Act² (HMDA) enacted in 1975, requires certain depository and non-depository institutions that make certain mortgage loans to collect, report, and disclose data about originations and purchases of mortgage loans, as well as loan applications that do not result in originations. HMDA generates loan data that can be used to: (1) help determine whether financial institutions are serving the housing needs of their communities; (2) assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010³ (the Dodd-Frank Act) transferred HMDA and its rulemaking authority from the Board of Governors of the Federal Reserve System (Board) to the Consumer Financial Protection Bureau (CFPB), and transferred supervisory and enforcement authority for HMDA for

¹ 12 CFR part 1003.

² 12 U.S.C. 2801-2811.

³ Pub. L. 111-203, July 21, 2010.

depository institutions over \$10 billion in consolidated assets from the Board, Federal Deposit Insurance Corporation, OCC, and National Credit Union Administration to the CFPB.

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. A covered 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 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:

- 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.

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

- Additional information about the applicant or borrower, such as age and credit score;
- Information about the loan pricing, such as the borrower's total cost to obtain a mortgage, temporary introductory rates, and borrower-paid origination charges;
- Information about loan features, such as the loan term, prepayment penalties, or non-amortizing features (such as interest only or balloon payments); and
- 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 Fair Housing Act⁴ prohibits discrimination in the financing of housing on the basis of race, color, religion, sex, national origin, familial status, or handicap. The Equal Credit Opportunity Act⁵ (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 Act⁶ (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 the OCC to fulfill its statutory responsibilities.

⁴ 42 U.S.C. 3605.

⁵ 15 U.S.C. 1691 et seq.

⁶ 15 U.S.C. 1601 et seq.

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:

- 12 CFR 27.3(a) requires national banks that are required to collect data on home loans under Regulation C⁷ 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.
- 12 CFR 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.
- 12 CFR 27.3(c) sets forth additional information national banks must maintain in the loan file.
- 12 CFR 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

⁷ This regulation has been transferred to the CFPB (12 CFR part 1003).

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.

- 12 CFR 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.
- 12 CFR 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.
- § 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.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Regulation C:

2017:

Estimated Number of Respondents: 702.

Estimated Annual Burden: 3,384,342 hours.

2018:

Estimated Number of Respondents: 702.

Estimated Annual Burden: 959,232 hours.

2019:

Estimated Number of Respondents: 702.

Estimated Annual Burden: 959,232 hours.

Fair Housing Home Loan Data System Regulation:

Estimated Number of Respondents: 956.

Estimated Annual Burden: 19,864 hours.

Frequency of Response: On occasion.

Comments: The OCC issued a notice for 60 days of comment regarding these collections on September 26, 2017, 82 FR 44873. No comments were received. Comments continue to be invited on:

- (a) Whether the collections of information are necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- (b) The accuracy of the OCC's estimates of the information collection burden;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 28, 2017.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel,

Office of the Comptroller of the Currency.

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