

RESCINDED

This document and any attachments are superseded by Comptroller's Handbook - Consumer Compliance - Home Mortgage Disclosure.

Home Mortgage Disclosure Act

BACKGROUND AND SUMMARY

Congress enacted the Home Mortgage Disclosure Act (HMDA) in 1975 and the Federal Reserve Board's Regulation C (12 CFR Part 203) implements the law. The period of 1988 through 1992 saw substantial changes to HMDA. Especially significant were the amendments to the act resulting from the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). FIRREA expanded coverage to include many independent nondepository mortgage lenders, in addition to the previously covered banks, savings associations, and credit unions. The Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), effective January 1, 1993, further expanded coverage of independent mortgage bankers. For a more detailed discussion of the history of HMDA see the FFIEC's web site at www.ffiec.gov/hmda/history2.htm.

LINKS

[Program](#)

[Questionnaire](#)

HMDA grew out of public concern over credit shortages in certain urban neighborhoods. Congress believed that some financial institutions had contributed to the decline of some geographic areas by their failure to provide adequate home financing to qualified applicants on reasonable terms and conditions. Thus, one purpose of HMDA and Regulation C is to provide the public with information that will help show whether financial institutions are serving the housing credit needs of the neighborhoods and communities in which they are located. A second purpose is to aid public officials in targeting public investments from the private sector to areas where they are needed. Finally, the FIRREA amendments of 1989 require the collection and disclosure of data about applicant and borrower characteristics to assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

As the name implies, HMDA is a disclosure law that relies upon public scrutiny for its effectiveness. It does not prohibit any specific activity of lenders, and it does not establish a quota system of mortgage loans to be made in any Metropolitan Statistical Area (MSA) or other geographic area as defined by the Office of Management and Budget.



Approved – FFIEC

Financial institutions must report data regarding loan originations, applications, and loan purchases, as well as requests under a preapproval program (as defined in § 203.2(b)) if the preapproval request is denied or results in the origination of a home purchase loan. HMDA requires lenders to report the ethnicity, race, gender, and gross income of mortgage applicants and borrowers. Lenders must also report information regarding the pricing of the loan and whether the loan is subject to the Home Ownership and Equity Protection Act, 15 USC 1639. Additionally, lenders must identify the type of purchaser for mortgage loans that they sell. Some lenders have the option of indicating the reasons for their decisions to deny a loan application. (Lenders regulated by the OCC or OTS must indicate the reasons for denial.)

Regulation C requires institutions to report lending data to their supervisory agencies on a loan-by-loan and application-by-application basis by way of a “register” reporting format. The supervisory agencies, through the Federal Financial Institutions Examination Council (FFIEC), compile this information in the form of individual disclosure statements for each institution, and in the form of aggregate reports for all covered institutions within each MSA. In addition, the FFIEC produces other aggregate reports that show lending patterns by median age of homes and by the central city or noncentral city location of the property. The public may obtain the individual disclosures and aggregate reports from the FFIEC or from central depositories located in each MSA. Individual disclosure statements may also be obtained from financial institutions.

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APPLICABILITY

The regulation covers two categories of financial institutions. The first category is a “depository institution,” which the regulation defines as a bank, savings association, or a credit union that meets the following criteria:

- On the preceding December 31, had assets in excess of the annually published asset threshold.
- On the preceding December 31, had a home or branch office in an MSA.
- In the preceding calendar year, originated at least one first-lien home purchase loan (or a refinancing of such loan) on a one- to four-family dwelling.
- Meets one of the following criteria:
 - The institution is federally insured or regulated.
 - The mortgage loan referred to is federally guaranteed, insured, or supplemented.
 - The institution intended to sell the loan to Fannie Mae or Freddie Mac.

The second category is a for-profit, nondepository “mortgage lending institution.” A nondepository mortgage lending institution is covered if:

- In the preceding calendar year, it originated home purchase loans (including refinancings of home purchase loans) that either:
 - equaled ten percent or more of its loan origination volume, measured in dollars; or
 - equaled \$25 million or more;
- On the preceding December 31, had a home or branch office in an MSA¹ and
- Either:
 - on the preceding December 31, had total assets of more than \$10 million, counting the assets of any parent corporation; or
 - in the preceding calendar year, originated at least 100 home purchase loans, or refinancings of home purchase loans.

For purposes of this discussion and the examination procedures, the term “financial institution” will signify both a depository and a nondepository institution.

The definition of mortgage lending institution applies to majority-owned mortgage lending subsidiaries of depository institutions and, since 1990, to independent mortgage companies. Mortgage lending subsidiaries of bank and savings and loan holding companies, as well as savings and loan service corporations, have been covered by HMDA since 1988. Mortgage lending subsidiaries are treated as distinct entities from their “parent” and must file separate reports with their parent’s supervisory agency.

The Federal Reserve Board may exempt from Regulation C state-chartered or state-licensed financial institutions if they are covered by a substantially similar state law that contains adequate provision for enforcement by the state. As of January 1, 2009, no exemptions are in effect.

COMPILATION OF LOAN DATA

For each calendar year, a financial institution must report data regarding its applications, originations, and purchases of home purchase loans, home improvement loans, and refinancings. Loans secured by real estate that are neither refinancings nor

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¹ The institution may or may not have a physical presence in the MSA per section 203.2(c)(2) of Regulation C.

made for home purchase or home improvements are not reported. Data must also be given for loan applications that did not result in originations: applications approved by the institution but not accepted by the applicant, denied, withdrawn, or closed for incompleteness. Required reporting also includes certain denials of requests for preapproval of a home purchase loan under a program in which a lender issues a written commitment to lend to a creditworthy borrower up to a specific amount for a specific time.

Loan Information

For each application or loan, institutions are required to identify the purpose (home purchase, home improvement, or refinancing), lien status, and whether the property relating to the loan or loan application is to be owner-occupied as a principal dwelling. As defined by Regulation C, a home purchase loan is a loan secured by a dwelling and made for the purpose of purchasing that (or another) dwelling. A dwelling is a residential structure that may or may not be attached to real property, located in a state, the District of Columbia, or the Commonwealth of Puerto Rico. It includes an individual condominium or cooperative unit, a mobile or manufactured home, and a multi-family structure such as an apartment building. The regulation defines a home improvement loan as one that is at least in part for the purpose of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which the dwelling is located. Institutions should report home improvement loans not secured by a dwelling only if it classifies the loan as a home improvement loan. Institutions should report dwelling secured home improvement loans without regard to classification. Finally, a refinancing is defined as a transaction in which a new obligation satisfies and replaces an existing obligation by the same borrower. For coverage purposes (i.e., to determine whether or not an institution is covered by HMDA), the existing obligation must be a home purchase loan and both the new and existing obligation must be secured by first liens on dwellings. For reporting purposes, both the existing obligation and the new obligations must be secured by liens on dwellings.

In addition, the regulation requires financial institutions to identify the following general loan types: conventional, FHA-insured, VA-guaranteed, and FSA/RHS guaranteed. Institutions must report the property type as a one- to four-family dwelling, multi-family dwelling, or manufactured housing. Institutions must also report the amount of the loan or loan application, application date, action date, and the type of action taken.

Property Location

Financial institutions must report certain geographic location information for loans on, and applications for, properties in any MSA where the institution has a home or branch office.² This geographic data is optional for loans on properties located outside these MSAs or outside any MSA, except in the case of large financial institutions subject to additional data reporting requirements under the Community Reinvestment Act (CRA). The geographic information consists of the MSA or MD number, state and county codes, and the census tract number of the property to which the loan or loan application relates.

² In the case of an MSA divided into Metropolitan Divisions (MDs), the relevant unit for this purpose is the MD.

Large institutions subject to both the CRA and HMDA must collect and report geographic information for all loans and applications (whether located in an MSA or not), not just for loans and applications relating to property in MSAs where the institution has a home or branch office.³ Under the CRA, a large institution is a bank or savings association that has assets of \$1 billion or more.

Applicant Information

In addition, institutions must report data regarding the ethnicity, race, sex, and annual income of applicants for applications and originated loans; reporting these data is optional for purchased loans. The lender must request information regarding the ethnicity, race, and the sex of the borrower or applicant, including for applications made entirely by telephone, mail, or Internet. If the applicant does not provide the information and if the applicant submits the application in person, the lender is required to note the information on the basis of visual observation or surname. Regulation C contains a model form that can be used for the collection of data on ethnicity, race, and sex. Alternatively, the form used to obtain monitoring information under 12 CFR § 202.13 of the Federal Reserve Board's Regulation B (Equal Credit Opportunity) may be used.

If an institution originates or purchases a loan and then sells it in the same calendar year, it must report the type of entity that purchased the loan. Except in the case of large secondary market purchasers such as Fannie Mae and Freddie Mac, the institution need not identify the exact purchaser. For example, an institution may indicate that it had sold a loan to a bank, without identifying the particular bank.

Pricing-Related Data

Institutions must report the rate spread between the annual percentage rate (APR) and the average prime offer rate for a comparable transaction as of the date the interest rate is set, if the spread is equal to or greater than 1.5 percentage points for first-lien loans, or equal to or greater than 3.5 percentage points for subordinate-lien loans.⁴ The rate-spread reporting is required only on originations of home purchase loans, dwelling-secured home improvement loans, and refinancings. The following are excluded from the rate-spread reporting requirement:

- Applications that are incomplete, withdrawn, denied, or approved but not accepted.
- Purchased loans.
- Home-improvement loans not secured by a dwelling.

³ In a county with less than 30,000 in population, the institution may enter NA.

⁴ Lenders will use the new rate spread reporting test on loans for which applications are taken on and after October 1, 2009 and for all loans consummated on or after January 1, 2010 (regardless of their application dates). For loans for which applications were taken before October 1, 2009 and that are consummated in 2009, the revised rules do not apply. Lenders will apply the existing rate spread reporting test, using Treasury security yield benchmarks, for those loans. For loans for which applications were taken before October 1, 2009 and that are consummated in 2010 or later, the revised rules apply.

- Assumptions.
- Home equity lines of credit.
- Loans not subject to Regulation Z.

To determine the applicable rate spread, the financial institution may use the table published on the FFIEC's Web site (<http://www.ffiec.gov/hmda>) entitled "Average Prime Offer Rates Tables."

Lenders must also report whether the loan is subject to the Home Ownership and Equity Protection Act (HOEPA), 15 USC 1639. A loan becomes subject to HOEPA when the APR or the points and fees on the loan exceed the HOEPA triggers. (Additional information on HOEPA coverage is found in the FFIEC Truth in Lending Act and HOEPA examination procedures.)

Lenders must also report the lien status of the loan or application (first lien, subordinate lien, or not secured by a lien on a dwelling).

Optional Data

Finally, financial institutions supervised by the Federal Reserve or FDIC may, at their option, report the reasons for denying a loan application. Financial institutions regulated by the OCC and the OTS, including subsidiaries of national banks and savings associations, are required to provide reasons for denials. Credit Unions regulated by NCUA are also required to provide reasons for denials. Institutions may also choose to report certain requests for preapproval that are approved by the institution but not accepted by the applicant and home equity lines of credit made in whole or in part for the purpose of home improvement or home purchase.

EXCLUDED DATA

A financial institution should not report loan data for any of the following:

- Loans originated or purchased by the institution acting as trustee or in some other fiduciary capacity.
- Loans on unimproved land.
- Temporary financing (such as bridge or construction loans).
- The purchase of an interest in a pool of loans (such as mortgage-participation certificates).
- The purchase of mortgage loan servicing rights.
- Loans originated prior to the current reporting year and acquired as part of a merger or acquisition or acquisition of all the assets and liabilities of a branch office.

REPORTING FORMAT

Financial institutions are required to record data regarding each application for, and each origination and purchase of, home purchase loans, home improvement loans, and refinancings on a Loan/Application Register, also known as the HMDA-LAR. Financial institutions are also required to record data regarding requests under a preapproval program (as defined in § 203.2(b)), but only if the

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preapproval request is denied or results in the origination of a home purchase loan. Transactions are to be reported for the year in which final action was taken. If a loan application is pending at the end of the calendar year, it will be reported on the HMDA-LAR for the following year, when the final disposition is made. Loans originated or purchased during the calendar year must be reported for the calendar year of origination even if they were subsequently sold.

The HMDA-LAR is accompanied by a listing of codes to be used for each entry on the form. Detailed instructions and guidance on the requirements for the register are contained in Appendix A to Regulation C. Additional information is available in the FFIEC publication, “A Guide to HMDA Reporting: Getting It Right!” and on the FFIEC web site.

Financial institutions must record data on their HMDA-LAR within 30 calendar days of the end of the calendar quarter in which final action was taken. Financial institutions, however, have flexibility in determining how to maintain the HMDA-LAR since the entries need not be grouped in any prescribed fashion. For example, an institution could record home purchase loans on one HMDA-LAR and home improvement loans on another; alternatively, both types of loans could be reported on one register. Similarly, separate registers may be kept at each branch office, or a single register may be maintained at a centralized location for the entire institution. These separate registers must be combined into one consolidated register when submitted to the relevant supervisory agency.

For each calendar year, a financial institution must submit to its supervisory agency its HMDA-LAR, accompanied by a Transmittal Sheet. Unless it has 25 or fewer reportable transactions, an institution is required to submit its data in automated form. For registers submitted in paper form, two copies must be mailed to the institution’s supervisory agency. For both automated and hard-copy submissions, the layout of the register that is used must conform exactly to that of the register published by the Federal Reserve Board as Appendix A to Regulation C.

A financial institution must submit the HMDA-LAR to its regulatory agency by March 1 following the calendar year covered by the data. The FFIEC then will produce a disclosure statement for each institution, cross-tabulating the individual loan data in various groupings, as well as an aggregate report for each MSA. The FFIEC posts these disclosure statements at www.ffiec.gov/hmda. Disclosure statements are no longer mailed to financial institutions.

DISCLOSURE

As the result of amendments to HMDA incorporated within the Housing and Community Development Act of 1992, an institution must make its disclosure statement available to the public at its home office within three business days after it is posted on the FFIEC website. An institution must also either:

- Make its disclosure statement available to the public in at least one branch office in each additional MSA or MD where it has offices within ten business days of its posting on the FFIEC website.
- Post the address for requests in each branch office in each additional MSA or MD where it has offices, and send the disclosure statement within 15 calendar days after receiving a written request.

Also, an institution must make its loan application register available to the public after deleting the following fields: application or loan number, date application received, and date of action taken. These deletions are required to protect the privacy interests of applicants and borrowers. The modified HMDA-LAR for a given year must be publicly available by March 31 of the following year for requests received on or before March 1, and within 30 days for requests received after March 1.

A financial institution must retain its full (unmodified) HMDA-LAR for at least three years for examination purposes.

The FFIEC also produces aggregate tables to illustrate the lending activity of all covered financial institutions in each MSA or MD. These tables and the individual disclosure statements are available on the FFIEC website, www.ffiec.gov/hmda, and through central depositories, such as libraries, in each MSA or MD. A list of the depositories is also available on the FFIEC website.

A financial institution must retain its full (unmodified) HMDA-LAR for at least three years for examination purposes. It must also be prepared to make each modified HMDA-LAR available for three years and each FFIEC disclosure statement available for five years. Institutions may impose reasonable fees for costs incurred in providing or producing the data for public release.

Finally, institutions must post a notice at their home office and at each branch in an MSA, to advise the public of the availability of the disclosure statements.

ENFORCEMENT

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of Thrift Supervision, and the U.S. Department of Housing and Urban Development enforce compliance with the act and regulation. (See Section 305 of HMDA (12 USC 2804)). The supervisory agencies may impose administrative sanctions, including civil money penalties.

An error in compiling or recording loan data is not a violation of the act or the regulation if it was unintentional and occurred despite the maintenance of procedures reasonably adopted to avoid such errors.

REFERENCES

United States Code (12 USC)

Part 2801 Home Mortgage Disclosure Act

United States Code (15 USC)

Part 1639 Home Ownership and Equity Protection Act

Federal Reserve Board Regulations

Part 203 Home Mortgage Disclosure Act (Regulation C)

Part 203,
Appendix A HMDA – Loan Application Register

§ 202.13 Equal Credit Opportunity (Regulation B)

Federal Financial Institution Examination Council (FFIEC)

FFIEC Website <http://www.ffiec.gov/hmda>

Publications

[“A Guide to HMDA Reporting: Getting it Right!”](#)

[“Average Prime Offer Rates Tables”](#)

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