

## Amendments to the Official Staff Commentary on Regulation C Home Mortgage Disclosure August 2003\*

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1. *Effective July 1, 1997, comment 3(a)-1 is amended to read as follows:*

1. *General.* An institution that ceases to meet the tests for HMDA coverage (such as the 10 percent test for nondepository institutions) or becomes exempt may stop collecting HMDA data beginning with the next calendar year. For example, a bank whose assets are at or below the threshold on December 31 of a given year reports data for that full calendar year, in which it was covered, but does not report data for the succeeding calendar year. (Appendix A of this part, paragraph I.)

2. *Effective January 1, 1998, comment 3(a)-2 was added, and previous comments 2 and 3 were renumbered as 3 and 4, respectively. Effective January 1, 2003, comment 3(a)-2 is amended to read as follows:*

2. *Adjustment of exemption threshold for depository institutions.* For data collection in 2003, the asset-size exemption threshold is \$32 million. Depository institutions with assets at or below \$32 million are exempt from collecting data for 2003.

3. *Effective June 27, 2003, comment 4(a)-4 is added to read as follows:*

4. *Transition rules for applications received before January 1, 2004, when final action is taken on or after January 1, 2004.* For applications received before January 1, 2004, on which final action is

taken on or after January 1, 2004, data must be collected and reported on the HMDA/LAR under the revisions to Regulation C that take effect on January 1, 2004, subject to the exceptions for property type, loan purpose, requests for preapproval, applicant information, and rate spread set forth in this comment.

i. *Property type.* Lenders need not determine whether an application received before January 1, 2004, involves a manufactured home, and may report the property type as one- to four-family.

ii. *Loan purpose.* For applications received before January 1, 2004, lenders may use the definitions of a home-improvement loan and a refinancing that were in effect in 2003. For example, a lender need not report data on an application received before January 1, 2004, for a dwelling-secured loan made for the purpose of home improvement, if the lender did not classify the loan as a home-improvement loan. Similarly, a lender may report data on an application for a refinancing received in 2003, where the new obligation will be, but the existing obligation was not, secured by a lien on a dwelling.

iii. *Requests for preapproval.* For requests received before January 1, 2004, lenders need not report requests for preapproval (as that term is defined in section 203.2(b)(2) of the revised Regulation C) that do not result in a traditional loan application. Lenders may, at their option, report requests for preapproval that are denied or that are approved but not accepted. In addition, lenders need not specify whether an application for a home-purchase loan involved a request for preapproval, and should use code 3 (Not Applicable) in the preapproval field on the HMDA/LAR.

iv. *Applicant information.* For applica-

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\* A complete commentary pamphlet, as amended effective June 27, 2003, consists of—

- the commentary pamphlet dated February 1996 (see inside front cover) and
- this slip sheet.

Item 3 is new. The other items were included in the February 2003 slip sheet.

tions received before January 1, 2004, lenders must collect data on race or national origin using the categories in effect in 2003, and must convert the data to the codes in effect in 2004 for reporting, using the following conversion guide:

A. *Ethnicity.* The revised Regulation C requires lenders to request an applicant's ethnicity first (Hispanic or Latino, Not Hispanic or Latino), and then to request the applicant's race. The HMDA/LAR has been revised accordingly, so that ethnicity and race are distinct fields.

1. If the applicant's race was identified as Hispanic (code 4) in 2003, use code 1 (Hispanic or Latino) for reporting ethnicity.
2. If the applicant's race was identified as American Indian or Alaskan Native, Asian or Pacific Islander, Black, White, Other, or Not Applicable (codes 1, 2, 3, 5, 6, or 8) in 2003, use code 4 (Not Applicable) for reporting ethnicity.
3. If the applicant did not provide information on race in a mail, Internet, or telephone application (code 7) in 2003, use code 3 (information not provided by applicant in mail, Internet, or telephone application) for reporting ethnicity.

B. *Race.*

1. If the applicant's race was identified as American Indian or Alaskan Native, Black, or White in 2003, use the corresponding code for 2004. For example, if the applicant's race was identified as Black (code 3) in 2003, use code 3 (Black or African American) for reporting race in 2004.
2. If the applicant's race was identified as Asian or Pacific Islander in 2003, use code 2 (Asian).
3. If the applicant's race was identified as Hispanic in 2003, use code 7 (Not Applicable).
4. If the applicant's race was identified as Other in 2003, use code 7 (Not Applicable).

5. If the applicant did not provide information on race in a mail, Internet, or telephone application (code 7) in 2003, use code 6 (Information not provided by applicant in mail, Internet, or telephone application).

6. If the applicant's race was identified as Not Applicable (code 8) in 2003, use code 7 (Not Applicable).

C. *Sex.* For applications received before January 1, 2004, in which there is no co-applicant, the lender may use code 4 (Not Applicable) in the field provided for the co-applicant's sex.

v. *Rate spread.* For applications received before January 1, 2004, in which the rate lock occurred before January 1, 2004, lenders may report NA (Not Applicable) for rate spread. For applications received before January 1, 2004, for which the rate lock occurred after January 1, 2004, lenders must calculate and report the rate spread in accordance with the rules set forth in new section 202.4(a)(12) (see 67 *Fed. Reg.* 7222 (February 15, 2002); 67 *Fed. Reg.* 43223 (June 27, 2002)).

A. *Example.* Assume an application is received on December 1, 2003, the rate lock occurs on December 26, 2003, and the loan is originated on January 15, 2004. The lender may report NA (Not Applicable) for rate spread.

B. *Example.* Assume an application is received on December 15, 2003; the rate lock occurs on January 3, 2004, and the loan is originated on January 15, 2004. The lender must calculate and report the rate spread in accordance with the rules in new section 202.4(a)(12) (see 67 *Fed. Reg.* 7222 (February 15, 2002); 67 *Fed. Reg.* 43223 (June 27, 2002)).

4. *Effective July 1, 1997, the reference at the end of comment 5(e)-1 is amended to read "(Appendix A of this part, paragraph III.F)."*