

§ 27.1 Scope and OMB control number.

(a) *Scope.* This part applies to the activities of national banks and banks located in the District of Columbia, and their subsidiaries, which make home loans for the purpose of purchasing, construction-permanent financing, or refinancing of residential real property.

(b) *OMB control number.* The collection of information requirements contained in this part were approved by the Office of Management and Budget under OMB control number 1557–0160.

[49 FR 11825, Mar. 28, 1984]

§ 27.2 Definitions.

For the purpose of this part, including all forms and instructions issued for use under this part:

(a) *Applicant* means a natural person, including a co-applicant, who makes an application.

(b) *Application* means an oral in-person or written request for an extension of credit for a home loan that is made in accordance with procedures established by a bank for the type of credit requested.

(c) *Bank* means a national bank or bank located in the District of Columbia, and any subsidiaries of such a bank.

(d) *Completed application* means an application in connection with which a bank has received all the information that it regularly obtains and considers in evaluating the amount and type of credit requested.

(e) *Decision center* means the place where home loan applications are accepted or rejected.

(f) *Home loan* means a real estate loan for the purchase, permanent financing for construction, or the refinancing of residential real property which the applicant intends to occupy as a principal residence.

(g) *Inquirer* means a natural person who makes an inquiry.

(h) *Inquiry* means a written or an oral in-person request for information about the terms of a home loan by a natural person on his/her own behalf which is received on a bank's premises by any person at the bank who customarily receives or is authorized to receive such requests. Telephonic com-

munications do not constitute an inquiry for purposes of this part.

(i) *Real estate loan* means any loan secured by real estate where the bank relies upon such real estate as the primary security for the loan. Where the bank in its judgment relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than real estate, the loan does not constitute a real estate loan, although as a matter of prudent banking practice it may also be secured by real estate.

(1) A loan made in reliance upon the security of a mobile home will not be considered a real estate loan, although as a prudent banking practice the security interest is recorded or otherwise perfected as if the mobile home were real estate. For purposes of this part, a loan made in reliance upon the security of a mobile home and the parcel of land to which it is permanently affixed will be considered a real estate loan.

(2) Where the bank relies substantially on the insurance guaranty of a governmental agency in making a loan, it does not constitute a real estate loan except for the purposes of § 27.4 of this part (Inquiry/Application Log).

(j) *Residential real property* means improved real property (not vacant land) used or intended to be used for residential purposes, including single family homes, dwellings for from two to four families, and individual units of condominiums and cooperatives.

§ 27.3 Recordkeeping requirements.

(a) *Quarterly recordkeeping requirement.* (1) A bank that is required to collect data on home loans under part 203 of this title shall present the data on Federal Reserve Form FR HMDA-LAR or in an automated format in accordance with the instructions, except that:

(i) A bank shall maintain the reason(s) it denied a loan application, using the codes provided in part 203 of this title; and

(ii) A bank shall record all information required by this paragraph and part 203 of this title within 30 calendar days after the end of each calendar quarter.

(2) A bank that receives 50 or more home loan applications a year, as

measured by the previous calendar year, and that is not required to collect data under paragraph (a)(1) of this section, shall record and maintain for each decision center the following information on home loan activity:

(i) Number of applications received for each of the following: Purchase; construction-permanent; refinance.

(ii) Number of loans closed for each of the following: Purchase; construction-permanent; refinance.

(iii) Number of loans denied for each of the following: Purchase; construction-permanent; refinance.

(iv) Number of loans withdrawn by applicant, for each of the following: Purchase; construction-permanent; refinance.

(3) The information required to be maintained under paragraph (a)(2) of this section shall be updated quarterly, within 30 calendar days after the end of each calendar quarter, in a format consistent with the bank's recordkeeping procedures.

(4) A bank exempted under paragraph (a)(2) of this section shall be covered by that requirement beginning the month following any quarter in which their average monthly volume of home loan applications exceeds four applications per month. Banks which are subject to this paragraph may discontinue keeping this information beginning the month following two consecutive quarters in which their average monthly volume of home loan applications drops to four or fewer applications per month. A bank which is otherwise exempted under this paragraph may be required upon notification received from the Comptroller, to record and maintain such information where there is cause to believe that the bank is not in compliance with the fair housing laws based on prior examinations and/or has substantive consumer complaints, among other factors.

(5) A bank required to maintain information under paragraph (a)(2) or (a)(4) of this section may choose to comply with the quarterly recordkeeping requirement by maintaining information in accordance with paragraph (a)(1) of this section.

(b) *Information required on applications for home loans*—(1) Each bank shall attempt to obtain all of the information

listed below, as part of completed applications for home loans:

(i) Loan Amount requested by the applicant(s).

(ii) Interest rate requested by the applicant(s).

(iii) Number of months requested to maturity by the applicant(s).

(iv) Location. Complete street address, city, county, state and zip code of the dwelling which will secure the loan.

(v) Number of residential units (1-4) of the dwelling which will secure the loan.

(vi) Year built. The year in which the dwelling which will secure the loan was built. If the exact year is unknown, approximate to the nearest decade.

(vii) Purpose of the loan. Purchase; refinance; or construction-permanent.

(viii) Name and present address of applicant(s).

(ix) Age of applicant(s).

(x) Marital status of applicant(s) using the categories married, unmarried and separated.

(xi) Number of years employed in present line of work or profession for the applicant(s).

(xii) Years on present job. Number of continuous years employed by the current employer of the applicant(s). For self-employed persons, the number of continuous years self-employed.

(xiii) Gross total monthly income of each applicant, comprising the sum of normal base salary, wages, overtime pay, bonuses, commissions, dividends, interest, rental income, retirement or disability income and income from part-time employment. For self-employed persons, include the average or normal monthly income. Include alimony, separate maintenance and child support income information only if the applicant has been advised that such information need not be provided and nevertheless elects to have it considered.

(xiv) Proposed monthly housing payment, comprising the sum of principal and interest. The bank may also include insurance, real estate taxes and any monthly assessments for home owner dues or condominium fees, and/or utilities if the bank considers these factors in computing housing costs. However, if the bank includes any of

these factors for computing the monthly housing payment, it must do so consistently. When a bank changes its regular practice, such change and its effective date should be identifiable with respect to the bank's new policy.

(xv) Purchase price. Sales price or approximate current market value of the property which will secure the loan.

(xvi) Applicant's or applicants' total monthly payments on all outstanding liabilities. Include installment debts, real estate loans and any alimony, child support or separate maintenance payments. Exclude any payments on liabilities which will be satisfied upon sale of real estate owned or upon refinancing of property associated with this application.

(xvii) Net worth. Applicant's or applicants' total assets, including cash checking and savings accounts, stocks and bonds, cash value of life insurance, value of real estate owned, net worth of business owned, automobile, furniture and personal property and other assets, minus total liabilities, including installment debts, automobile loans, real estate loans, and any other debts, including stock pledges.

(xviii) Date of application. The date on which a signed application is received by the bank.

(xix) Sex of applicant(s).

(xx) Race/national origin of applicant(s) using the categories: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic origin; White, not of Hispanic origin; Hispanic; Other.

(2) Information on race/national origin and sex.

(i) Disclosure to applicant.

(A) In collecting the information required under §27.3(b)(1) (xix) and (xx), the bank shall advise an applicant, either orally or in writing, that:

(1) The information on race/national origin and sex is requested by the Federal Government if this loan is related to a home loan, in order to monitor the lender's compliance with equal credit opportunity and fair housing laws;

(2) The applicant is not required to furnish the information but is encouraged to do so. The law provides that a lender may neither discriminate on the basis of this information, nor on

whether the applicant chooses to furnish it;

(3) However, if the applicant chooses not to furnish it, Federal regulations require the lender to note race and sex on the basis of visual observation or surname.

(B) Banks which use the Federal Home Loan Mortgage Corporation/Federal National Mortgage Association (FHLMC/FNMA) insert form ("Information for Government Monitoring Purposes") requesting this information will be in compliance with paragraph (b)(2)(i) of this section. A copy of the insert form is set forth in appendix II.

(ii) If the applicant does not voluntarily provide the information on sex and race/national origin which the bank is required to record and maintain under §27.3(b)(1) (xix) and (xx), the bank shall request the applicant to note that fact (by initials or otherwise) on the application, and the bank shall provide the information based on visual observation or surname. If the applicant does not voluntarily provide the information and does not initial or otherwise note that fact, the bank shall initial, or otherwise note that fact on the application, as well as provide the information based on visual observation or surname.

(c) *Additional information required in the loan file.* In addition to the information required by §27.3(b), each bank shall maintain the following information in each of its home loan files:

(1) If an appraisal is completed:

(i) The appraised value; and

(ii) The census tract number, where available, for those properties which are in a Standard Metropolitan Statistical Area (SMSA) in which the bank has a home office or branch office.

(2) Disposition of loan application. The disposition of the completed applications using the following categories:

(i) Withdrawn before terms were offered;

(ii) Withdrawn after terms were offered;

(iii) Denied;

(iv) Terms offered and accepted by applicant(s).

(3) If final terms are offered, whether or not accepted:

(i) The loan amount.

(ii) Whether private mortgage insurance is required, and if so, the terms of the insurance.

(iii) Whether a deposit balance is required, and if so, the amount.

(iv) The note (simple) interest rate.

(v) The number of months to maturity of the loan offered.

(vi) Points. The loan origination or discount fee(s) charged to the buyer, computed as a percentage of the loan amount.

(4) Commitment date. The date final terms were offered.

(5) The type of mortgage using the following categories: Standard Fixed Payment; Variable Rate; Graduated Payment; Rollover; Other.

(6) The name or identification of the bank office where the application was submitted.

(7) Whenever credit is denied, copy(s) of the Equal Credit Opportunity Act credit notice and statement of credit denial.

(8) Any additional information used by the bank in determining whether or not to extend credit, or in establishing the terms, including, but not limited to, credit reports, employment verification forms, Federal Income Tax Forms, availability of insurance, and the complete appraisal.

[44 FR 63089, Nov. 2, 1979, as amended at 59 FR 26415, May 20, 1994]

§27.4 Inquiry/Application Log.

(a) The Comptroller, among other things, may require a bank to maintain a Fair Housing Inquiry/Application Log ("Log"), based upon, but not limited to, one or more of the following causes:

(1) There is reason(s) to believe that the bank may be prescreening or otherwise engaging in discriminatory practices on a prohibited basis.

(2) 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.

(3) Analysis of the data compiled by the bank under the provisions of the Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.* and Regulation C of the Federal Reserve Board, 12 CFR part 203) indicates a pattern of significant variation in the number of home loans

between census tracts with similar incomes and home ownership levels, differentiated only by race or national origin (i.e., possible racial redlining).

(b) The Comptroller, when requiring the maintenance of a Log, will specify in writing:

(1) The location(s) where the information shall be obtained;

(2) The length of time it shall be maintained;

(3) The frequency with which it shall be submitted to the Comptroller; and

(4) The reason(s) for imposing this requirement.

(c) A bank which has been directed by the Comptroller to maintain a Log shall obtain and note all of the following information regarding each inquiry or application for the extension of a home loan and each inquiry or application for a government insured home loan (not otherwise included in this part):

(1) Date of application or inquiry.

(2) Type of loan using the categories: purchase, construction-permanent; refinance; and government insured by type of insurance, *i.e.*, FHA, VA, and FmHA (if applicable).

(3) Indication of whether the entry refers to an application or an inquiry.

(4) Case identification (either a unique number which permits the application file to be located, or the name(s) and address(es) of the applicant(s)).

(5) Race/national origin of the inquirer(s) or applicant(s) using the categories: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic origin; White, not of Hispanic origin; Hispanic; Other. In the case of inquiries, this item shall be noted on the basis of visual observation or surname(s) only. In the case of applications, the information shall be obtained pursuant to §27.3(b)(2).

(6) *Location.* Complete street address, city, county, state and zip code of the property which will secure the extension of credit. The census tract shall also be recorded when the property is located in an SMSA in which the bank has a home office or branch office.

(d) The information required under §27.4(c), of this part, shall be recorded and maintained on the form set forth in appendix III. Additional information