

LENDERS COMPLIANCE GROUP

Mortgage Risk Management

ADVISORY BULLETIN

October 20, 2008

FRB Issues Final Rule to Regulation C (HMDA)

Today, October 20, 2008, the Federal Reserve Board approved final amendments to Regulation C that revise the rules for reporting price information on higher-priced mortgage loans. The changes are intended to improve the accuracy and usefulness of data reported under the Home Mortgage Disclosure Act.¹

Effective Date: October 1, 2009

Although the new Regulation Z amendments concerning higher-priced mortgage loans do not take effect until October 1, 2009, the Federal Reserve Board had proposed an effective date of January 1, 2009 to implement the revisions to Regulation C. In the Final Rule, the Board has adopted an effective date of October 1, 2009 to coincide with the effective date of the Regulation Z amendments.

Rate Spread Test: Consummation Dates

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). To help data users identify loans closed in 2009 and reported using the new rule, the Board will add a notation to each such loan in the publicly available data reported for 2009. The mandatory compliance with the new rule for all loans consummated on and after January 1, 2010 will eliminate the need for such notations in years after 2009. Thus, 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.

HMDA Rate Spread Threshold

Regulation C currently requires lenders to collect and report the spread between the annual percentage rate (APR) on a mortgage loan and the yield on a Treasury security of comparable maturity if the spread is greater than 3.0 percentage points for a first lien loan or greater than 5.0 percentage points for a subordinate lien loan. This difference is known as a rate spread. Under the Final Rule, a lender will report the spread between the loan's APR and a survey-based estimate of APRs currently offered on prime mortgages of a comparable type ("average prime offer rate") if the spread is equal to or

greater than 1.5 percentage points for a first lien loan or equal to or greater than 3.5 percentage points for a subordinate-lien loan. The Board will publish average prime offer rates based on the Primary Mortgage Market Survey® currently published by Freddie Mac.

Calculating the HMDA Rate Spread Threshold

The New HMDA Rate Spread Threshold: ²

The spread between the loan’s APR and the average prime offer rate (as published in the Primary Mortgage Market Survey®) offered on prime mortgage loans of comparable type if the spread meets or exceeds 1.5 percentage points for a first-lien (or 3.5 percentage points for a subordinate-lien loan).

The “average prime offer rate” is survey-based, and, for the foreseeable future, the FRB plans to use a specific survey currently published by Freddie Mac. ³ The survey, called the Primary Mortgage Market Survey® (PMMS), can be found at the following webpage:

<http://www.freddiemac.com/dlink/html/PMMS/display/PMMSOutputYr.jsp>.

Action Plan

We strongly urge you to immediately review all HMDA collection and reporting policies, procedures, software, and protocols in order to assure that you are prepared by October 1, 2009 to submit HMDA data in accordance with the proposed revisions to Regulation C.

Our mortgage risk management group can assist you in this process by conducting full reviews of your HMDA recordation and reporting platform. Please contact us to discuss your mortgage compliance needs.

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¹ Press Release – 10/20/2008. [12 CFR Part 203, Regulation C, Docket No. R-1321] Includes Federal Register notice.

² The creditor uses the most recently available average prime offer rate as of the date the creditor sets the transaction’s interest rate for the final time before consummation. [FR 73:147 p 44535]

³ Average prime offer rates are annual percentage rates derived from average interest rates, points, and other loan pricing terms offered to borrowers by a representative sample of lenders for mortgage loans that have low-risk characteristics. To obtain the average prime offer rates, the Board is using the PMMS survey because it both meets the criteria of §203.4(a)(12)(ii) and provides pricing terms for at least two types of variable-rate transactions and at least two types of non-variable-rate transactions. [Sup. I to Part 203, *Staff Commentary*, 1., Op. Cit. FR 73:147 p 44195]