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Memorandum

Date: December 5, 2005

To: Chief Executive Officer of
Institution Subject to the Home Mortgage Disclosure Act

From: Tamara Wiseman, Executive Secretary
Federal Financial Institutions Examination Council (FFIEC)

Background

Several Regulation C amendments adopted in 2002 took effect on January 1, 2004. After analyzing the 2004 Home Mortgage Disclosure Act (HMDA) data, the FFIEC found that the fields causing the majority of reporting problems were as follows: Home Ownership and Equity Protection Act (HOEPA) loans; rate spread; and preapprovals. This letter provides guidance on reporting those fields and identifies other sources of guidance. It also highlights some newer items on the FFIEC HMDA web site.

Please share this memorandum with your institution's compliance officer and/or HMDA data collection/reporting staff.

Areas of Discussion

FFIEC HMDA web site (www.ffiec.gov/hmda): Since we post items to this web site several times a year, it is most important that you <u>regularly</u> check the site for new and/or updated items. The web site continues to be the primary source that we use for posting all items to assist the lender in collecting and reporting HMDA data.

> **Frequently Asked Questions (FAQs)** (http://www.ffiec.gov/hmda/faq.htm): The regulatory and interpretive FAQs address questions relating to the interpretation of Regulation C. To report accurately, a lender must be familiar with the FAQs. We may update these questions and answers several times a year; for example, we just added a Q&A on the meaning of "temporary financing." In addition, purchaser codes are the subject of some new FAQs that will be posted soon. It is therefore important to check regularly for updates.

> **"What's New" section of the web site:** For most articles and updates, we usually post a short headline in the "What's New" section that links to the topic details. Depending on the topic, the headline will be posted for 6 months to a year.

An August 2005 Web posting dealt with a **data collection procedural change** (http://www.ffiec.gov/hmda/datacollection.htm). Effective January 1, 2006, a complete resubmission of all data is required for any changes to the loan application register after an institution's initial HMDA submission, regardless of whether the data are being resubmitted for CY 2005 or 2004.

Manual changes will no longer be accepted via e-mail, fax or telephone. All corrections or updates to the Loan Application Register (LAR) following the initial submission are to be completed by the institution. The institution must then RESUBMIT an entirely new file inclusive of all loans for the applicable reporting year.

Exceptions to the procedural change are:

      (1) HMDA submission is greater than 350,000 LARs. Less than 10 field corrections should be written on the edit report and faxed to 202-452-6497. Corrections exceeding 10 require resubmission. This exception is only applicable to institutions that have submitted greater than 350,000 loan application records.

      (2) HMDA submission contains 25 or fewer entries and is submitted in paper form. Less than 10 field corrections should be written on the edit report and faxed to 202-452-6497. This exception is only applicable for institution's who submitted an initial paper copy LAR with 25 or fewer entries.

      Distribution Change in the Aggregate and Disclosure Reports: In September 2006, the HMDA Aggregate and Disclosure Reports, containing your institution's disclosure statement will only be available through the FFIEC HMDA web site (http://www.ffiec.gov/hmda). Distribution of the HMDA Aggregate and Disclosure CD-ROM has been discontinued beginning with the collection of CY 2005 HMDA data.

      Rate spread versus HOEPA: what is the difference?: The rate spread and HOEPA status are two separate fields on the HMDA LAR, with calculations that are similar but differ in critical respects.

      Rate spread is not the APR on the loan application. It is the difference between the APR and the yield on a Treasury security of comparable maturity. To calculate that difference, use the rate spread web site (http://www.ffiec.gov/ratespread). Do not use that site for determining whether a loan is covered by HOEPA, because the determination of HOEPA coverage differs from the determination of the rate spread.

      HOEPA covers closed-end loans secured by the borrower's principal residence, other than home purchase loans and reverse mortgages, with rates or fees above certain thresholds, or "triggers." HOEPA has both an APR trigger and a points-and-fees trigger. Refer to the following link: (http://www.stlouisfed.org/hmdaregcamendments/pages/hoepa_status.html) for the calculations to determine if a loan is covered by HOEPA. Remember that purchased as well as originated HOEPA loans must be flagged.

Preapproval and action taken: The new rules for reporting preapprovals have generated many questions, some of which are answered in the Frequently Asked Questions on the FFIEC HMDA web site (http://www.ffiec.gov/hmda/faqreg.htm#preapprovals). Please review those FAQs. We discuss just a few of the issues here.

Many lenders have wondered whether they have a "preapproval program" within the meaning of Regulation C. A preapproval program exists when the procedures established and used by the lender match those specified in Section 203.2(b)(2). For more guidance, see the FAQ on this issue.

Preapproval requests are relevant to originations of home purchase loans, not to other loan types. If a loan is for home improvement or refinancing, the lender uses code 3 (not applicable) in the preapproval field. Code 3 is also used in the preapproval field for loans an institution purchases.

Lenders that have a covered preapproval program must distinguish carefully between the preapproval stage and the later stages of an application:

- If a potential applicant submitted a preapproval request but then expressly withdrew it before the lender decided whether or not to approve the request, the lender does not report the request/application at all. If, however, the lender approved the request and the applicant accepted the approval and identified a specific property, but then the applicant expressly withdrew the application before the lender finalized a credit decision that incorporated the property value, the lender reports code 1 in the preapproval field and code 4 (application withdrawn by applicant) in the action taken field.

- If a potential applicant submitted an incomplete preapproval request and did not complete it, the lender does not report the request/application.

- A preapproval request is considered to have been approved by the lender when the lender issued the requester a commitment letter of the kind described in Section 203.2(b)(2) of Regulation C. If a lender approved a preapproval request but the applicant did not accept the approval (for example, the applicant did not identify a property), reporting the request/application is optional. If the lender reports it, the lender uses action taken code 8 (preapproval request approved but not accepted), not code 2 (application approved but not accepted), because the application did not move beyond the preapproval stage.

Again, lenders are urged to become familiar with the FAQs on preapprovals.

There are several online resources (http://www.ffiec.gov/hmda/quick.htm) available to assist you in collecting and reporting the 2005 HMDA LAR data. Browse the FFIEC web site at http://www.ffiec.gov/hmda for these resources. You can also obtain assistance from the Federal Reserve System's HMDA processing staff by e-mailing hmdahelp@frb.gov or calling 202-452-2016.