

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**12 CFR Parts 25 and 195**

**Docket ID OCC-2017-0008**

**RIN 1557-AE15**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 228**

**Docket No. R-1574**

**RIN 7100-AE84**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 345**

**RIN 3064-AE58**

**Community Reinvestment Act Regulations**

**AGENCY:** Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; and Federal Deposit Insurance Corporation.

**ACTION:** Joint final rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC)

(collectively, the Agencies) are amending their regulations implementing the Community Reinvestment Act (CRA). The Agencies are modifying the existing definitions of “home mortgage loan” and “consumer loan,” related cross references, and the public file content requirements to conform to recent revisions made by the Consumer Financial Protection Bureau (Bureau) to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA). This final rule also removes obsolete references to the Neighborhood Stabilization Program (NSP).

**DATES:** This rule is effective on January 1, 2018.

**FOR FURTHER INFORMATION CONTACT:**

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Board: Amal S. Patel, Senior Supervisory Consumer Financial Services Analyst, Division of Consumer and Community Affairs, (202) 912-7879; Cathy Gates, Senior Project Manager, Division of Consumer and Community Affairs, (202) 452-2099, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Patience R. Singleton, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898-6859; Sharon B. Vejvoda, Senior Examination Specialist, Examination Branch, Division of Depositor and Consumer Protection, (202) 898-3881; Richard M. Schwartz, Counsel, Legal Division, (202) 898-7424; or Sherry Ann

Betancourt, Counsel, Legal Division, (202) 898-6560, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The OCC, the Board, and the FDIC implement the CRA (12 U.S.C. 2901 *et seq.*) through their CRA regulations. *See* 12 CFR parts 25, 195, 228, and 345. The CRA is designed to encourage regulated financial institutions to help meet the credit needs of the local communities in which an institution is chartered. The CRA regulations establish the framework and criteria by which the Agencies assess a financial institution’s record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Under the CRA regulations, the Agencies apply different evaluation standards for financial institutions of different asset sizes and types.

The Agencies also publish the Interagency Questions and Answers Regarding Community Reinvestment to provide guidance on the interpretation and application of the CRA regulations to agency personnel, financial institutions, and the public.

On September 20, 2017, the Agencies published a joint notice of proposed rulemaking to amend their regulations implementing the CRA.<sup>1</sup> The Agencies proposed to amend the definitions of “home mortgage loan” and “consumer loan” and the public file content requirements to conform to revisions made by the Bureau to its Regulation C, which implements HMDA (2015 HMDA Rule).<sup>2</sup> The Agencies also proposed to make technical amendments to remove unnecessary cross references as a result of the proposed amended definitions, and to

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<sup>1</sup> 82 FR 43910 (Sept. 20, 2017).

<sup>2</sup> *See* 80 FR 66127 (Oct. 28, 2015), as amended by 82 FR 19142 (Aug. 24, 2017).

remove an obsolete reference to the NSP. The comment period for the Agencies' joint proposed rulemaking ended on October 20, 2017.

Together, the Agencies received two comment letters on the proposed amendments. One comment was from a community organization and the other from a financial institution. Both commenters supported the changes proposed by the Agencies. The commenters also made additional suggestions not related to the proposal. These comments are explained in more detail in the sections they relate to. As explained below, the Agencies are finalizing the amendments as proposed.

## **II. Amendments to Conform the CRA Regulations to Recent Revisions to the Bureau's Regulation C**

### *Definition of "Home Mortgage Loan"*

The CRA regulations specify the type of lending and other activities that examiners evaluate to assess a financial institution's CRA performance. The regulations provide several categories of loans that may be evaluated to determine a financial institution's performance under the retail lending test, one of which is home mortgage loans. 12 CFR \_\_.22. The current CRA regulations define a "home mortgage loan" to mean a "home improvement loan," "home purchase loan," or a "refinancing" as those terms are currently defined in 12 CFR 1003.2 of the Bureau's Regulation C. 12 CFR \_\_.12(l). However, effective January 1, 2018, the 2015 HMDA Rule revises the scope of loans reportable under Regulation C. In some cases, the revised scope of loans under Regulation C is broader, and in other cases more limited. Effective January 1, 2018, Regulation C will require covered financial institutions to report applications for, and originations and purchases of, "covered loans" that are secured by a dwelling. A "covered loan" is defined in 12 CFR 1003.2(e) to mean a closed-end mortgage loan, as defined in § 1003.2(d),

or an open-end line of credit, as defined in § 1003.2(o), that is not an excluded transaction under 12 CFR 1003.3(c).<sup>3</sup>

To conform the CRA definition of “home mortgage loan” to the revisions in Regulation C that will become effective on January 1, 2018, the Agencies proposed to revise the current

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<sup>3</sup> Amended Regulation C retains existing categories of excluded transactions, clarifies some categories of excluded transactions, and expands the existing exclusion for agricultural-purpose transactions. Effective January 1, 2018, the following transactions will not be reportable under Regulation C:

1. A closed-end mortgage loan or open-end line of credit originated or purchased by a financial institution acting in a fiduciary capacity;
2. A closed-end mortgage loan or open-end line of credit secured by a lien on unimproved land;
3. Temporary financing;
4. The purchase of an interest in a pool of closed-end mortgage loans or open-end lines of credit;
5. The purchase solely of the right to service closed-end mortgage loans or open-end lines of credit;
6. The purchase of closed-end mortgage loans or open-end lines of credit as part of a merger or acquisition, or as part of the acquisition of all of the assets and liabilities of a branch office as defined in 12 CFR 1003.2(c);
7. A closed-end mortgage loan or open-end line of credit, or an application of a closed-end mortgage loan or open-end line of credit, for which the total dollar amount is less than \$500;
8. The purchase of a partial interest in a closed-end mortgage loan or open-end line of credit;
9. A closed-end mortgage loan or open-end line of credit used primarily for agricultural purposes;
10. A closed-end mortgage loan or open-end line of credit that is or will be made primarily for a business or commercial purpose, unless the closed-end mortgage loan or open-end equity line of credit is a home improvement loan under § 1003.2(i), a home purchase under § 1003.2(j), or a refinancing under § 1003.2(p);
11. A closed-end mortgage loan, if the financial institution originated fewer than 25 closed-end mortgage loans in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded closed-end mortgage loan as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan; or
12. An open-end equity line of credit, if the financial institution originated fewer than 500 open-end equity lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit (the threshold of 500 open-end lines of credit is temporary and applies only to calendar years 2018 and 2019; absent action from the Bureau, the threshold for reporting open-end lines of credit reverts to 100 such lines effective January 1, 2020); or
13. A transaction that provided or, in the case of an application, proposed to provide new funds to the applicant or borrower in advance of being consolidated in a New York State consolidation, extension, and modification agreement classified as a supplemental mortgage under New York Tax Law section 255; the transaction is excluded only if final action on the consolidation was taken in the same calendar year as final action on the new funds transaction.

definition of “home mortgage loan” in their CRA regulations to mean a “closed-end mortgage loan” or an “open-end line of credit,” as those terms are defined under new 12 CFR 1003.2(d) and (o), respectively, and as may be amended from time to time, and that is not an excluded transaction under new 12 CFR 1003.3(c)(1)-(10) and (13), as may be amended from time to time.<sup>4</sup>

As a result of the revisions to the “home mortgage loan” definition, the manner in which some loan transactions are considered under CRA will be affected. As the Agencies explained in the proposed rule, effective January 1, 2018, home improvement loans that are not secured by a dwelling, which are currently required to be reported under Regulation C, will no longer be reportable transactions under the 2015 HMDA Rule. Therefore, also effective January 1, 2018, for purposes of CRA, home improvement loans that are not secured by a dwelling may be considered at the option of the financial institution. A financial institution that opts to have its home improvement loans considered would need to collect and maintain data on these loans in machine-readable form under the category of “other secured consumer loan” or “other unsecured consumer loan,” as appropriate. *See* 12 CFR \_\_.12(j)(3) or (4). Notwithstanding an institution’s option, home improvement loans that are not secured by a dwelling may still be evaluated by the Agencies under the lending test set out under 12 CFR \_\_.22(a)(1), in circumstances where consumer lending is so significant a portion of an institution’s lending by activity and dollar

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<sup>4</sup> On September 13, 2017, the Bureau published in the **Federal Register** a final rule (2017 HMDA Rule) amending the 2015 HMDA Rule. The 2017 HMDA Rule finalizes a proposal issued by the Bureau on April 25, 2017 (82 FR 19142) to address technical errors, ease the burden associated with certain reporting requirements, and to clarify some key terms. The 2017 HMDA Rule also finalizes a proposal issued by the Bureau on July 14, 2017 (82 FR 33455), to temporarily increase the institutional and transactional coverage thresholds for open-end lines of credit. *See* [http://files.consumerfinance.gov/f/documents/201708\\_cfpb\\_final-rule\\_home-mortgage-disclosure\\_regulation-c.pdf](http://files.consumerfinance.gov/f/documents/201708_cfpb_final-rule_home-mortgage-disclosure_regulation-c.pdf). The 2017 HMDA Rule adds a new exclusion from reporting HMDA data for certain transactions concerning New York consolidation, extension, and modification agreements (also known as NY CEMAs) under new § 1003.3(c)(13).

volume of loans that the lending test evaluation would not meaningfully reflect lending performance if consumer loans were excluded.

Home equity lines of credit secured by a dwelling, which are currently reported at the option of the financial institution under Regulation C, will be covered loans under the 2015 HMDA Rule. Effective January 1, 2018, financial institutions that meet the reporting requirements under the 2015 HMDA Rule will be required to collect, maintain, and report data on home equity lines of credit secured by a dwelling. For purposes of CRA consideration, in the case of financial institutions that report closed-end mortgage loans and/or home equity lines of credit under the 2015 HMDA Rule, those loans would be considered as home mortgage loans under the amended definition of “home mortgage loan.” The effect of this revision to the home mortgage loan definition will vary depending upon the amount and characteristics of the financial institution’s mortgage loan portfolio. As with all aspects of an institution’s CRA performance evaluation, the performance context of the institution will affect how the Agencies will consider home equity lines of credit. For financial institutions that would not be required to report these transactions under Regulation C, examiners may review the relevant files and consider these loans for CRA performance on a sampling basis under the home mortgage loan category.

The Agencies received one comment addressing the proposed revision. This commenter supported amending the definition of “home mortgage loan” in the Agencies’ CRA regulations to conform to the changes in the scope of Regulation C. However, the commenter noted that some banks expressed concern that including home equity loans in CRA evaluations could have the effect of lowering the percentage of loans to low- and moderate-income borrowers and suggested that the Agencies consider evaluating home equity lending separately from other types

of home lending. This commenter also urged the Agencies to consider loan purchases separately from originations during the CRA evaluation.

The commenter's suggestions to consider home equity lending separately from other home mortgage lending and to consider purchases separately from originations would require that the Agencies reconsider how various loan types are evaluated under the CRA. The Agencies did not propose these changes and believe these suggestions would be better considered in connection with updates to the Agencies' CRA examination procedures and/or guidance. Accordingly, the Agencies are finalizing the revised definition of "home mortgage loan" as proposed. The Agencies have used the scope of HMDA-reportable transactions to define "home mortgage loan" in the CRA regulations since 1995. The Agencies will review any amendments made to the cross-referenced definitions in HMDA to ensure that such cross-referenced terms continue to meet the statutory objectives of the CRA.

*Definition of "Consumer Loan"*

The CRA regulations provide a definition of "consumer loan" to define a category of loans that examiners should evaluate to determine a financial institution's performance under the retail lending test apart from home mortgage, small business, or small farm loans. 12 CFR \_\_.22. The current CRA regulations define a "consumer loan" to mean a loan to one or more individuals for household, family, or other personal expenditures and that is *not* a home mortgage, small business, or small farm loan. *See* 12 CFR \_\_. 12(j). Currently, a "home equity loan" is one of five loan categories listed under the definition of "consumer loan" and is defined as a "consumer loan secured by a residence of the borrower" under 12 CFR \_\_.12(j)(3). As noted above, the Agencies proposed to define "home mortgage loan" as a "closed-end mortgage loan" or an "open-end line of credit" as those terms are defined in §§ 1003.2(d) and 1003.2(o),



respectively, of Regulation C. Under Regulation C, a closed-end mortgage loan is defined “as an extension of credit secured by a lien on a dwelling,” and therefore, includes a home equity loan secured by a dwelling, per 12 CFR 1003.2(d), effective January 1, 2018. As a result, the Agencies believed it was no longer appropriate to separately categorize home equity loans under the CRA definition of “consumer loan” because both home equity loans and home equity lines of credit would be captured by the revised CRA definition of “home mortgage loan.” Accordingly, the Agencies proposed to remove the term “home equity loan” from the list of consumer loan categories provided under the definition of “consumer loan” in 12 CFR \_\_.12(j).

The Agencies received one comment addressing the proposed revision. This commenter supported amending the definition of “consumer lending” in the Agencies’ CRA regulations to conform to changes in the scope of loans reportable under Regulation C that will be effective January 1, 2018. This commenter further urged the Agencies to have examiners evaluate consumer lending, including unsecured home improvement lending, during CRA exams when such lending constitutes a “significant amount” of the bank’s business rather than a “substantial majority,” as is currently required under 12 CFR \_\_.22(a)(1).

The Agencies did not address in the proposal how consumer lending should be evaluated under the retail lending test and therefore, addressing these recommendations is outside the scope of this final rule. Accordingly, the Agencies are finalizing the definition of “consumer lending” as proposed. Note, however, that in accordance with their statutory responsibilities, the Agencies regularly review examination policies, procedures, and guidance to better serve the goals of the CRA.

*Changes to the Content of the Public File*

Currently, the Agencies' CRA regulations require that financial institutions maintain a public file of certain information and specify, among other things, the information to be maintained and made available to the public upon request. 12 CFR \_\_.43(a)-(d). If a financial institution is required to report HMDA data under Regulation C, it must also include a copy of the HMDA disclosure statement (provided by the Federal Financial Institutions Examination Council) in its CRA public file for each of the prior two calendar years. 12 CFR \_\_.43(b)(2). Effective January 1, 2018, Regulation C will no longer require financial institutions to provide this HMDA disclosure statement directly to the public. Instead, Regulation C will only require financial institutions to provide a notice that clearly conveys to the public that they can obtain a copy of the financial institution's disclosure statement on the Bureau's website. 12 CFR 1003.5(b). As a result, the Agencies proposed to amend the CRA public file content requirements under 12 CFR \_\_.43(b)(2) for consistency and to reduce burden. Specifically, the Agencies proposed that institutions that are required to report HMDA data would only maintain the notice required under section 1003.5(b) of Regulation C in their CRA public file, rather than a copy of the HMDA disclosure statement. Nevertheless, a financial institution must maintain in its public file the HMDA disclosure statements required by the CRA regulations that are not available on the Bureau's website and, therefore, should not remove HMDA disclosure statements from their CRA public files if that information is not available on the Bureau's website.

The Agencies received no comments on the proposed changes to the CRA public file content requirements. Accordingly, the Agencies are adopting the revisions as proposed.

### **Technical Amendments**

*Removal of "Home Equity Loan" as a Category of Consumer Loans*

As discussed above, the Agencies proposed to remove “home equity loans” as a category of loans included as consumer loans because such loans would be captured by the revised definition of “home mortgage loan.” 12 CFR \_\_.12(j). Accordingly, the Agencies proposed to amend 12 CFR \_\_.22, Lending Test, and 12 CFR \_\_.42, Data Collection, Reporting, and Disclosure to remove any cross-reference to home equity loan as a category of “consumer loans.”

The Agencies received no comments on the proposed amendments to 12 CFR \_\_.22 and 12 CFR \_\_.42 and finalizes them as proposed.

*Technical Revision to the “Community Development Loan” Definition*

The current CRA regulations’ definition of “community development loan” contains a cross-reference to appendix A of Regulation C in order to incorporate a description of a multifamily dwelling loan that is provided in appendix A of Regulation C.

The Agencies proposed to remove this cross-reference to appendix A because appendix A of Regulation C will no longer exist. The 2015 HMDA Rule moved the substantive requirements found in existing appendix A to the regulation text and commentary of Regulation C and also eliminated paper reporting, effective January 1, 2019. As a result, any cross-reference to appendix A of Regulation C will become obsolete. The Agencies further proposed to instead cross-reference the newly defined term of “multifamily dwelling” contained in § 1003.2(n) of Regulation C.

The Agencies received no comments in connection with proposed 12 CFR \_\_.12(h) and are finalizing as proposed.

*Removal of Obsolete Language Related to the NSP*

The Agencies also proposed to remove language in the CRA regulations related to the NSP. The CRA regulations currently define “community development” to include qualifying NSP-related activities that benefit low-, moderate-, and middle-income individuals and geographies in NSP-target areas.<sup>5</sup> The NSP was authorized by the Housing and Economic Recovery Act<sup>6</sup> to stabilize communities suffering from foreclosures and abandonment. However, after March 2016, NSP-eligible activities no longer received consideration as “community development” under the CRA regulations and therefore, any reference to such activities is no longer needed. Accordingly, the Agencies proposed to amend 12 CFR \_\_.12 to revise the definition of “community development” by removing qualifying NSP-related activities that benefit low-, moderate-, and middle-income individuals and geographies in NSP-targeted areas.

The Agencies received one comment in connection with this proposed revision, which supported the Agencies’ efforts to streamline and eliminate the obsolete reference. This commenter also suggested that the Agencies consider consolidating the categories of economic development and revitalization and stabilization under the “community development” definition, as many loans fit into both categories, and create a new category for review and focus of veterans’ activities.

The Agencies did not propose to make these additional changes to the definition of “community development” and therefore, such recommendations did not receive the benefit of notice and public comment. Accordingly, the Agencies are finalizing the revisions to 12 CFR \_\_.12 as proposed.

#### **Effective date**

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<sup>5</sup> 75 FR 79278 (Dec. 20, 2010).

<sup>6</sup> Pub. L. 110-289, 122 Stat. 2654 (2008).

The Agencies proposed an effective date of January 1, 2018, to conform to the effective date of the revisions resulting from the Bureau's Regulation C. The Agencies received no comments on the proposed effective date. Therefore, this final rule becomes effective on January 1, 2018.

## **Regulatory Analysis**

### *Regulatory Flexibility Act*

*OCC*: In general, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires an agency, in connection with a final rule, to prepare a Final Regulatory Flexibility Analysis describing the impact of the final rule on small entities or to certify that the final rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, the Small Business Administration defines small entities as those with \$550 million or less in assets for commercial banks and savings institutions and \$38.5 million or less in assets for trust companies.

The scope of the OCC's CRA rule generally covers national banks, insured Federal branches, and Federal and state savings associations. The OCC currently supervises approximately 956 small entities. The FDIC currently supervises approximately 44 small entities that are state savings associations. Although the final rule would apply to all of these small entities, we anticipate that the final rule would result only in *de minimis* compliance costs for these OCC- and FDIC-supervised institutions.

Further, any burden that may be associated with changes made to Regulation C HMDA reporting are a result of Bureau rulemakings. However, the final rule may reduce regulatory costs for covered financial institutions that are required to report HMDA data because those institutions would no longer be required to keep two years of HMDA disclosure statements in

their CRA public file. Instead, covered financial institutions would provide a notice in the public file with a website address indicating where the HMDA disclosure statements can be accessed. Among the small entities that the OCC currently supervises, 518 are HMDA reporters. Among the small entities that the FDIC currently supervises, approximately 35 are HMDA reporters. By not having to keep paper copies of the HMDA disclosure statements in their CRA public file, the OCC estimates that the savings for these small entities will be less than \$1,142 (10 hours X \$114.20 per hour) per entity.

Therefore, the final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, the OCC certifies that the rule will not have a significant economic impact on a substantial number of small entities.

*Board:* An initial regulatory flexibility analysis (IRFA) was included in the proposal in accordance with section 3(a) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). In the IRFA, the Board requested comment on the effect of the proposed rule on small entities and on any significant alternatives that would reduce the regulatory burden on small entities. The Board did not receive any comments. The RFA requires an agency to prepare a final regulatory flexibility analysis unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.<sup>7</sup> In accordance with section 3(a) of the RFA, the Board has reviewed the final regulation. Based on its analysis, and for the reasons stated below, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.

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<sup>7</sup> See 5 U.S.C. 601 *et seq.*

There are 820 Board-supervised state member banks, and 566 are identified as small entities according to the RFA.<sup>8</sup> The Board estimates that the final rule will have generally small economic effects for small entities. The new changes to the content requirements of the CRA public file may reduce recordkeeping burden for covered financial institutions. Additionally, the Board expects that the changes to definitions within the CRA regulations will have little impact on supervisory assessments of CRA performance generally, but could affect some financial institutions more than others depending upon the amount and characteristics of their loan portfolio.

The final rule changes the content requirements of the CRA public file for financial institutions that are HMDA reporters. Financial institutions that are required to report HMDA data can maintain the same notice required under Regulation C in their CRA public file of their branch office, rather than the HMDA disclosure statement currently required. By allowing covered financial institutions to utilize a shorter disclosure, the final rule may reduce regulatory costs. As previously stated, there are 566 Board-supervised entities that are identified as small entities by the terms of the RFA. Of those, 304 were HMDA filers in 2016.<sup>9</sup> All FDIC-insured financial institutions reported having 31,096 branch offices, for an average of 7.9 branches per financial institution.<sup>10</sup> The Board assumes it takes one employee 10 minutes at a rate of \$76.65 an hour<sup>11</sup> to print and file the HMDA notification per year and place it in the CRA public file.

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<sup>8</sup> Call Report Data as of June 30, 2017.

<sup>9</sup> 2016 HMDA Data and Call Report Data as of June 30, 2017.

<sup>10</sup> 2015 Summary of Deposits Data.

<sup>11</sup> Estimated total hourly compensation for Compliance Officers in the Depository Credit Intermediation sector as of June 2017. The estimate includes the May 2016 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2016 and June 2017 (1.85 percent) and grossed up by 35.5 percent to account for non-monetary compensation as reported by the June 2017 Employer Costs for Employee Compensation Data.

This equates to an estimated annual printing and filing cost of \$12.78 per branch office.

Therefore, complying with the new rule will save small entities an estimated \$30,692.45 in costs per year.<sup>12</sup>

The Board expects the changes to definitions within the CRA regulations generally to have little economic effect for small entities, however the amendments could pose some effects for individual entities depending upon the amount and characteristics of their loan portfolio. As noted previously, in some cases the revised scope of loans under Regulation C is broader, and in other cases, it is more limited. These changes could affect supervisory assessment of CRA performance for small entities. However, it is unlikely that small financial institutions will be significantly affected given that HMDA reporting will be limited to financial institutions that originate more than 25 home mortgage loans or 100 home equity lines of credit each year.<sup>13</sup> There could be a net effect on CRA examination results for some small entities which may, in turn, affect the future behavior of those financial institutions. But, it is difficult to accurately determine the likelihood and degree of aggregate lending or economic effects that may result because they are dependent upon firm-specific business plans and propensities to lend.

Finally, Board-supervised small entities will likely benefit from the harmonization of definitions within the CRA regulations with HMDA data reporting requirements by avoiding unnecessary confusion and costs. Inconsistencies between CRA examination metrics and the

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<sup>12</sup> Assuming that each covered institution will no longer have to print and file the HMDA disclosure statement, the recordkeeping burden for each branch office declines by 10 minutes for all 7.9 branch offices, for all 304 small entities that are HMDA filers.

<sup>13</sup> The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at that time.



HMDA data, which is used to assess CRA performance, could lead to misleading results causing small entities to change future lending behavior.

*FDIC:* The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires that, in connection with a final rule, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a final rule on small entities (defined in regulations promulgated by the Small Business Administration to include banking organizations with total assets of less than or equal to \$550 million). A regulatory flexibility analysis, however, is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, and publishes its certification and a short explanatory statement in the **Federal Register** together with the final rule. For the reasons provided below, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

There are 3,717 FDIC-supervised financial institutions, and 2,990 are identified as small entities according to the RFA.<sup>14</sup> The FDIC estimates that the final rule will have generally small economic effects for small entities. The new changes to the content requirements of the CRA public file may reduce regulatory costs for covered financial institutions. Additionally, the FDIC expects that the changes to definitions within the CRA regulations will have little impact on supervisory assessments of CRA performance generally, but could affect some financial institutions more than others depending upon the amount and characteristics of their loan portfolio.

The final rule changes the content requirements of the CRA public file for financial institutions that are HMDA reporters. Financial institutions required to report HMDA data can

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<sup>14</sup> Call Report Data as of June 30, 1017.

maintain the same notice required under Regulation C in the CRA public file of their branch office, rather than the HMDA disclosure statement currently required. By allowing covered financial institutions to utilize a shorter disclosure, the final rule may reduce regulatory costs. As previously stated, there are 2,990 FDIC-supervised entities that are identified as small entities by the terms of the RFA. Of those, 1,549 were HMDA filers in 2016.<sup>15</sup> These 1,549 FDIC-insured financial institutions reported having 6,845 branch offices, for an average of 4.4 branches per financial institution.<sup>16</sup> The FDIC assumes it takes one employee 10 minutes at a rate of \$76.65 an hour<sup>17</sup> to print and file the HMDA notification per year and place it in the CRA public file. This equates to an estimated annual printing and filing cost of \$12.78 per branch office. Therefore, complying with the new rule may save small entities an estimated \$87,069 in costs per year.<sup>18</sup>

The FDIC expects the changes to definitions within the CRA regulations generally to have little economic effect for small entities; however, the amendments could pose some effects for individual entities depending upon the amount and characteristics of their loan portfolio. As noted previously, in some cases the revised scope of loans under Regulation C is broader, and in other cases, it is more limited. These changes could affect supervisory assessment of CRA performance for small entities. However, it is unlikely that small financial institutions will be

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<sup>15</sup> 2016 HMDA Data and Call Report Data as of June 30, 2017.

<sup>16</sup> 2017 Summary of Deposits Data.

<sup>17</sup> Estimated total hourly compensation for Compliance Officers in the Depository Credit Intermediation sector as of June 2017. The estimate includes the May 2016 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2016 and June 2017 (1.85 percent) and grossed up by 35.5 percent to account for non-monetary compensation as reported by the June 2017 Employer Costs for Employee Compensation Data.

<sup>18</sup> Assuming that each covered institution will no longer have to print and file the HMDA disclosure statement, the recordkeeping burden for each branch office declines by 10 minutes for all 4.4 branch offices, for all 1,549 small entities that are HMDA filers.

significantly affected given that HMDA reporting will be limited to financial institutions that originate more than 25 home mortgage loans or 100 home equity lines of credit each year.<sup>19</sup> There could be a net effect on CRA examination results for some small entities which may, in turn, affect the future behavior of those financial institutions. But, it is difficult to accurately determine the likelihood and degree of aggregate lending or economic effects that may result because they are dependent upon firm-specific business plans and propensities to lend.

Finally, FDIC-supervised small entities would likely benefit from the harmonization of definitions within the CRA regulations with HMDA data reporting requirements by avoiding unnecessary confusion and costs. Inconsistencies between CRA examination metrics and the HMDA data, which is used to assess CRA performance, could lead to misleading results causing small entities to change future lending behavior.

*Paperwork Reduction Act of 1995*

Certain provisions of the final rule contain “collection of information” requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3521). In accordance with the requirements of the PRA, the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently-valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this final rule have been submitted by the OCC and FDIC to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and section 1320.11 of the OMB’s implementing regulations (5 CFR 1320). The OCC and the FDIC submitted the

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<sup>19</sup> The open-end lines of credit threshold will increase from 100 to 500 loans on a temporary basis for a period of two years (calendar years 2018 and 2019) pursuant to the 2017 HMDA Rule. The Bureau is not making the threshold increase for open-end lines of credit permanent at this time. Absent further action by the Bureau, effective January 1, 2020, the open-end threshold will be restored to the 2015 HMDA Rule level of 100 open-end lines of credit, and creditors originating between 100 and 499 open-end lines of credit will need to begin collecting and reporting HMDA data for open-end lines of credit at this time.

collection of information at the proposed rule stage as well and were directed by OMB to examine public comment and resubmit at the final rule stage. The OMB control number for the OCC is 1557-0160 and the FDIC is 3064-0092. The OMB control number for the Board is 7100-0197 and will be extended, with revision. The Board reviewed the final rule under the authority delegated to the Board by OMB.

Under this final rule, effective January 1, 2018, financial institutions required to collect data under the CRA would also be required to collect data for open-end lines of credit in MSA and non-MSA areas where they have no branch or home office. The Agencies estimate that this change will not result in an increase in burden under the currently approved CRA information collections because the burden associated with the above-described requirement is accounted for under the HMDA information collections.<sup>20</sup>

The Agencies have determined that the revised definition of “home mortgage loan” to include home equity lines of credit and to exclude home improvement loans that are not secured by a dwelling (*i.e.*, home improvement loans that are unsecured or that are secured by some other type of collateral) does not warrant a change to the current burden estimates.

The Agencies received no comments on the PRA. However, the Agencies invite comments on:

(a) Whether the collections of information are necessary for the proper performance of the Agencies’ functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

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<sup>20</sup> OMB Control Number 1557-0159 (OCC); OMB Control Number 7100-0247 (Board); and OMB Control Number 3064-0046 (FDIC).

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Comments on aspects of this notice that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to:

*OCC*: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0160, 400 7th Street, SW., suite 3E-218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov). You may personally inspect and photocopy comments at the OCC, 400 7th Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

*Board:* Comments on aspects of this rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include OMB number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's website at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

*FDIC:* The FDIC invites comments on aspects of this rule that may affect reporting, recordkeeping, or disclosure requirements and burden estimates. Comments may be sent by any of the following methods:

- **Agency Website:** <https://www.fdic.gov/regulations/laws/federal/propose.html>.

Follow instructions for submitting comments on the Agency website.

- **E-mail:** [Comments@fdic.gov](mailto:Comments@fdic.gov). Include the RIN 3064-AE58 on the subject line of the message.
- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- **Hand Delivery:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

*Instructions:* All comments received must include the agency name and RIN 3064-AE58 for this rulemaking. All comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226 by telephone at (877) 275-3342 or (703) 562-2200.

A copy of the comments may also be submitted to the OMB desk officer for the Agencies: by mail to U.S. Office of Management and Budget, 725 17th Street, NW., # 10235, Washington, DC 20503; by facsimile to (202) 395-5806; or by email to: [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov), Attention, Federal Banking Agency Desk Officer.

*Information Collection*

*Title of Information Collection:* Reporting, Recordkeeping, and Disclosure Requirements Associated with the Community Reinvestment Act (CRA).

*Frequency of Response:* Annually.

*Affected Public:* Businesses or other for-profit.

*Respondents:*

*OCC*: National banks, trust companies, savings associations (except special purpose savings associations pursuant to 12 CFR 195.11(c)(2)), insured Federal branches and any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

*Board*: State member banks.

*FDIC*: Insured state nonmember banks and insured state branches.

*Abstract*: The CRA was enacted in 1977 and is implemented by 12 CFR parts 25, 195, 228, and 345. The CRA directs the Agencies to evaluate financial institutions' records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the Agencies.<sup>21</sup>

In 1995, the federal banking agencies issued substantially identical regulations under the CRA to reduce unnecessary compliance burden, promote consistency in CRA assessments, and encourage improved performance.<sup>22</sup> As a result, the current reporting, recordkeeping, and disclosure requirements under the CRA regulations depend in part on a bank's size.

Under the CRA regulations, large banks are defined as those with assets of \$1.226 billion or more for the past two consecutive year-ends; all other banks are considered small or intermediate.<sup>23</sup> The banking agencies amend the definition of a small bank and an intermediate

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<sup>21</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act (15 U.S.C. 5413) transferred from the Office of Thrift Supervision all authorities (including rulemaking) relating to savings associations to the OCC and all authorities (including rulemaking) relating to savings and loan holding companies to the Board on July 21, 2011.

<sup>22</sup> See 60 FR 22156 (May 4, 1995).

<sup>23</sup> Beginning January 18, 2017, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.226 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least \$307 million as of December 31 of both of the prior two calendar years, and less than \$1.226 billion as of December 31 of either of the prior two calendar years, are intermediate small banks or intermediate small savings associations.



small bank in their CRA regulations each year when the asset thresholds are adjusted for inflation pursuant to the CRA regulations, most recently in January 2017.<sup>24</sup>

Other than the information collections pursuant to the CRA, the Agencies have no information collection that supplies data regarding the community reinvestment activities.

#### *PRA Burden Estimates*

##### *OCC*

*Number of respondents:* Recordkeeping requirement, small business and small farm loan register, 142; Optional recordkeeping requirements, consumer loan data, 85, and other loan data, 25; Reporting requirements, assessment area delineation, 189; loan data: Small business and small farm, 142, community development, 142, and HMDA out of MSA, 142; Optional reporting requirements, data on lending by a consortium or third party, 31; affiliate lending data, 9; request for strategic plan approval, 5; request for designation as a wholesale or limited purpose bank, 12; Disclosure requirement, public file, 1,234.

*Estimated average hours per response:* Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours; affiliate lending data, 38 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

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<sup>24</sup> See 82 FR 5354 (Jan. 18, 2017).

*Estimated annual reporting hours:* Recordkeeping requirement, small business and small farm loan register: 31,098 hours; Optional recordkeeping requirements, consumer loan data, 27,710 hours and other loan data, 625 hours; Reporting requirements, assessment area delineation, 378 hours; loan data: Small business and small farm, 1,136 hours, community development, 1,846 hours, and HMDA out of MSA, 35,926 hours; Optional reporting requirements, data on lending by a consortium or third party, 527 hours; affiliate lending data, 342 hours; request for strategic plan approval, 1,375 hours; request for designation as a wholesale or limited purpose bank, 48 hours; Disclosure requirement, public file, 12,340 hours.

*Total annual burden:* 113,351 hours.

#### *Board*

*Number of respondents:* Recordkeeping requirement, small business and small farm loan register, 94; Optional recordkeeping requirements, consumer loan data, 21, and other loan data, 15; Reporting requirements, assessment area delineation, 98; loan data: Small business and small farm, 94, community development, 98, and HMDA out of MSA, 89; Optional reporting requirements, data on lending by a consortium or third party, 9; affiliate lending data, 8; request for strategic plan approval, 2; request for designation as a wholesale or limited purpose bank, 1; Disclosure requirement, public file, 817.

*Estimated average hours per response:* Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours; affiliate lending data, 38 hours; request for strategic plan

approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

*Estimated annual reporting hours:* Recordkeeping requirement, small business and small farm loan register: 20,586 hours; Optional recordkeeping requirements, consumer loan data, 6,846 hours and other loan data, 375 hours; Reporting requirements, assessment area delineation, 196 hours; loan data: Small business and small farm, 752 hours, community development, 1,274 hours, and HMDA out of MSA, 22,517 hours; Optional reporting requirements, data on lending by a consortium or third party, 153 hours; affiliate lending data, 304 hours; request for strategic plan approval, 550 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 8,170 hours.

*Total annual burden:* 61,727 hours.

**FDIC**

Source and Type of Burden	Description	Estimated Number of Respondents	Average Estimated Time per Response	Total Estimated Annual Burden
345.25(b) Reporting	<u>Request for designation as a wholesale or limited purpose bank</u> – Banks requesting this designation shall file a request in writing with the FDIC at least 3 months prior to the proposed effective date of the designation	1	4	4
345.27 Reporting	<u>Strategic plan</u> – Applies to banks electing to submit strategic plans to the FDIC for approval.	7	400	2,800
345.42(b)(1) Reporting	<u>Small business/small farm loan data</u> – <b>Large banks</b> shall and <b>Small banks</b> may report annually in machine-readable form the aggregate number and amount of certain loans.	393	8	3,144
345.42(b)(2) Reporting	<u>Community development loan data</u> – <b>Large banks</b> shall and <b>Small banks</b> may report annually, in machine-readable form, the aggregate number	393	13	5,109

	and aggregate amount of community development loans originated or purchased.			
345.42(b)(3) <i>Reporting</i>	<u>Home mortgage loans</u> – <b>Large banks</b> , if subject to reporting under part 1003 (Home Mortgage Disclosure (HMDA)), shall, and <b>Small banks</b> may report the location of each home mortgage loan application, origination, or purchase outside the MSA in which the bank has a home/branch office.	393	253	99,429
345.42(d) <i>Reporting</i>	<u>Data on affiliate lending</u> – Banks that elect to have the FDIC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain and report the data that the bank would have collected, maintained, and reported pursuant to §345.42(a), (b), and (c) had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under HMDA.	200	38	7,600
345.42(e) <i>Reporting</i>	<u>Data on lending by a consortium or a third party</u> – Banks that elect to have the FDIC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under §345.42(b)(2) had the loans been originated or purchased by the bank.	75	17	1,275
345.42(g) <i>Reporting</i>	<u>Assessment area data</u> – <b>Large banks</b> shall and <b>Small banks</b> may collect and report to the FDIC a list for each assessment area showing the geographies within the area.	393	2	786
TOTAL REPORTING				<b>120,147</b>

345.42(a) <i>Recordkeeping</i>	<u>Small business/small farm loan register</u> – <b>Large banks</b> shall and <b>Small banks</b> may collect and maintain certain data in machine-readable form.	393	219	86,067
345.42(c) <i>Recordkeeping</i>	<u>Optional consumer loan data</u> – <b>All banks</b> may collect and maintain in machine-readable form certain data for consumer loans originated or purchased by a bank for consideration under the lending test.	75	326	24,450
345.42(c)(2) <i>Recordkeeping</i>	<u>Other loan data</u> – <b>All banks</b> optionally may provide other information concerning their lending performance, including additional loan distribution data.	100	25	2,500
Total Recordkeeping				<b>113,017</b>
345.41(a) 345.43(a); (a)(1); (a)(2); (a)(3); (a)(4); (a)(5); (a)(6); (a)(7); (b)(1); (b)(2); (b)(3); (b)(4); (b)(5); (c); (d) <i>Disclosure</i>	<u>Content and availability of public file</u> – <b>All banks</b> shall maintain a public file that contains certain required information.	3,971	10	39,710
Total Disclosure				<b>39,710</b>
Total Estimated Annual Burden				<b>272,874 hours</b>

*Unfunded Mandates Reform Act of 1995*

The OCC analyzed the final rule under the factors set forth in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the final rule includes a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted for inflation). The final rule does not impose new requirements or include new mandates. Therefore, the OCC has concluded that implementation of the final rule would not result in expenditures by State, local, and Tribal governments, or the private sector, of

\$100 million or more in any one year.<sup>25</sup> Accordingly, the OCC has not prepared the written statement described in section 202 of the UMRA.

### *Plain Language*

Section 722 of the Gramm-Leach-Bliley Act requires the Agencies to use plain language in all proposed and final rules published after January 1, 2000. The Agencies received no comments on these matters and believe that the final rule is written plainly and clearly.

### **List of Subjects**

#### 12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

#### 12 CFR Part 195

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

#### 12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

#### 12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

### **DEPARTMENT OF THE TREASURY**

#### **Office of the Comptroller of the Currency**

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<sup>25</sup> The OCC anticipates that the final rule would not impose costs on any OCC-supervised financial institutions since the rule does not impose new requirements or include new mandates. Any burden that may be associated with changes made to Regulation C HMDA reporting is a result of Bureau rulemakings.

## 12 CFR Chapter I

### **Authority and Issuance**

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Office of the Comptroller of the Currency amends 12 CFR parts 25 and 195 as follows:

### **PART 25 – COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS**

1. The authority citation for part 25 continues to read as follows:

**Authority:** 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2908, and 3101 through 3111.

#### **§ 25.12 [Amended]**

2. Section 25.12 is amended:

a. By adding “or” at the end of paragraph (g)(3);

b. By removing “; or” at the end of (g)(4), and adding in its place “.”;

c. By removing paragraph (g)(5);

d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;

e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating paragraph (j)(5) as paragraph (j)(4); and

f. In paragraph (l), by removing the phrase “‘home improvement loan,’ ‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase “closed-end mortgage loan or an open-end line of credit as these terms are defined under

§ 1003.2 of this title, and that is not an excluded transaction under § 1003.3(c)(1)-(10) and (13) of this title”.

**§ 25.22 [Amended]**

3. Section 25.22 is amended in paragraph (a)(1), by removing the phrase “home equity,” after “credit card.”

**§ 25.42 [Amended]**

4. Section 25.42 is amended in paragraph (c)(1), by removing the phrase “home equity,” after “credit card.”

5. Section 25.43 is amended by revising paragraph (b)(2) to read as follows:

**§ 25.43 Content and availability of public file.**

\* \* \* \* \*

(b) \* \* \*

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) website at *www.consumerfinance.gov/hmda*. In addition, a bank that elected to have the OCC consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s website. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

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## **PART 195 – COMMUNITY REINVESTMENT**

6. The authority citation for part 195 continues to read as follows:

**Authority:** 12 U.S.C. 1462a, 1463, 1464, 1814, 1816, 1828(c), 2901 through 2908, and 5412(b)(2)(B).

### **§ 195.12 [Amended]**

7. Section 195.12 is amended:

a. By adding “or” at the end of paragraph (g)(3);

b. By removing “; or” at the end of (g)(4), and adding in its place “.”;

c. By removing paragraph (g)(5);

d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;

e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating (j)(5) as paragraph (j)(4); and

f. In paragraph (l), by removing the phrase “‘home improvement loan,’ ‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase “closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1)-(10) and (13) of this title”.

### **§ 195.22 [Amended]**

8. Section 195.22 is amended in paragraph (a)(1), by removing the phrase “home equity,” after “credit card.”

### **§ 195.42 [Amended]**

9. Section 195.42 is amended in paragraph (c)(1), by removing the phrase “home equity,” after “credit card.”

10. Section 195.43 is amended by revising paragraph (b)(2) to read as follows:

**§ 195.43 Content and availability of public file.**

\* \* \* \*

(b) \* \* \*

(2) *Savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A savings association required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) website at *www.consumerfinance.gov/hmda*. In addition, a savings association that elected to have the appropriate Federal banking agency consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s website. The savings association shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

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**Federal Reserve System**

**12 CFR Chapter II**

**Authority and Issuance**

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

**PART 228 – COMMUNITY REINVESTMENT (REGULATION BB)**

1. The authority citation for part 228 continues to read as follows:

**Authority:** 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 et seq.

**§ 228.12 [Amended]**

2. Section 228.12 is amended:

a. By adding “or” at the end of paragraph (g)(3);

b. By removing “; or” at the end of (g)(4), and adding in its place “.”;

c. By removing paragraph (g)(5);

d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;

e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating paragraph (j)(5) as paragraph (j)(4); and

f. In paragraph (l), by removing the phrase “‘home improvement loan,’ ‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase, “closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1)-(10) and (13) of this title”.

**§ 228.22 [Amended]**

3. Section 228.22 is amended in paragraph (a)(1), by removing the phrase “home equity,” after “credit card.”

**§ 228.42 [Amended]**

4. Section 228.42 is amended in paragraph (c)(1), by removing the phrase “home equity,” after “credit card.”

5. Section 228.43 is amended by revising paragraph (b)(2), to read as follows:

**§ 228.43 Content and availability of public file.**

\* \* \* \* \*

(b) \* \* \*

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) website at [www.consumerfinance.gov/hmda](http://www.consumerfinance.gov/hmda). In addition, a bank that elected to have the Board consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s website. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

\* \* \* \* \*

**Federal Deposit Insurance Corporation**

**12 CFR Chapter III**

**Authority and Issuance**

For the reasons discussed in the **SUPPLEMENTARY INFORMATION** section, the Board of Directors of the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

**PART 345 – COMMUNITY REINVESTMENT**

1. The authority citation for part 345 continues to read as follows:

**Authority:** 12 U.S.C. 1814-1817, 1819-1820, 1828, 1831u and 2901-2908, 3103-3104, and 3108(a).

**§ 345.12 [Amended]**

2. Section 345.12 is amended:

a. By adding “or” at the end of paragraph (g)(3);

b. By removing “; or” at the end of (g)(4), and adding in its place “.”;

c. By removing paragraph (g)(5);

d. In paragraph (h)(2)(i), by removing the phrase “unless it is a multifamily dwelling loan (as described in appendix A to part 1003 of this title)” and adding in its place the phrase “unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title)”;

e. By removing paragraph (j)(3), and redesignating paragraph (j)(4) as paragraph (j)(3) and redesignating paragraph (j)(5) as paragraph (j)(4); and

f. In paragraph (l), by removing the phrase “‘home improvement loan,’ ‘home purchase loan,’ or a ‘refinancing’ as defined in § 1003.2 of this title” and adding in its place the phrase, “closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1)-(10) and (13) of this title”.

**§ 345.22 [Amended]**

3. Section 345.22 is amended in paragraph (a)(1), by removing the phrase “home equity,” after “credit card.”

**§ 345.42 [Amended]**

4. Section 345.42 is amended in paragraph (c)(1), by removing the phrase “home equity,” after “credit card.”

5. Section 345.43 is amended by revising paragraph (b)(2), to read as follows:

**§ 345.43 Content and availability of public file.**

\* \* \* \* \*

(b) \* \* \*

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution’s HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau’s (Bureau’s) website at *www.consumerfinance.gov/hmda*. In addition, a bank that elected to have the FDIC consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate’s HMDA Disclosure Statement may be obtained at the Bureau’s website. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

\* \* \* \* \*

[THIS SIGNATURE PAGE RELATES TO THE FINAL RULE TITLED “COMMUNITY REINVESTMENT ACT REGULATIONS”]

Dated: November 14, 2017

/signed/

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Keith A. Noreika,  
Acting Comptroller of the Currency.

[THIS SIGNATURE PAGE RELATES TO THE FINAL RULE TITLED “COMMUNITY REINVESTMENT ACT REGULATIONS”]

By order of the Board of Governors of the Federal Reserve System, November, 09, 2017.

/signed/

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Margaret McCloskey Shanks,  
Deputy Secretary of the Board.



[THIS SIGNATURE PAGE RELATES TO THE FINAL RULE TITLED “COMMUNITY REINVESTMENT ACT REGULATIONS”]

Dated at Washington, D.C., this 14th of November, 2017.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

/signed/

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Robert E. Feldman,

*Executive Secretary.*

**BILLING CODES:**

OCC: 4810-33-P (34%)  
Board: 6210-01-P (33%)  
FDIC: 6714-01-P (33%)