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Filed by email to [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Ms. Jennifer Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N. W.  
Washington, DC 20551

Re: Docket No. R-1145: Proposed Transition Provisions for Recent  
Amendments to the Home Mortgage Disclosure Act's Regulation C;  
68 Federal Register 11010; March 7, 2003

Dear Ms. Johnson:

The Federal Reserve Board has proposed transition provisions for the massive changes to the Home Mortgage Disclosure Act's (HMDA) Regulation C that were adopted in 2002. The proposed transition rule (staff comment 4(a)-4) covers the collection and reporting of certain data items for applications received before 1-01-2004 and on which final action is taken on or after 1-01-2004 (or "cross-over applications"). These provisions affect all HMDA reporters, and many banks and savings associations are HMDA reporters. The ABA brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership - which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks - makes ABA the largest banking trade association in the country.

ABA has consulted with a number of HMDA reporters, and the overall response to the transition provisions has been favorable. ABA supports the proposed transition provisions with the following specific comments.

1. The 2002 revisions add a new field for "property type" and require lenders to identify applications and loans that involve manufactured housing. The proposed transition provision provides that lenders may but need not indicate whether a cross-over application involves manufactured housing. Lenders may report the property type as a one- to four-family dwelling instead. ABA supports the provision, noting that a number of reporters must be ready to report under the new regulation before the close of 2003. The transition provision allows these reporters to begin reporting under the new system prior to 2004, which prevents any of these reporters from having to double-track reporting information.
2. Regulation C requires lenders to report home improvement loans and refinancings. The definitions of a home improvement loan and a refinancing were

substantially revised in 2002. The proposed transition rule will not require lenders to "look back" in reporting home improvement loans and refinancings under the new definitions. The proposed comment provides that for cross-over applications, lenders may continue to apply the current definitions. The proposed comment permits lenders to apply the revised definitions to applications received before 1-01-2004, at the option of the lender. ABA supports the provision, for the same reasons as noted above.

3. Under the 2002 revisions, lenders must identify whether an application for a home purchase loan is a request for a preapproval as defined in the revised regulation. The proposed transition provisions provide that lenders may but need not identify requests for preapproval received in 2003 as "preapprovals." For cross-over applications, lenders may use the code for "not applicable" in the preapproval field on the HMDA/LAR. ABA supports the provision, for the same reasons as noted above.

4. Changes were made in the 2002 revisions to the requirement to collect information about an applicant's ethnicity and race, and corresponding changes were made to the codes that must be used on the HMDA/LAR in 2004. These changes were made to conform collection of information under Regulation C to standards issued by OMB in 1997 that are used for the 2000 Census. Under the transition rules, lenders would report monitoring data collected during 2003 on the 2004 LAR in accordance with rules set forth in 4(a)(iv) of the proposed comment. The Board states that it believes that lenders can implement the proposed conversion rules by modifying their data collection and reporting systems. The proposed comment states that with respect to the Hispanic race designation, now changed to an ethnicity designation for 2004 reporting, (1) the lender would report the applicant's ethnicity as code 1 ("Hispanic or Latino") and (2) would report the applicant's race as code 7 ("not applicable"). ABA supports the transition provision but requests that it be modified to address two concerns of our compliance officers.

First, some large reporters must be prepared to collect the new monitoring information by November 1, 2003. As expressed by one reporter, "in order to ensure compliance with the new rules by 1/1/2004, certain areas of our bank will need to 'turn on' the new race/ethnicity data collection procedures late in '03 (due to year-end moratoriums on system changes, etc.). The Fed has provided guidance in handling applications where info was collected in '03 under the old rules but is reported on the '04 LAR under the new rules. However, we anticipate we will also require conversion rules to handle applications taken and dispositioned late in 2003, where we collected race/ethnicity using the new rules. For example, translating back to 2003 data requirements will be troublesome when applicants choose more than one race." In such case, a conversion of the data is required; therefore, these institutions recommend that they be allowed to choose one race from the combination of race and ethnicity codes selected by the applicant or use "N/A" in place of the codes.

Second, some institutions are concerned about a lag in transition to new forms by mortgage brokers and other lenders. As yet, for example, the Fannie Mae Form

1003 has not been amended to reflect the new data requirements. Assuming that the forms are amended and made available before January 1, 2004, there still may be a delay in getting the new forms adopted by lenders in time for the new data collection. It is likely that some substantial percentage of loan brokers will not be ready on January 1, 2004, with new forms. Therefore, ABA recommends that lenders and brokers be permitted to (1) ask for monitoring information using the 2003 codes until April 1, 2004, and (2) accept applications using the 2003 codes, if the consumer obtained the application form before April 1, 2004. All information obtained using the 2003 codes would then be converted to the 2004 codes using the methodology contained in the proposal.

5. In 2002 the Board revised the list of the types of purchasers and the applicable codes. Because the lender's determination as to type of purchaser is made when the loan is sold, the Board states that it sees no need for a transition rule. ABA concurs.

6. The 2002 revisions will require lenders to collect and report new data items under "other data" on the 2004 LAR:

The rate spread on originated loans excluding unsecured home improvement loans), where the spread or difference) between the loan's APR and the yield on Treasury securities of comparable maturity meets or exceeds certain thresholds.

Whether originated loans and purchased loans are subject to the Home Ownership and Equity Protection Act (HOEPA).

The lien status of applications and originated loans (that is, whether a loan is unsecured or secured by a first or subordinate lien on a dwelling).

This information must be reported for all loans closed on or after 1-01-2004. The Board believes that no transition provision or exception is needed, because information about these items is available at the time of final action. ABA concurs.

7. The 2002 revisions require lenders to use the rate lock date to determine the yield on comparable Treasury securities. Lenders must consult the yield on Treasury securities as of the 15th-of-the month prior to the date the rate is locked (or set for the final time) before the loan is consummated. Thus, lenders may have to modify their procedures in 2003 to ensure that they retain the rate lock date for cross-over applications. Lenders may also have to look back to the Treasury yields from 2003 for a loan consummated in 2004, if the rate was locked before January 15, 2004. Lenders currently are required to make such comparisons to comply with HOEPA and Regulation Z. The Board promises that historical information on the appropriate Treasury yields and a tool to assist lenders in calculating the spread between a loan's APR and the Treasury yield will be available to lenders on the Board's web site in May 2003.

As a result, the Board does not believe that these requirements warrant an exception to the requirement to report the rate spread for all loans closed on or after 1-01-04.

However, the Board has requested comment on whether there are less burdensome alternatives to requiring lenders to use the rate lock date for calculating the rate spread during the transition period. The Board suggests that lenders could use the date the application was received or the date of consummation to calculate the rate spread, or the Board could specify a date (such as 1-01-04) that would not require lenders to look back to 2003 to calculate the rate spread. The Board notes that if lenders used the date of application or consummation, they would not have to modify their systems because they already capture these dates for current reporting requirements. After consulting with our compliance officers, ABA recommends that the Board adopt the application date as the rate lock date for cross-over applications.

8. The new HMDA regulations require lenders to report HOEPA status and lien status. The Board suggests that these two data items do not require an exception to the effective date. For lien status, the 2002 revisions provide that lenders may rely on the best information readily available to them at the time of final action (in 2004). Thus, lenders will not have to look back to 2003 to report lien status. ABA concurs.

ABA appreciates the opportunity provided by the Board to comment on the HMDA transition provisions. ABA supports the Board's proposal with the specific changes requested above. If the Board or staff has any questions about this letter, please call the undersigned.

Sincerely,

A handwritten signature in cursive script that reads "Paul Alan Smith".

Paul Smith  
Senior Counsel