

Supporting Statement
CFPB Regulation C – Home Mortgage Disclosure
OMB Control No. 1557-_____

A. Justification.

1. *Circumstances that make collection necessary:*

Regulation C,¹ which implements the Home Mortgage Disclosure Act² (HMDA) requires certain depository and non-depository institutions that make certain mortgage loans to collect, report, and disclose data about originations and purchases of mortgage loans as well as data about loan applications that do not result in originations. HMDA requires the generation of loan data that can be used to: (1) help determine whether financial institutions are serving the housing needs of their communities; (2) assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010³ (the Dodd-Frank Act) transferred HMDA and its rulemaking authority from the Board of Governors of the Federal Reserve System (Board) to the Consumer Financial Protection Bureau (CFPB) and transferred supervisory and enforcement authority for HMDA for depository institutions over \$10 billion in consolidated assets from the Board, Federal Deposit Insurance Corporation, OCC, and National Credit Union Administration to the CFPB.

On October 28, 2015, the CFPB published a final rule that expanded the data collected and reported under HMDA, as implemented by Regulation C. On September 13, 2017, the CFPB published a final rule with additional corrections and clarifications (final rules). The final rules also modified the types of lenders and loans covered under Regulation C. For data collected in 2017, and reported in 2018, the rule reduces the number of institutions covered under Regulation C as only depository institutions that originate more than 25 closed-end loans must report the data. Beginning on January 1, 2018, institutions were required to begin collecting expanded data under HMDA if, in addition to meeting other criteria, they either originates 25 or more closed-end mortgage loans or 500 or more open-end lines of credit secured by a dwelling in each of the two preceding years. These institutions will begin reporting the expanded HMDA data in 2019, except to the extent they are covered by a partial exemption contained in a later 2018 rule (discussed below). Beginning in 2020, institutions will be required to collect data on open-end lines of credit if they originate more than 100 open-end lines of credit secured by a dwelling in each of the two preceding years (and report that open-end lines of credit data beginning in 2021). Institutions also will collect and report covered loans and applications quarterly if they reported a total of at least 60,000 covered loans and applications in the preceding calendar year. Institutions must report a covered loan if it has met the loan origination threshold for that loan category (open-end or closed-end); an institution that is not required to report data may voluntarily do so.

¹ 12 CFR part 1003.

² 12 U.S.C. 2801-2811.

³ Pub. L. 111-203, July 21, 2010.

In addition, the types of loans covered under Regulation C changed under the final rules beginning in 2018. Covered institutions are now required to collect and report any mortgage loan secured by a dwelling, including open-end lines of credit, regardless of the loan’s purpose. Dwelling-secured loans that are made principally for a commercial or business purpose, as well as agricultural–purpose loans, and other specified loans are excluded.

On September 7, 2018, the CFPB issued an interpretive and procedural rule⁴ to implement section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act⁵ (EGRRCPA). Section 104(a) amended certain provisions of the Home Mortgage Disclosure Act (HMDA) by adding partial exemptions from HMDA's requirements for certain insured depository institutions and insured credit unions. Insured depository institutions and insured credit unions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data.

Section 104(a) of the EGRRCPA amends HMDA section 304(i), which provides that the requirements of HMDA section 304(b)(5) and (6) shall not apply with respect to closed-end mortgage loans of an insured depository institution or insured credit union if it originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years. Sections 304(b)(5) and (6) of HMDA do not apply to open-end lines of credit of an insured depository institution or insured credit union if it originated fewer than 500 open-end lines of credit in each of the two preceding calendar years. An insured depository institution still must comply with HMDA section 304(b)(5) and (6) if it has received a rating of “needs to improve record of meeting community credit needs” during each of its two most recent examinations or a rating of “substantial noncompliance in meeting community credit needs” on its most recent Community Reinvestment Act examination.

2. *Use of the information:*

This regulation implements the requirements of HMDA. The regulation requires certain financial institutions to report data to the appropriate federal agency about home purchase loans, home improvement loans, and refinancings that the financial institutions originate or purchase, or for which they receive certain applications and to disclose certain data to the public.

3. *Consideration of the use of improved information technology:*

Institutions may use any technology that is reasonable and appropriate for its circumstances.

⁴ 83 FR 45325.

⁵ Pub. L. 115-174, 132 Stat. 1296 (2018).

4. *Efforts to identify duplication:*

These requirements and disclosures are unique and cover an institution's particular circumstances. No duplication with other regulatory requirements exists.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden:*

There are no alternatives that would result in further lowering the burden on small institutions, while still accomplishing the purposes of the rules.

6. *Consequences to the federal program if the collection were conducted less frequently:*

The public would not be protected adequately and negative safety and soundness consequences could result.

7. *Special circumstances necessitating collection inconsistent with 5 CFR part 1320:*

Not applicable. The collection is conducted in accordance with the guidelines in 5 CFR part 1320.

8. *Efforts to consult with persons outside the agency:*

The OCC issued a notice for 60 days of comment regarding this revised collection on February 14, 2019, 84 FR 4129. No comments were received.

On May 20, 2019, the OCC published a notice for 30 days of comment concerning this information collection, 84 FR 22935. One comment was received.

The commenter expressed concern about the effect of exemptions on the market data used in CRA and fair lending examinations. The commenter believed that the conclusions of institutions that report all HMDA loans and all data for each HMDA loan reported could be negatively affected if a significant (yet unknown) volume of data have been exempted. The commenter stated that preliminary analysis of 2018 aggregate nationwide HMDA data suggests that equity lines of credit and closed end credit may have materially different demographic characteristics and that a straight comparison of an individual institution's data to the aggregate may lead to inaccurate CRA or fair lending conclusions. The commenter believes that, if the data is not reported, an institution has no basis for documenting the impact that missing data may have on its examinations.

The commenter recommended eliminating or limiting the loan count thresholds by which the exemption is triggered or, in the alternative, that the OCC adopt more formalized written CRA and fair lending examination procedures showing how a fully reporting institution addresses situations in which its data are compared to aggregate HMDA market data that may not be fully representative of all loans originated in the market. The commenter believes that this approach is consistent with the OCC's initiative to modernize CRA.

The OCC cannot revise or rescind regulations through the PRA renewal process. In addition, Regulation C can only be changed by the issuing agency, the Consumer Financial Protection Bureau (CFPB). The OCC notes that the commenter submitted a comment on this matter to the CFPB, as well.

9. Payment to respondents:

There is no payment to respondents.

10. Any assurance of confidentiality:

The information collected will be kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

No personally identifiable information is collected. However, questions of a sensitive nature are included under the monitoring information requirement. For example, institutions must ask applicants for home loans to indicate their sex and race/national origin. If an applicant chooses not to furnish the information, the bank must note the applicant's race and sex based on visual observation or surname.

The regulations are designed to identify possible discriminatory practices. Such discrimination would tend to occur on how the lender perceives the applicant, rather than how the applicant characterizes himself or herself.

While an applicant's color or sex may be evident when they come in person to inquire about an application, a practice of discrimination cannot be ascertained unless the examiner has the information on each applicant's race or sex. Also, without this information in each file, corrective action for the class of persons who may have been discriminated against cannot be undertaken.

The collection by the OCC of sex and race/national origin information is exempted under the supervisory agency provision of 12 U.S.C. 3413(b), which permits the examination by or disclosure to any such agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions.

12. Burden estimate:

	Number of Respondents	Annual frequency	Estimated average hours per response	Estimated annual burden hours
2018 – For revisions in data				

	Number of Respondents	Annual frequency	Estimated average hours per response	Estimated annual burden hours
collection effective in 2018				
Collection of reportable data				
<i>Tier 1</i>	8	1	6,216	49,728
<i>Tier 2</i>	633	1	962	608,946
<i>Tier 3</i>	61	1	111	6,771
Recordkeeping				
<i>Tier 1</i>	8	1	4,301	34,408
<i>Tier 2</i>	633	1	65	41,145
<i>Tier 3</i>	61	1	28	1,708
Disclosure				
<i>Tier 1</i>	8	1	5	40
<i>Tier 2</i>	633	1	0	0
<i>Tier 3</i>	61	1	0	0
Totals	702			742,746

2019 – For revisions in data collection effective in 2019				
Collection of reportable data				
<i>Tier 1</i>	8	1	6,216	49,728
<i>Tier 2</i>	529	1	962	508,898
<i>Tier 3</i>	61	1	111	6,771
Recordkeeping				
<i>Tier 1</i>	8	1	4,301	34,408
<i>Tier 2</i>	529	1	65	34,385
<i>Tier 3</i>	61	1	28	1,708
Disclosure				
<i>Tier 1</i>	8	1	5	40
<i>Tier 2</i>	633	1	0	0
<i>Tier 3</i>	61	1	0	0
Totals	702			635,938

2018:

Estimated Number of Respondents: 702.

Estimated Annual Burden: 742,746 hours.

2019:

Estimated Number of Respondents: 702.

Estimated Annual Burden: 635,938 hours.

Cost of Hour Burden: 635,938 x \$114 = \$ 72,496,932

To estimate wages we reviewed May 2018 data for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for credit intermediation and related activities excluding nondepository credit intermediaries (NAICS 5220A1). To estimate compensation costs associated with the rule, we use \$114 per hour, which is based on the average of the 90th percentile for nine occupations adjusted for inflation (2.8 percent as of Q1 2019 according to the BLS), plus an additional 33.2 percent for benefits (based on the percent of total compensation allocated to benefits as of Q4 2018 for NAICS 522: credit intermediation and related activities).

13. Estimate of annualized cost to respondents:

Not applicable.

14. *Estimate of annualized costs to the government:*

Not applicable.

15. *Change in burden:*

2018:

Former Burden: 959,232 hours.

Current Burden: 742,746 hours.

Difference: - 216,486 hours.

2019:

Former Burden: 959,232 hours.

Current Burden: 635,938 hours.

Difference: - 323,294 hours.

The decrease in burden is due to the addition of the exemptions.

16. *Information regarding collections whose results are planned to be published for statistical use:*

The OCC has no plans to publish the information for statistical use.

17. *Exceptions to certification statement:*

None.

B. Collections of information employing statistical methods.

Not applicable.