

Credit Opportunity) (such as the distinction between an inquiry and an application, and the guidance concerning application procedures) are applicable to Regulation C, prequalification requests are not applications for purposes of Regulation C, even though they may be applications under Regulation B.

Comment 2(b)-2 addresses prequalification requests. Several commenters noted that institutions sometimes process and treat prequalification requests like other applications, to ensure that a notice of action taken under Regulation B is sent if the request is denied. The Board has revised comment 2(b)-2 to accommodate such practices.

In the amendments to Regulation C issued in December 1994 (59 FR 63698, December 9, 1994), the Board deferred a final determination on whether and how lenders ought to report requests for prequalifications (or preapprovals). (A preapproval request is generally considered to be a request by an applicant for a commitment from an institution to lend a specific amount, subject to the applicant's selection of residential property that is satisfactory to the institution. A preapproval program may be part of or separate from the institution's mortgage loan application program.) The Board stated that institutions need not include data about prequalifications (or preapprovals) in their HMDA submissions for calendar years 1994 or 1995.

Based on the comments and upon further analysis, the Board has determined that for 1996 data collection, institutions need not report prequalification (or preapproval) requests on the HMDA-LAR. The Board may consider amending Regulation C at a later date to address whether (and how) institutions should report some or all prequalification (or preapproval) requests.

2(c) Branch office. The Board has added a new comment 2(c)-1 to clarify that a branch office of a credit union meets the regulatory definition even if it has not been approved as a branch by a federal or state agency. The National Credit Union Administration, which charters and regulates federal credit unions, does not require approval of branch offices.

2(d) Dwelling. The Board has adopted comment 2(d)-1 substantially as proposed. Some commenters requested guidance on whether the purchase of a time-share is a purchase of a dwelling. Because the purchase of a time-share is the purchase of a "use" interest in the property, it is not a purchase of a

dwelling for HMDA purposes. Other commenters requested guidance on the treatment of loans on structures such as dormitories and nursing homes. An institution need not treat these structures as dwellings for purposes of HMDA reporting. If an institution wishes to report the transaction it must determine that the structure is a residential structure under state or federal law.

2(f) Home-improvement loan. The Board has deleted an example in proposed comment 2(f)(1)-1 concerning the purchase of appliances to be installed as fixtures. The use of the term "fixture" generated numerous questions from commenters. Upon further analysis, the Board has decided not to define the term fixture because the Board believes the requirement that an institution classify a loan as a home-improvement loan suffices to distinguish these loans from other home-related consumer loans.

The Board has deleted proposed comment 2(f)(1)-2, which addressed home-improvement loans secured by a property other than the property being improved. Some commenters interpreted the comment to suggest that institutions should only report secured home-improvement loans. Rather than reiterate language from Appendix A—which instructs institutions to report both secured and unsecured home-improvement loans—the Board opted to delete the comment. Comment 4(a)(6)-2 addresses how to report the property location for a home-improvement loan secured by a property other than the property being improved.

Proposed comment 2(f)(2)-1 used the example of marketing as a means of classifying loans. Although the comment was intended to clarify that an institution satisfies the classification requirement if it designs and markets a loan product as a home improvement loan product, some commenters interpreted the comment as requiring an institution to report all loans for which the marketing might have indicated that the loan could be used for home-improvement. The Board has deleted the reference because marketing practices alone will not suffice for classifying a loan product as a home-improvement loan.

2(g) Home-purchase loan. The Board has revised the comments to § 203.2(g) in response to issues raised by commenters and to improve clarity. For example, comments 2(g)-2 and -3 clarify that, as is the case for home-improvement loans, an institution may use any reasonable standard to determine a property's primary use, and may select the standard case-by-case.

Section 203.3—Exempt Institutions

3(a) Exemption based on location, asset size, or number of home-purchase loans. Comment 3(a)-3 addresses reporting requirements for bulk purchases where no merger or acquisition of an institution is involved. Several commenters expressed concerns about data quality for these purchased loans. Commenters noted that a lender may only review a small percentage of the total loan purchase, and be unaware that information required to be reported on the HMDA-LAR is missing for some loans in the bulk purchase. The Board recognizes the reporting difficulties associated with bulk purchases, but believes that HMDA requires the reporting of these data in an accurate and complete manner.

Section 203.4—Compilation of Loan Data

4(a) Data format and itemization.
Paragraph 4(a)(1)—Application date. The Board has revised comments 4(a)(1)-1 and -2 to clarify that while an institution is allowed flexibility, its approach in reporting the application date for its entire HMDA submission should be generally consistent (such as by routinely using one approach within a particular division of the institution or for a category of loans).

The Board has revised comment 4(a)(1)-3 to clarify that the comment applies to all reinstated applications (not only counteroffers and denials).

Paragraph 4(a)(2)—Type and purpose. In response to comments on proposed comment 2(f)(1)-4, the Board has added a new comment 4(a)(2)-1 concerning loans that are for more than one covered purpose (home purchase, home improvement, or refinancing).

Paragraph 4(a)(3)—Occupancy. Proposed comment 4(a)(3)-1 dealt with the occupancy status for properties located outside the MSAs in which an institution has a home or branch office, and allowed an institution to report the actual occupancy status. The final comment makes this rule applicable also to a multifamily property loan. Although Appendix A is written more narrowly, the Board believes this more permissive rule will reduce compliance burden and will not adversely affect data quality.

Paragraph 4(a)(4)—Loan amount. In response to requests by commenters, the Board has added a new comment 4(a)(4)-4 concerning the loan amount to be reported in the case of an assumption of a loan.

Proposed comment 4(a)(4)-4 has been deleted, consistent with the position taken on the nonreporting of loan