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MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS

FROM: Montrice G. Yakimov, Managing Director
 Compliance and Consumer Protection

SUBJECT: Revised HMDA Examination Procedures

The Home Mortgage Disclosure Act (HMDA) requires certain mortgage lenders to disclose data regarding their lending patterns. Financial institutions must report data regarding loan originations, applications, and loan purchases, as well as requests under a preapproval program (as defined in § 203.2(b)) if the preapproval request is denied or results in the origination of a home purchase loan. The HMDA requires lenders to report the ethnicity, race, gender, and gross income of mortgage applicants and borrowers. Lenders must also report information regarding the pricing of the loan and whether the loan is subject to the Home Ownership and Equity Protection Act. As a result of recent amendments to the HMDA, OTS has updated its examination procedures to address changes to the rules for reporting price information on higher-priced loans.

Since 2004, Regulation C has required lenders to collect and report the spread between the annual percentage rate (APR) on a loan and the yield on Treasury securities of comparable maturity if the spread is equal to or greater than 3.0 percentage points for a first-lien loan, or 5.0 percentage points for a subordinate-lien loan. Going forward, lenders will instead report the spread between the loan’s APR and a survey-based estimate of APRs currently offered on prime mortgage loans (“average prime offer rate”) of a comparable type if the spread is equal to or greater than 1.5 percentage points for a first-lien loan, or 3.5 percentage points for a subordinate-lien loan. To determine the applicable rate spread, financial institutions may use the table published on the FFIEC’s Web site (<http://www.ffiec.gov/hmda>) entitled “Average Prime Offer Rates Tables.” These thresholds are the same as those adopted under Regulation Z’s definition of “higher-priced mortgage loan” in July 2008.¹ Compliance is mandatory for loan applications taken on and after October 1, 2009 and for loans that close on and after January 1, 2010 (regardless of their application dates).

¹ Lenders will also continue to report whether a loan is subject to the Home Ownership and Equity Protection Act (HOEPA). The most costly loans are subject to the special protections provided by HOEPA.

For loans for which applications were taken before October 1, 2009 and that are consummated in 2009, the revised rules do not apply. Lenders will apply the existing rate spread reporting test, using Treasury security yield benchmarks, for those loans. For loans which applications were taken before October 1, 2009 and that are consummated in 2010 or later, the revised rules apply.

The final rule will provide pricing data on higher-priced mortgage loans reported under Regulation C that are more consistent with prevailing mortgage market pricing over time, which will make data reporting more predictable. The rule also will facilitate regulatory compliance by conforming the test for rate spread reporting under Regulation C to the definition of higher-priced mortgage loans under Regulation Z.

The updated procedures require associations to:

- Establish policies and procedures to address the collection of the rate spread (difference between the annual percentage rate (APR) and the average prime offer rate for a comparable transaction as of the date the interest rates are set);
- Report rate spreads between the APRs and the average prime offer rates for comparable transactions as of the date the interest rates are set, if the spreads are equal to or greater than 1.5 percentage points for first-lien loans, or equal to or greater than 3.5 percentage points for subordinate-lien loans; and
- Continue to have a system for tracking rate lock dates and rate spread calculations.

These procedures were developed on an interagency basis. They reflect a risk-focused approach to comprehensive examinations. The revised Examination Handbook Section 1215 is available through the link provided below.

For more information, please contact David Adkins, Fair Lending Specialist, at (202) 906-6716 or David.Adkins@ots.treas.gov.

[Link to Handbook Section 1215](#)