FEDERAL RESERVE BANK OF DALLAS

DALLAS, TEXAS 75222

Circular No. 77-47
April 18, 1977

INTERPRETATIONS TO REGULATION C (HOME MORTGAGE DISCLOSURE) AND REGULATION Z (TRUTH IN LENDING)

TO ALL BANKS
AND OTHERS CONCERNED IN THE
ELEVENTH FEDERAL RESERVE DISTRICT:

The Board of Governors of the Federal Reserve System has adopted three interpretations intended to clarify certain aspects of its consumer credit protection regulations.

The Board adopted an interpretation to its Truth in Lending Regulation Z stating that the amount of a dealer's participation in the finance charge on the credit purchase of an automobile or other durable goods need not be disclosed as a separate part of the finance charge.

At the same time, the Board withdrew a proposal that would have required disclosure of the fact but not the amount of a dealer's participation.

The Board took these actions because it did not feel that disclosure of a dealer participation in a finance charge would significantly benefit consumers in shopping for credit.

At the same time, the Board adopted two technical interpretations to its Home Mortgage Disclosure Regulation C.

The first interpretation permits a depository institution subject to the Act that is majority-owned by another depository to disclose its mortgage loan data separately from that of the parent.

The second interpretation of Regulation C clarifies what disclosures must be made by depositories that were exempt from the provisions of the Act, but lose their exemption. A depository is exempt if (a) it does not have an office in a standard metropolitan statistical area (SMSA), (b) does not have assets on the

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last day of its fiscal year of $10 million or more, or (c) is a State-chartered institution subject to a State disclosure law that the Board has determined imposes disclosure requirements substantially similar to those of the Home Mortgage Disclosure Act.

The Board's interpretation makes it clear that previously exempt institutions which become subject to the Act (by extension of an SMSA to cover one or more of its offices or by growth of its assets) may report on their mortgage lending during their last full fiscal year by Postal ZIP code areas and thereafter by Census Bureau census tracts. This is the same treatment accorded to depositories in the first year after Regulation C became effective (June 28, 1976).

A copy of each of the three interpretations is attached. Inquiries regarding this matter should be directed to Richard West of our Regulations Department, Ext. 6171. Additional copies of these interpretations will be furnished upon request to the Secretary's Office of this Bank, Ext. 6267.

Sincerely yours,

Robert H. Boykin

First Vice President

Attachments

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

HOME MORTGAGE DISCLOSURE

TECHNICAL INTERPRETATIONS OF REGULATION C

SECTION 203.001 — TREATMENT OF MAJORITY-OWNED, DEPOSITORY SUBSIDIARIES OF DEPOSITORY INSTITUTIONS

The Board has been asked whether a majority-owned, depository subsidiary of a depository institution should be treated in the same way as a non-depository subsidiary. The first sentence of §203.2 (c) defines a depository institution as "any commercial bank, savings bank, savings and loan association, building and loan association, homestead association (including cooperative banks), or credit union, which makes federally related mortgage loans." The second sentence deals with subsidiaries: "Any majority-owned subsidiary of a depository institution shall be deemed to be part of its parent depository institution for the purposes of this Part." The purpose of the subsidiary provision is to provide a more complete picture of a parent's lending patterns by including information regarding the lending activities of any non-depository, majority-owned subsidiary.

A few depository institutions, however, have majority-owned subsidiaries that are themselves depository institutions. This raises the issue of how a depository institution as defined in the first part of §203.2(c), which is also a majority-owned subsidiary of a depository institution, should be treated for Regulation C disclosure purposes. If, absent the second part of §203.2(c), the depository subsidiary otherwise would make separate disclosures under Regulation C, then combining the subsidiary's loan data with the parent's into a single statement would reduce public disclosure, contrary to the intent of §203.2(c) and the purpose of the Home Mortgage Disclosure Act.

Therefore, to further the intent of the act and the regulation, a parent depository institution may draw a distinction for disclosure purposes between depository and non-depository, majority-owned subsidiaries. A majority-owned, non-depository subsidiary of a depository institution should be treated as an integral part of its parent, with no distinction made between them for reporting purposes, in accordance with the second sentence of §203.2(c). On the other hand, at the parent's option, a majority-owned, depository subsidiary of a depository institution may be treated as a distinct, unaffiliated entity since it is a depository institution as defined in the first sentence of §203.2(c).

SECTION 203.002 — DISCLOSURE AFTER LOSS OF EXEMPTION

The Board has been requested to clarify the Regulation C disclosure requirements that apply to a depository institution that ceases to be exempt from the Home Mortgage Disclosure Act.

Section 203.3(a) of Regulation C describes the three classes of depository institutions that are exempt from the regulation's disclosure requirements. They are: (1) institutions that have assets of $10,000,000 or less as of the last day of their fiscal year; (2) institutions that do not have an office in a standard metropolitan statistical area; and (3) State-chartered institutions that are subject to a State disclosure law that the Board has determined imposes substantially similar requirements to those mandated by the Home Mortgage Disclosure Act.

Section 203.3(b) sets forth the initial disclosure requirements applicable to an exempt institution that subsequently loses its exemption. It states:

> A depository institution that was exempt on or after the effective date of this Part on the basis of paragraph (a) of this section and that subsequently becomes no longer exempt shall compile the data described in section 203.4 of this Part for each fiscal year beginning with its last full fiscal year ending prior to the date it was no longer exempt, and that last full fiscal year shall be deemed to be a "full fiscal year ending prior to July 1, 1976" for the purposes of section 203.4 of this Part.

The first point on which clarification has been sought is the meaning of the language "last full fis-

cal year ending prior to the date it was no longer exempt . . ." For any depository institution that loses its exemption under §203.3(a)(2) because of the re-definition of a standard metropolitan statistical area or loses its exemption under §203.3(a)(3) because applicable State disclosure law is found not to be substantially similar to the Federal act, "its full fiscal year ending prior to the date it was no longer exempt" is its fiscal year immediately preceding the fiscal year during which the exemption was lost. For example, a depository institution having a calendar fiscal year that ceases to be exempt during 1977 would have to disclose relevant 1976 data.

For any depository institution that loses its exemption under §203.3(a)(1) because its assets exceeded $10,000,000 on the final day of its last fiscal year, the period to be covered by its initial disclosure statement is that last fiscal year. For example, a calendar fiscal year institution that has assets of more than $10,000,000 on December 31, 1977, would have to disclose relevant 1977 loan information.

The Board also has been asked to explain the significance of the phrase " 'full fiscal year ending prior to July 1, 1976 . . .' " The purpose in §203.3(b) of equating an institution's "last full fiscal year ending prior to the date it was no longer exempt" with a " 'full fiscal year ending prior to July 1, 1976' " is to make available to an institution that loses its exemption the same disclosure options that were available to institutions when Regulation C became effective. Thus, for the purposes of §203.4, a depository institution that ceases to be exempt may compile the necessary mortgage and home improvement loan data by United States Postal Service ZIP codes, in lieu of Census Bureau census tracts, for its last full fiscal year and any portion of its current fiscal year ending prior to the loss of exemption. In addition, such an institution may exercise the options and rely on the presumption contained in paragraphs (a)(4)(ii) and (c) of §203.4 as if it has lost its exemption and become subject to the regulation on July 1, 1976.

The following examples illustrate the points made in this interpretation. Assume that a depository institution having a calendar fiscal year ceases to be exempt under §203.3(a)(2) on April 1, 1977, because of the enlargement of a standard metropolitan statistical area to include a county in which the institution has an office. Pursuant to §203.5(a)(1)(iii), that institution would be required to prepare and make available publicly a disclosure statement by June 29, 1977, ninety days after its loss of exemption.

Under §203.3(b), the disclosure statement would have to cover the institution's "last full fiscal year ending prior to the date it was no longer exempt," which, as indicated previously, would be 1976. Pursuant to §203.4(a)(2)(i), read in view of §203.3(b), the institution could compile the necessary loan information for 1976 by ZIP code if it chose.

Also, under §203.4(a)(2)(ii), it could elect to issue a separate disclosure statement, compiled on a ZIP-code basis, for the first three months of its current fiscal year — January, February, March 1977 — if it also made that statement available on June 29, 1977. If it chose that option, then it would report on its relevant lending activities for the remainder of 1977 by census tract on March 31, 1978. The alternative to this latter option would be for the institution to report on all of its relevant lending activities during 1977 by census tract on March 31, 1978. Finally, the institution may exercise the reporting options and rely on the residence presumption set forth in §§203.4(a)(4)(ii) and 203.4(c) for its 1976 disclosure statement and the January through March 1977 statement if that option is chosen.

The second example assumes that a depository institution having a calendar fiscal year ceases to be exempt under §203.3(a)(1) because its assets exceed $10,000,000 as of December 31, 1977. Pursuant to the applicable provisions of the regulation as outlined in the preceding example, the institution would have to prepare a disclosure statement by March 31, 1978, covering its relevant lending activities during 1977 on a ZIP-code basis. Since the loss of exemption would not have occurred during the course of its fiscal year, no partial fiscal year report would be possible. The options and presumption contained in §§203.4(a)(4)(ii) and 203.4(c), respectively, could be used, however, in preparing the 1977 disclosure statement.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TRUTH IN LENDING

INTERPRETATION OF REGULATION Z

SECTION 226.821 — DISCLOSURE OF DEALER PARTICIPATION

(a) Section 226.8(c)(8)(i) requires the itemization of each component of a finance charge consisting of more than one type of charge. Section 226.4(a)(3) lists among the types of charges to be included in the finance charge a "finder's fee or similar charge." In certain credit transactions, such as the sale of automobiles and other consumer goods, where the finance charge is determined by application of a percentage rate or rates to the amount financed, a portion of that charge may be allocated to the dealer by the financial institution as a dealer participation. The question arises whether such allocations must be itemized as a separate component of the total finance charge in the nature of a finder's fee.

(b) The requirement for itemization of a finance charge which includes a finder's fee or other elements in addition to an interest component is intended to assure that the total finance charge disclosed to the customer properly reflects all components which must be included in that amount. Any component of the finance charge which is computed by the application of a percentage rate or rates to the amount financed constitutes a single charge of the type described in §226.4(a)(1). As such, it must be included in the finance charge calculation and disclosure. A portion of such single component of the finance charge which is distributed to a dealer is not considered a "finder's fee or similar charge" and need not be separately identified or disclosed. The concept of a "finder's fee," as that term is used in §226.4(a)(3), is intended to cover certain charges in the nature of brokerage fees which are imposed in addition to that portion of the finance charge attributable to the application of a percentage rate or rates to the amount financed. Any such separate fee must, of course, be separately itemized.

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