

application in 2003 for a home equity loan to consolidate credit card debt, and originates the loan in 2004, the lender may report the loan on its 2004 LAR as a refinancing if this is the lender's practice under the current rule. The proposed comment permits lenders to apply the revised definitions to applications received before January 1, 2004, at the option of the lender.

Preapproval

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. Currently, requests for preapproval are reported only if the request is approved and results in a traditional loan application, in which case the lender reports on the disposition of that application. The 2002 revisions require lenders to report information on requests for preapproval that are denied, whether or not they resulted in a traditional loan application; they allow, but do not require, lenders to report requests for preapproval that are approved but not accepted by the applicant.

Lenders have asked whether the revised rule requires them to collect information on requests for preapproval that are received in 2003, on the chance that the request might receive final action in 2004. The proposed transition rules provide that lenders may but need not identify requests for preapproval received in 2003 as such. For applications received before January 1, 2004, they may use the code for "not applicable" in the preapproval field on the HMDA/LAR.

Applicant Information

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.

Some racial classifications and codes remain unchanged. For example, the classification "American Indian or Alaskan Native" and its corresponding code have not changed; the meaning of the classification "black" has been clarified but not substantively changed by adding the phrase "or African-American," and the corresponding code remains the same under the revised rule.

However, changes to other racial classifications and codes, and the

introduction of a separate question on Hispanic ethnicity, complicate the transition from the current rule to the revised rule. For example, under the current rule, code 2 is used for an applicant whose race is "Asian or Pacific Islander," while under the 2002 revisions, code 2 is used for an applicant who is "Asian," and code 4 is used for "Native Hawaiian or Other Pacific Islander." Moreover, while the current classifications for race include "Hispanic," under the 2002 revisions an applicant's *race* cannot be identified as "Hispanic." Rather, the 2002 revisions require that an applicant be asked to identify his or her *ethnicity* as "Hispanic or Latino," or "not Hispanic or Latino." Thus, if a lender receives an application in 2003 in which the applicant's race is identified as "Hispanic," and the lender takes final action on the application in 2004, using code 4 (the current code for "Hispanic") on the 2004 LAR would result in an erroneous identification of the applicant's race.

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 believes lenders can implement the proposed conversion rules by modifying their data collection and reporting systems. The proposed comment states that, in the example offered above, (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").

IV. Other Revisions

The Board has received inquiries from lenders about the applicability of other changes in the 2002 revisions to applications received before January 1, 2004, including changes made to "type of purchaser" and the addition of the data items under "other data" such as the lien status on an originated loan. These data items do not impose a significant burden on lenders to "look back" to applications received in 2003. Thus, the effective date of January 1, 2004, remains in place for these requirements, as discussed below.

Type of Purchaser

Section 203.4(a)(8) requires lenders to report the type of entity that purchases a loan that the lender originates (or purchases) and sells within the same calendar year. 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, there is no need for a transition rule.

Other Data

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); and

- The lien status of applications and originated loans (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 January 1, 2004. No exception is needed, because information about these items is available at final action.

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 loans that may be consummated after December 31, 2003.

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 (12 CFR part 226). 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.

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 January 1, 2004. The Board solicits comment, however, 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. 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 January 1, 2004) that would not require lenders to look back