

Consumer Financial Protection Bureau

Pt. 1003, Supp. I

See comments 2(o)-1 and -2 for a discussion of open-end line of credit and extension of credit.

Paragraph 4(a)(38)

1. *Primary purpose.* Except for partially exempt transactions under §1003.3(d), §1003.4(a)(38) requires a financial institution to identify whether the covered loan is, or the application is for a covered loan that will be, made primarily for a business or commercial purpose. See comment 3(c)(10)-2 for a discussion of how to determine the primary purpose of the transaction and the standard applicable to a financial institution's determination of the primary purpose of the transaction. See comments 3(c)(10)-3 and 4 for examples of excluded and reportable business- or commercial-purpose transactions.

4(f) Quarterly Recording of Data

1. *General.* Section 1003.4(f) requires a financial institution to record the data collected pursuant to §1003.4 on a loan/application register within 30 calendar days after the end of the calendar quarter in which final action is taken. Section 1003.4(f) does not require a financial institution to record data on a single loan/application register on a quarterly basis. Rather, for purposes of §1003.4(f), a financial institution may record data on a single loan/application register or separately for different branches or different loan types (such as home purchase or home improvement loans, or loans on multifamily dwellings).

2. *Agency requirements.* Certain State or Federal regulations may require a financial institution to record its data more frequently than is required under Regulation C.

3. *Form of quarterly records.* A financial institution may maintain the records required by §1003.4(f) in electronic or any other format, provided the institution can make the information available to its regulatory agency in a timely manner upon request.

Section 1003.5—Disclosure and Reporting

5(a) Reporting to Agency

1. *Quarterly reporting—coverage.* i. Section 1003.5(a)(1)(ii) requires that, within 60 calendar days after the end of each calendar quarter except the fourth quarter, a financial institution that reported for the preceding calendar year at least 60,000 covered loans and applications, combined, excluding purchased covered loans, must submit its loan/application register containing all data required to be recorded for that quarter pursuant to §1003.4(f). For example, if for calendar year 2019 Financial Institution A reports 60,000 covered loans, excluding purchased covered loans, it must comply with §1003.5(a)(1)(ii) in calendar year 2020. Simi-

larly, if for calendar year 2019 Financial Institution A reports 20,000 applications and 40,000 covered loans, combined, excluding purchased covered loans, it must comply with §1003.5(a)(1)(ii) in calendar year 2020. If for calendar year 2020 Financial Institution A reports fewer than 60,000 covered loans and applications, combined, excluding purchased covered loans, it is not required to comply with §1003.5(a)(1)(ii) in calendar year 2021.

ii. In the calendar year of a merger or acquisition, the surviving or newly formed financial institution is required to comply with §1003.5(a)(1)(ii), effective the date of the merger or acquisition, if a combined total of at least 60,000 covered loans and applications, combined, excluding purchased covered loans, is reported for the preceding calendar year by or for the surviving or newly formed financial institution and each financial institution or branch office merged or acquired. For example, Financial Institution A and Financial Institution B merge to form Financial Institution C in 2020. Financial Institution A reports 40,000 covered loans and applications, combined, excluding purchased covered loans, for 2019. Financial Institution B reports 21,000 covered loans and applications, combined, excluding purchased covered loans, for 2019. Financial Institution C is required to comply with §1003.5(a)(1)(ii) effective the date of the merger. Similarly, for example, Financial Institution A acquires a branch office of Financial Institution B in 2020. Financial Institution A reports 58,000 covered loans and applications, combined, excluding purchased covered loans, for 2019. Financial Institution B reports 3,000 covered loans and applications, combined, excluding purchased covered loans, for 2019 for the branch office acquired by Financial Institution A. Financial Institution A is required to comply with §1003.5(a)(1)(ii) in 2020 effective the date of the branch acquisition.

iii. In the calendar year following a merger or acquisition, the surviving or newly formed financial institution is required to comply with §1003.5(a)(1)(ii) if a combined total of at least 60,000 covered loans and applications, combined, excluding purchased covered loans, is reported for the preceding calendar year by or for the surviving or newly formed financial institution and each financial institution or branch office merged or acquired. For example, Financial Institution A and Financial Institution B merge to form Financial Institution C in 2019. Financial Institution C reports 21,000 covered loans and applications, combined, excluding purchased covered loans, each for Financial Institution A, B, and C for 2019, for a combined total of 63,000 covered loans and applications reported, excluding purchased covered loans. Financial Institution C is required to comply with §1003.5(a)(1)(ii) in 2020. Similarly, for example, Financial Institution A acquires a branch office of Financial Institution B in

2019. Financial Institution A reports 58,000 covered loans and applications, combined, excluding purchased covered loans, for 2019. Financial Institution A or B reports 3,000 covered loans and applications, combined, excluding purchased covered loans, for 2019 for the branch office acquired by Financial Institution A. Financial Institution A is required to comply with § 1003.5(a)(1)(ii) in 2020.

2. *Change in appropriate Federal agency.* If the appropriate Federal agency for a financial institution changes (as a consequence of a merger or a change in the institution's charter, for example), the institution must identify its new appropriate Federal agency in its annual submission of data pursuant to § 1003.5(a)(1)(i) for the year of the change. For example, if an institution's appropriate Federal agency changes in February 2018, it must identify its new appropriate Federal agency beginning with the annual submission of its 2018 data by March 1, 2019 pursuant to § 1003.5(a)(1)(i). For an institution required to comply with § 1003.5(a)(1)(ii), the institution also must identify its new appropriate Federal agency in its quarterly submission of data pursuant to § 1003.5(a)(1)(ii) beginning with its submission for the quarter of the change, unless the change occurs during the fourth quarter. For example, if the appropriate Federal agency for an institution required to comply with § 1003.5(a)(1)(ii) changes during February 2020, the institution must identify its new appropriate Federal agency beginning with its quarterly submission pursuant to § 1003.5(a)(1)(ii) for the first quarter of 2020. If the appropriate Federal agency for an institution required to comply with § 1003.5(a)(1)(ii) changes during December 2020, the institution must identify its new appropriate Federal agency beginning with the annual submission of its 2020 data by March 1, 2021 pursuant to § 1003.5(a)(1)(i).

3. *Subsidiaries.* A financial institution is a subsidiary of a bank or savings association (for purposes of reporting HMDA data to the same agency as the parent) if the bank or savings association holds or controls an ownership interest in the institution that is greater than 50 percent.

4. *Retention.* A financial institution may satisfy the requirement under § 1003.5(a)(1)(i) that it retain a copy of its submitted annual loan/application register for three years by retaining a copy of the annual loan/application register in either electronic or paper form.

5. *Federal Taxpayer Identification Number.* Section 1003.5(a)(3) requires a financial institution to provide its Federal Taxpayer Identification Number with its data submission. If a financial institution obtains a new Federal Taxpayer Identification Number, it should provide the new number in its subsequent data submission. For example, if two financial institutions that previously re-

ported HMDA data under this part merge and the surviving institution retained its Legal Entity Identifier but obtained a new Federal Taxpayer Identification Number, then the surviving institution should report the new Federal Taxpayer Identification Number with its HMDA data submission.

5(b) Disclosure Statement

1. *Business day.* For purposes of § 1003.5(b), a business day is any calendar day other than a Saturday, Sunday, or legal public holiday.

2. *Format of notice.* A financial institution may make the written notice required under § 1003.5(b)(2) available in paper or electronic form.

3. *Notice—suggested text.* A financial institution may use any text that meets the requirements of § 1003.5(b)(2). The following language is suggested but is not required:

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, age, and income of applicants and borrowers; and information about loan approvals and denials. These data are available online at the Consumer Financial Protection Bureau's Web site (www.consumerfinance.gov/hmda). HMDA data for many other financial institutions are also available at this Web site.

4. *Combined notice.* A financial institution may use the same notice to satisfy the requirements of both § 1003.5(b)(2) and § 1003.5(c).

5(c) Modified loan/application Register

1. *Format of notice.* A financial institution may make the written notice required under § 1003.5(c)(1) available in paper or electronic form.

2. *Notice—suggested text.* A financial institution may use any text that meets the requirements of § 1003.5(c)(1). The following language is suggested but is not required:

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, age, and income of applicants and borrowers; and information about loan approvals and denials. These data are available online at the Consumer Financial Protection Bureau's Web site (www.consumerfinance.gov/hmda). HMDA data for many other financial institutions are also available at this Web site.

3. *Combined notice.* A financial institution may use the same notice to satisfy the requirements of both § 1003.5(c) and § 1003.5(b)(2).

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5(e) Posted Notice of Availability of Data

1. *Posted notice—suggested text.* A financial institution may post any text that meets the requirements of §1003.5(e). The Bureau or other appropriate Federal agency for a financial institution may provide a notice that the institution can post to inform the public of the availability of its HMDA data, or an institution may create its own notice. The following language is suggested but is not required:

Home Mortgage Disclosure Act Notice

The HMDA data about our residential mortgage lending are available online for review. The data show geographic distribution of loans and applications; ethnicity, race, sex, age, and income of applicants and borrowers; and information about loan approvals and denials. HMDA data for many other financial institutions are also available online. For more information, visit the Consumer Financial Protection Bureau's Web site (www.consumerfinance.gov/hmda).

Section 1003.6—Enforcement

6(b) Bona Fide Errors

1. *Information from third parties.* Section 1003.6(b) provides that an error in compiling or recording data for a covered loan or application is not a violation of the Act or this part if the error was unintentional and occurred despite the maintenance of procedures reasonably adapted to avoid such an error. A financial institution that obtains the required data, such as property-location information, from third parties is responsible for ensuring that the information reported pursuant to §1003.5 is correct. See comment 6(b)–2 concerning obtaining census tract information from a geocoding tool that the Bureau makes available on its Web site.

2. *Information from the Bureau.* Section 1003.6(b)(2) provides that an incorrect entry for census tract number is deemed a bona fide error, and is not a violation of the Act or this part, provided that the financial institution maintains procedures reasonably adapted to avoid an error. Obtaining the census tract numbers for covered loans and applications from a geocoding tool available on the Bureau's Web site that identifies the census tract of a property using property addresses entered by users is an example of a procedure reasonably adapted to avoid errors under §1003.6(b)(2). Accordingly, a census tract error is not a violation of the Act or this part if the financial institution obtained the census tract number from the geocoding tool on the Bureau's Web site. However, a financial institution's failure to provide the correct census tract number for a covered loan or application on its loan/application register, as required by §1003.4(a)(9)(ii)(C) or (e), because the geocoding tool on the Bu-

reau's Web site did not provide a census tract number for the property address entered by the financial institution is not excused as a bona fide error. In addition, a census tract error caused by a financial institution entering an inaccurate property address into the geocoding tool on the Bureau's Web site is not excused as a bona fide error.

[80 FR 66317, 66339, Oct. 28, 2015, as amended at 82 FR 43136, 43145, Sept. 13, 2017; 82 FR 61146, Dec. 27, 2017; 84 FR 514, Jan. 31, 2019; 84 FR 57981, Oct. 29, 2019; 84 FR 69994, Dec. 20, 2019; 85 FR 28404, 28406, May 12, 2020; 85 FR 83410, Dec. 22, 2020; 86 FR 72819, Dec. 23, 2021; 87 FR 77981, Dec. 21, 2022; 87 FR 80434, Dec. 30, 2022; 88 FR 88222, Dec. 21, 2023; 89 FR 105430, Dec. 27, 2024]

PART 1004—ALTERNATIVE MORTGAGE TRANSACTION PARITY (REGULATION D)

Sec.

1004.1 Authority, purpose, and scope.

1004.2 Definitions.

1004.3 Preemption of State law.

1004.4 Requirements for alternative mortgage transactions.

APPENDIX A TO PART 1004—OFFICIAL COMMENTARY ON REGULATION D

AUTHORITY: 12 U.S.C. 3802, 3803; 15 U.S.C. 1604, 1639b; Pub. L. No. 111–203, 124 Stat. 1376.

SOURCE: 76 FR 44242, July 22, 2011, unless otherwise noted.

§ 1004.1 Authority, purpose, and scope.

(a) *Authority.* This regulation, known as Regulation D, is issued by the Bureau of Consumer Financial Protection to implement the Alternative Mortgage Transaction Parity Act, 12 U.S.C. 3801 *et seq.*, as amended by title X, Section 1083 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376). Section 1004.4 is issued pursuant to the Alternative Mortgage Transaction Parity Act (as amended) and the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*

(b) *Purpose.* Consistent with the Alternative Mortgage Transaction Parity Act, the Truth in Lending Act, and the Dodd-Frank Wall Street Reform and Consumer Protection Act, the purpose of this regulation is to balance access to responsible credit and enhanced parity between State and federal housing creditors regarding the making, purchase, and enforcement of alternative