



GC/HMU:bhs  
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NATIONAL CREDIT UNION ADMINISTRATION  
Washington, D.C. 20456

January 19, 1989

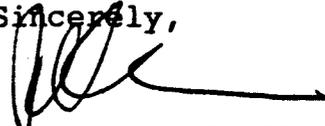
Office of General Counsel

Robert J. Lawrence  
Executive Secretary  
Federal Financial Institutions Examination Council  
1776 G Street, NW  
Suite 701  
Washington, DC 20006

Dear Mr. Lawrence:

This is in response to your December 22, 1988, letter to Rebecca Baker, Secretary of the NCUA Board, concerning the adoption of examination procedures for compliance with Regulation C. The NCUA Examiner's Guide contains a very brief description of Regulation C. A fuller explanation of Regulation C and how to comply with it is found in the Manual of Laws Affecting Federal Credit Unions ("Manual") that is used by our examiners. A copy of the chapter on Regulation C is enclosed. We are currently reviewing the need to update the Manual. If the Manual is updated, it will contain the current procedures for compliance with Regulation C.

Sincerely,

  
ROBERT M. FENNER  
General Counsel

HMU:bhs

Enclosure

cc: Becky Baker

FOIA - Vol. III, Part B, 12

## PART 7

### REGULATION C—HOME MORTGAGE DISCLOSURE ACT

#### A. WHAT IS IT?

The Home Mortgage Disclosure Act, frequently referred to as the "anti redlining" law, is a law which requires certain depository institutions, including credit unions, to disclose publicly where their mortgage loans have been granted. Congress gave the Federal Reserve Board the responsibility for developing the regulation to implement the Act. Accordingly, the Federal Reserve Board issued Regulation C which became effective June 28, 1976. Congress also specifically designated the National Credit Union Administration as the agency responsible for enforcing these provisions among all affected credit unions.

#### B. WHY WAS IT ENACTED?

The Act grew out of allegations that there are mortgage credit (loan) shortages in parts of certain urban communities. These allegations were supported by testimony of various public interest groups which documented that some financial institutions were following the practice of ruling out certain residential areas of the city as ineligible for mortgage credit. It was also stated that this practice, which is known as redlining, frequently resulted in the decline of inner city neighborhoods and in discrimination against various groups of residents.

In enacting this law, therefore, it was the expressed intent of Congress to provide for the development and disclosure of sufficient information for interested persons and public officials to determine whether depository institutions are fulfilling their lending obligations to serve the housing needs of all segments of the neighborhoods in which they are located.

A continuing study of this area is being carried out by HUD. It is HUD's responsibility to recommend any additional legislation which the study may indicate is necessary or desirable. It is important to recognize, however, that *nothing in the Act or Regulation in any way modifies the need for a*

*lender to exercise sound, nondiscriminatory judgment in evaluating the creditworthiness of loan applicants or sound value of collateral.*

#### C. WHAT CREDIT UNIONS ARE AFFECTED BY THIS REGULATION?

A credit union which meets all *three* of the following conditions is subject to the Act:

(a) It must have over \$10 million in assets at the end of its most recent fiscal year. (This will be the year for which the disclosure report is prepared.) Since reports will be required for each fiscal year (at least through June 28, 1980) credit unions reaching \$10 million during the interim may become subject to the reporting requirements of this Regulation.

(b) It must maintain an office (main or branch) in one or more SMSA (Standard Metropolitan Statistical Area) as established by the Office of Management and Budget.

(c) It must make Federally related residential mortgage loans. Any state chartered credit union, however, which is subject to the disclosure and reporting requirements of a State or local mortgage disclosure law may be exempt from the requirements of Regulation C if the Board of Governors of the Federal Reserve System has *specifically determined* that its requirements are substantially similar to those of Regulation C. Any credit union which believes that it is in this category should see the provisions of Section 203.5(a)(2) and 203.3(a)(3) of the Regulation and seek the assurance of the National Credit Union Administration.

#### D. WHAT IS A FEDERALLY RELATED MORTGAGE LOAN?

For purposes of determining applicability of Regulation C, a Federally related mortgage loan is any loan which is secured by a *first lien* on *residential real property* (including individual units in a cooperative or condominium) and is designed principally for the occupancy of 1 to 4 families and is

located in a State (including the Commonwealth of Puerto Rico and the District of Columbia) and is

(a) made by a depository institution (including a credit union) which is regulated by or whose deposits are insured by any agency of the Federal Government, or

(b) guaranteed, insured or assisted by HUD or any other Federal agency, or

(c) made with the intent of being sold to FNMA, GNMA, etc.

The above definition specifically excludes loans for temporary financing, FHA Title I loans and loans secured by mobile homes (unless mobile homes are classified as real estate by the respective State law).

The following situations are illustrated to clarify this area:

If a *Federally insured credit union* with over \$10 million in assets makes home improvement loans and second mortgage loans, but makes *no* first mortgage loans, Regulation C is not applicable, and no reporting requirements under it need to be met. Note, even the granting of *one* first mortgage residential real estate loan by this credit union would require disclosure reports under Regulation C be made for the fiscal year in which the loan was made.

If a non federally insured *credit union* with over \$10 million in assets makes home improvement loans and second mortgage loans, but makes *no* Federally insured, guaranteed or assisted first mortgage loans, Regulation C is not applicable and no reporting requirements under it need to be met. Note, even the granting of *one* Federally guaranteed first mortgage residential real estate loan by the above credit union would require disclosure reports under Regulation C be made for the fiscal year in which the loan was made.

## **E. WHAT MUST AFFECTED CREDIT UNIONS DO TO COMPLY WITH REGULATION C ?**

Generally, affected credit unions must prepare and make available disclosure statements (reports) which reflect certain mortgage loan data.

### **1. MORTGAGE LOAN DISCLOSURE STATEMENTS (Report Form HMDA-1)**

#### **i. What are They and What Must be Disclosed?**

An illustration of the mortgage loan disclosure statement, Form HMDA-1, is contained on pages 9 and 10 of the Regulation C pamphlet in the Appen-

dix to this section. Requirements regarding the disclosure of mortgage loan data are itemized in Section 203.4 of Regulation C. Additional instructions are reflected at the bottom of page 2 of Form HMDA-1. As the format indicates, the data to be reported is divided between loans made and loans purchased. Both types require data to be broken into separate line item summaries for each applicable census tract within the SMSA or SMSAs for which the report is being made.

Further, within each line it is necessary to know whether the loan is FHA, FMHA or VA insured, whether the loan was made to the occupant of the property and whether the dwelling is designed for more than four families. Likewise, reporting on home improvement loans includes all loans (secured or unsecured), the proceeds of which are used for the purpose of repairing or remodeling an existing dwelling. **IMPORTANT:** These reporting categories should *not* be confused with the rules for determining whether the credit union makes Federally related mortgage loans.

Making the required breakout of loan data by census tract involves knowledge of related census tracts as well as the location of the property securing the loan (or being improved, in the case of home improvements loans). Accordingly, census tract maps are vital sources of information for classifying loan data. These census tract maps are in the series formally titled "1970 Census of Population and Housing: CENSUS TRACTS, Final Reports, PHC(1) Series" prepared by the Bureau of Census, U.S. Department of Commerce.

Although these reports or more detailed census block maps are available from the U.S. Government Printing Office, we have been advised that the Bureau of Census is a readily available source. There are also commercial firms that produce related material and at least one that publishes an atlas covering census tracts in all SMSAs.

In a limited number of instances ZIP codes may be used (for reporting purposes) in lieu of census tracts. As discussed in Section 203.4(a)(2), ZIP codes may be used for all breakouts of loan data for calendar year 1975. In subsequent years they may be used when the residential real property involved is located in an SMSA for which PHC(1) tract maps have not been prepared or by credit unions which are making their initial report following loss of their exempt status.

For the purpose of compiling data required by this annual report, the credit union may presume (on loans originated prior to June 28, 1970, or loans

*purchased* at any time) that the borrower was also the occupant, unless the file contains information to the contrary.

Where a loan is refinanced by the same borrower without increasing the outstanding balance, such mortgage loan data is to be excluded in preparing this annual report. Also certain mortgage loan data *may* be excluded from the compilations for 1975 as indicated in Section 203.4(a)(4)(ii).

Data relating to loans purchased may be more difficult to obtain, but it must nonetheless be included where credit unions have invested in loans which were secured by real property or were for the purpose of financing specified home improvements. Reportable loans purchased from liquidating credit unions would apparently fall into this category.

The Form HMDA-1 asks for the name and address of the "Federal Enforcement Agency for this Institution". All credit unions which are required to report should show the following in that space: National Credit Union Administration, Washington, D.C. 20456.

#### ii. When are They Due?

Credit unions which are subject to Regulation C must make mortgage loan disclosure statements available to the public within 90 days of the end of their fiscal year, at least through June 28, 1980.

Credit unions which have been exempt from Regulation C but subsequently become subject to it must make the disclosures required by Regulation C in accordance with the following guidelines:

(a) Any credit union which loses its exemption because of a redefinition of an SMSA or because the applicable State disclosure law is not considered sufficient (this applies to State chartered credit unions only) must disclose the required data for the fiscal year immediately preceding the fiscal year during which the exemption was lost. For example, a credit union having a calendar fiscal year that ceases to be exempt during 1977, for either of the above two reasons, would have to disclose 1976 data.

(b) Any credit union which loses its exemption because its assets exceeded \$10 million on the final day of its last fiscal year, must disclose applicable data for that fiscal year. For example, a credit union which has assets of more than \$10 million on December 31, 1977, must disclose applicable 1977 loan information.

In the above two instances, the mortgage loan disclosure statements must be made available

within 90 days after the condition which caused loss of the exemption occurred.

#### iii. How Long Must They be Retained?

Mortgage loan disclosure statements must be made available for inspection by interested parties for 5 years from the end of fiscal year in which the report was prepared.

#### iv. Where Must They be Made Available?

The disclosure statements must be available to the public at the credit union's main office and certain branch offices, if any, as specified in Section 203.5(b)(1) of Regulation C. If the credit union's office(s) are *not* accessible to the general public, the reports must be made available to anyone requesting a copy, either at a conveniently located alternate location (see Section 203.5(b)(2), *or* by mail. In the event the information is mailed to the interested party, the credit union may impose no more than a reasonable charge for the cost of reproduction of the report.

## 2. ANNUAL NOTIFICATION OF SHAREHOLDERS

Affected credit unions must make an "appropriate effort" at least once each year to advise "depositors" of the availability of the above disclosure reports. While "depositors" are not defined by the Regulation, they should be considered to include shareholders (members and non-members) and holders of Certificates of Indebtedness. "Appropriate efforts" would include *any one* of the following: inserting a notice with a quarterly statement, posting a notice in the lobbies of *all* offices in SMSAs for 1 month out of the year *or* publishing a notice in a newspaper (or newspapers) of general circulation in the SMSAs in which such offices are located.

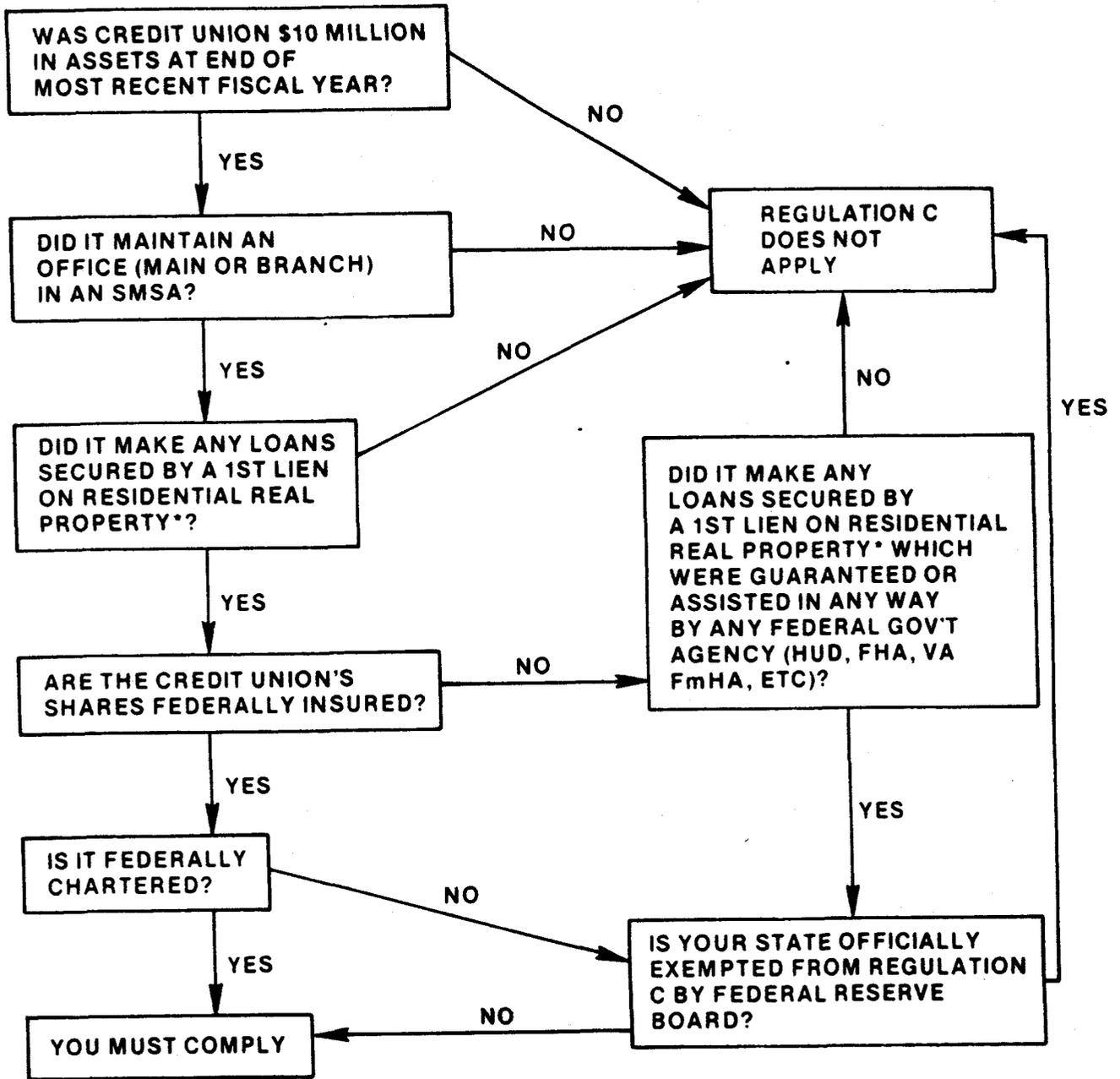
## F. QUESTIONS AND EXPLANATIONS TO HELP YOU DETERMINE WHETHER YOUR CREDIT UNION IS IN COMPLIANCE

Answering the following questions should provide you with a good indication as to whether your credit union is in compliance with Regulation C.

If the answers to questions 1 or either part of 2 are "no", Regulation C does not apply and you need not answer the other questions. If the answer is "yes" to questions 3, 4, and 6, and "no" to question 5, your credit union is complying with Regulation C. If you determine that your credit union is not in compliance, you should make the necessary corrections as soon as possible.

QUESTIONS	EXPLANATIONS
<p>1. Did the credit union make or purchase one or more first mortgage residential real estate loans in the preceding calendar year? (If no, STOP.)</p> <p>2. Was the credit union over \$10 million in assets, and did it maintain its main office in a Standard Metropolitan Statistical Area as of the end of the preceding calendar year or this calendar year? (Mark "No" if the answer to either part is no. If no, STOP.)</p> <p>3. Has the credit union prepared and (in accordance with Section 203.5(b)) made available for inspection by interested parties copies of the HMDA-1 Mortgage Loan Disclosure Statements for each calendar year in which it met the above requirements beginning with 1975? (Mark "No" if the answer to either part is no.)</p> <p>4. Has the data on these statements been broken down by census tracts or (when applicable) by ZIP codes, and are the numbers and amounts of loans granted or purchased properly reported? (Mark "No" if the answer to any part is no.)</p> <p>5. Does the data reported on the statements indicate the possible existence of the practice of redlining?</p> <p>6. Has the credit union made an "appropriate effort" (as defined in Section 203.5(b)(3)) at least annually to notify shareholders of the existence of these reports?</p>	<p>1. Self Explanatory.</p> <p>2. A complete list of all SMSA's was enclosed with the Administrator's letter of July 13, 1976, to the board of directors of all FCUs. If a FCU reaches \$10 million in assets as of December 31st it must report loan data for that full calendar year. If it loses its reporting exemption under sections 203.3(a)(2) or (3) it must report loan data for the year in which the change takes place and the prior year. See FRB Interpretation 203.002.</p> <p>3. Reports must be:</p> <p>a) prepared for all calendar years in which FCU met the requirements in items 1 and 2.</p> <p>b) completed by the required deadlines, which are 9/30/76 for 1975 and 3/31 for each calendar year thereafter (other than possible exception in 203.4(a)(2)(99)), and</p> <p>c) made available (for 5 years) for inspection by interested parties at FCU's main office (or other alternatives permitted under Section 203.5(b)).</p> <p>4. Self explanatory except to note that:</p> <p>a) unless census tracts are not shown on the official 1970 Census Tract maps, ZIP codes may be used only for 1975 and (if separate semiannual reports are made) the first half of 1976, and these must be preceded by a Z on the report.</p> <p>b) instructions for completing the report may be found on page 2 of the HMDA-1 form (also, if the various columns were numbered numerically, column 4 would always be the total of columns 2 and 3, and items in column 7 would also be included in columns 4, 5, and 6).</p> <p>c) home improvement loans required to be reported are only those (secured or not) which clearly result in increasing the value of the applicant's home.</p> <p>d) data is required to be broken out of census tract/ZIP code only for the SMSA in which the FCU's main office is located (i.e., the relevant SMSA).</p> <p>5. This is a subjective question, the answer to which will in part be dependent upon the examiner's familiarity with the FOM and the locality. Knowledge or rejection patterns, of course, is needed for a more conclusive evaluation.</p> <p>6. Appropriate include any one of the following:</p> <p>a) insert a notice with the quarterly statements, or</p> <p>b) post a notice in the credit union office for at least one month, or</p> <p>c) publish a notice in a local newspaper of general circulation.</p>

**G. HOW TO DETERMINE WHETHER YOUR  
CREDIT UNION MUST COMPLY WITH REGULATION C**



\*DESIGNED PRINCIPALLY FOR OCCUPANCY OF 1 TO 4 FAMILIES