

have evaluated home mortgage lending based on HMDA data, which is based on loan originations and purchases. However, the proposal would have required institutions to collect, report, and be evaluated on loans outstanding for other types of loans. The agencies took this approach in an effort to reduce burden on the industry, because institutions must already report loans outstanding on Call Reports and TFRs.

The vast majority of commenters who addressed this issue (almost exclusively industry commenters) stated that use of originations would provide a substantially more accurate picture of actual lending activity, because current activity would not be obscured by past activity and the data would reflect seasonal variations and sale of loans in the secondary market. Moreover, using originations rewards, rather than penalizes, institutions for selling loans on the secondary market, which frees up capital for additional lending and increases credit availability. The commenters did not support the premise that use of originations would be more burdensome than using loans outstanding. Because institutions would have to collect and report additional information on each loan for CRA purposes, using loans outstanding would not significantly decrease burden. The bulk, if not all, of the burden reduction would be achieved by using the Call Report and TFR definitions. The final rule therefore uses originations and purchases, instead of loans outstanding, for all types of loans.

Lines of credit are considered originated at the time the line is approved or increased; and an increase is considered a new origination. Generally, the full amount of the credit line (or in the case of an increase in an existing line, the amount of the increase) is the amount that is considered originated. Although some lines of credit may be for both home improvement and other purposes, only the amount that is considered to be for home improvement purposes is reported as a home improvement loan under HMDA. Lines of credit should be considered in assessing an institution's lending activity in all applicable loan types. Therefore, where a portion of a line of credit is reported under HMDA and another portion meets the definition either of a "small business loan" or a "consumer loan," the full amount of the line of credit should be reported as a small business loan or collected as a consumer loan, as appropriate, and the agencies will also consider as a home mortgage loan the portion of the credit line that is reported under HMDA.

The final rule contains an option for lenders also to provide data on loans outstanding, which may, in certain circumstances, enhance an examiner's understanding of an institution's performance. Institutions may also provide for examiner consideration information on letters of credit and commitments, as well as any other loan information. The language of the lending test (and the definition of "community development loan") has been adjusted as appropriate to reflect these changes.

Consumer loan evaluation. Under the 1994 proposal, consumer lending would have been evaluated under the lending test only if an institution elected to have it evaluated and provided the necessary loan data. Thus, the 1994 proposal would have permitted an institution that is primarily a consumer lender not to be evaluated on a substantial portion of its business if it so chose. Under these circumstances, meaningful evaluation of certain institutions might have been very difficult. The final rule, therefore, changes the treatment of consumer lending. Under the rule, if a substantial majority of an institution's business is consumer lending, this lending is evaluated in the lending test. The rule does not impose any reporting requirements for consumer lending, however. If an examiner determines that a substantial portion of an institution's business is consumer lending, and the institution has not elected to provide consumer loan data, the examiner will evaluate consumer lending by analyzing an appropriate sample of the institution's consumer loan portfolio. In addition, this aspect of the final rule does not affect the evaluation of a limited purpose bank, because the bank will be evaluated under the community development test, not the lending test.

The 1994 proposal would have required that institutions provide information on all consumer loans if they choose to provide information on any consumer loans. The agencies included this requirement because they were concerned that, otherwise, an institution might provide information only on those consumer products that would reflect well on the institution's CRA performance and would choose not to provide information on those products that would reflect poorly.

Many industry commenters stated that the prospect of reporting all their consumer loan information was so burdensome that they would not report any information. On the other hand, consumer and community groups commented that, if consumer lending is to be considered in CRA at all, consumer loan reporting should be

mandatory. After considering these comments, the agencies have decided to permit institutions to provide information on one or more categories (motor vehicle, credit card, home equity, other secured, and other unsecured) of consumer loans.

Although an institution may have some opportunity to mask poor performance or otherwise inappropriately influence its CRA evaluation through selective provision of data, this opportunity will be limited by the provision in the final rule requiring an institution to maintain data on all loans in the category or categories in which it seeks to be evaluated. For example, if an institution provides information on its credit card lending, it would have to provide information on all its credit card lending, although it need not provide information on its motor vehicle lending. Furthermore, under the final rule, if an institution is a substantial consumer lender, the agencies will evaluate its consumer lending in appropriate categories regardless of whether the institution reports data for those categories.

Relative weight of different lending categories. The 1994 proposal explicitly stated that home mortgage, small business, and small farm lending (and consumer lending if it was considered) would have been weighted to reflect the relative importance of the categories to the institution's overall business. The proposal also stated that community development lending would have been weighted to reflect the characteristics and needs of an institution's assessment area(s), the capacity and constraints of the institution, and the opportunities available for this lending. Several commenters expressed concern about the lack of certainty in these provisions; some also believed that community development lending would have received excessive weight. However, a fixed formula for the relative weight of different categories would require a determination that some categories of lending are uniformly more important than others, when the appropriate weight depends on the specific institution and its community. The agencies have removed the discussion of the relative weight assigned to different lending categories because examiners will determine the appropriate weight based on the performance context.

Lending activity criterion. The lending test in the 1994 proposal, unlike the current CRA regulations, did not specifically consider the volume of lending activity—the number and amount of home mortgage, small business, small farm, and consumer loans located in the institution's