

institutions have offices. The agencies have adopted the proposed change despite these objections for the same reasons that the agencies did not change the final rule for collecting of small business and small farm loans outside MSAs or assessment areas. Conforming amendments to Regulation C (HMDA) have been adopted by the Board.

Race and gender information on small business borrower not required. The 1994 proposal would have required each institution, other than a small institution, to collect and report data on the race and gender of small business and small farm borrowers. This provision, which was the most frequently addressed issue in the comments, was proposed in order to support the fair lending component of the CRA assessment. The agencies have removed this proposed requirement from the final rule.

Many commenters, including virtually every community or consumer group that addressed the issue, supported the provision. These commenters believed that the information was critical to determine whether discrimination was occurring in small business and small farm lending. The commenters noted the value of HMDA data on race and gender in monitoring home mortgage lending. Nearly every industry comment opposed the collection as proposed. These commenters stated that the requirement was burdensome and the data, as proposed to be collected and reported, would be of limited utility. They asserted that reporting institutions would be at a competitive disadvantage because small institutions and non-financial institution lenders not only would not be required to collect and report the information but actually would be prohibited from doing so (because of the Board's Regulation B, implementing the Equal Credit Opportunity Act). Some commenters also questioned the relevance of the race and gender data to CRA. A few industry commenters endorsed collection of race and gender data, provided it was done through Regulation B. A larger number opposed collection, but believed that, if the agencies concluded the data were necessary, collection should be required under Regulation B.

The agencies have removed the proposed requirement from the final rule. Although the agencies believe that fair lending performance is directly relevant to CRA performance, they recognize the anomaly of requiring some institutions to collect and report information that other lenders are prohibited from collecting. Therefore, they believe that it is more appropriate

to address the issue of race and gender data in fair lending regulations that apply equally to all lenders.

Small business data collection, maintenance, and reporting generally. In response to industry comments regarding the burden associated with the small business and small farm loan data requirements, the final rule streamlines the data collection, maintenance and reporting. The agencies have replaced loan-by-loan reporting using loan registers with aggregate reporting by census tract.

The 1994 proposal would have required lenders to indicate whether small business borrowers had gross annual revenues \$1 million or less. Some commenters suggested that the requirement be eliminated because they believed it was burdensome and unnecessary. The final rule retains the requirement. The burden of collecting this information is minimal, because \$1 million is already used in the Board's Regulation B as a threshold for certain requirements related to adverse action notifications and record retention. Therefore, many institutions already have a reason to track business and farm loans based on this revenue figure.

The information on the revenue size of business and farm borrowers is useful because, in combination with loan amount information, it will enable the agencies to make accurate judgments about the size of businesses and farms receiving reported loans. Some commenters questioned whether an institution should report the revenue of the entity to which the loan is actually extended or of its parent corporation if the entity is a subsidiary. An institution should report the revenues that the institution considered in making its credit decision.

Some commenters asked that the agencies require collection and reporting of data on applications and denials. The agencies did not adopt this suggestion. The small business lending process is generally far less formal than the consumer or home mortgage lending process. Sometimes institutions do not require written applications for small business loans; when they do, applications often come after potential problems have been addressed in informal discussions. Because the agencies do not believe information on applications and denials would be particularly helpful, the final rule does not require collection or reporting of information on small business and small farm applications and denials. Instead, institutions are required to report all small business and small farm loans that they originate or purchase.

Under the final rule, each covered institution is required to collect and maintain in a standardized, machine readable format the following information on each small business loan originated or purchased since the prior CRA examination: (1) amount at origination; (2) location; and (3) an indicator whether the loan was to a business with \$1 million or less in gross annual revenues. The location of the loan must be maintained by census tract or block numbering area.

Each covered institution is required to report in machine-readable form annually on March 1 the following information, aggregated for each census tract/block numbering area in which the institution made at least one small business or small farm loan during the prior calendar year: (1) number and amount of loans with original amounts of \$100,000 or less; (2) number and amount of loans with original amounts of more than \$100,000 but less than or equal to \$250,000; (3) number and amount of loans with original amounts of more than \$250,000; and (4) number and amount of loans to businesses and farms with gross annual revenues of \$1 million or less (using the revenues the institution considered in making its credit decision).

Need for data collection and reporting. Some commenters continued to question the validity and propriety of any data collection and reporting for larger institutions. As discussed earlier, the agencies have significantly reduced the data collection and reporting from that originally proposed, and where feasible the rule relies on existing data collections. However, the rule continues to provide for some additional data collection and reporting by larger institutions. In a performance-based CRA process, these requirements are necessary to permit the agencies to carry out their statutory obligation to examine and assess institutions' CRA records and to prepare the public sections of CRA performance evaluations. The emphasis on actual performance responds to the nearly universal criticism that current CRA examinations rely too heavily on documentation of an institution's policies, procedures and community contacts rather than lending. While the agencies recognize that the collection of data regarding lending activity will impose burden on many institutions, the final rule has been tailored to rely primarily on data readily available to or already collected by institutions in order to minimize the collection burden. In addition, the burden of collecting actual loan performance data will be offset somewhat by the elimination of requirements under the current CRA