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May 2, 2019

Unofficial Redline of the HMDA NPRM's Proposed Amendments to Regulation C

On May 2, 2019, the Consumer Financial Protection Bureau (Bureau) issued a proposal to adjust Regulation C's institutional and transactional coverage thresholds and to implement the partial exemptions from the Home Mortgage Disclosure Act (HMDA) provided by the Economic Growth, Regulatory Relief, and Consumer Protection Act. The Bureau is releasing this unofficial, informal redline to assist industry and other stakeholders in reviewing the changes that the proposal ([HMDA NPRM](#)) would make to Regulation C.

The HMDA NPRM includes proposed changes that have two different effective dates. The unofficial redline provides the proposed changes to regulation text and commentary that would take effect on January 1, 2020, followed by those that would take effect on January 1, 2022. The changes that the HMDA NPRM would make, if the Bureau were to adopt the changes as proposed, are marked in red. For the January 1, 2020 effective date, the underlying (unmarked) text reflects the relevant provisions in Regulation C as they would be effect on January 1, 2020, if the Bureau does not adopt the HMDA NPRM as proposed. For the January 1, 2022 effective date, the underlying (unmarked) text reflects the relevant provisions in Regulation C as they would be in effect on January 1, 2022, if the Bureau were to adopt the portions of the NPRM that would take effect on January 1, 2020 as discussed above, but not those would take effect on January 1, 2022.

This redline is not a substitute for reviewing Regulation C or the HMDA NPRM. If any conflicts exist between this redline and the text of Regulation C or the HMDA NPRM, the documents published in the *Federal Register* are the controlling documents. The redline includes asterisks to indicate where it omits text from current Regulation C that the NPRM would not change. Where the NPRM provides two alternatives, the redline includes these two alternatives in bracketed text.

PART 1003—HOME MORTGAGE DISCLOSURE (REGULATION C)

Authority: 12 U.S.C. 2803, 2804, 2805, 5512, 5581.

Proposed changes to take effect January 1, 2020:

§ 1003.2 Definitions.

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(g) *Financial institution* means a depository financial institution or a nondepository financial institution, where:

(1) *Depository financial institution* means a bank, savings association, or credit union that:

(i) On the preceding December 31 had assets in excess of the asset threshold established and published annually by the Bureau for coverage by the Act, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve month period ending in November, with rounding to the nearest million;

(ii) On the preceding December 31, had a home or branch office in an MSA;

(iii) In the preceding calendar year, originated at least one home purchase loan or refinancing of a home purchase loan, secured by a first lien on a one- to four-unit dwelling;

(iv) Meets one or more of the following two criteria:

(A) The institution is federally insured or regulated; or

(B) Any loan referred to in paragraph (g)(1)(iii) of this section was insured, guaranteed, or supplemented by a Federal agency, or was intended by the institution for sale to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(v) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least ~~25~~ **[50 or 100]** closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least ~~5~~ **5+00** open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10); and

(2) *Nondepository financial institution* means a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that:

(i) On the preceding December 31, had a home or branch office in an MSA; and

(ii) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least ~~[50 or 100]~~²⁵ closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least ~~5+~~⁰⁰ open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10).

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§ 1003.3 Exempt institutions and excluded and partially exempt transactions.

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(c) *Excluded transactions.* The requirements of this part do not apply to:

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(11) A closed-end mortgage loan, if the financial institution originated fewer than ~~[50 or 100]~~²⁵ closed-end mortgage loans in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded closed-end mortgage loan as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded closed-end mortgage loan;

(12) An open-end line of credit, if the financial institution originated fewer than ~~5+~~⁰⁰ open-end lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit; or

* * * * *

(d) Partially exempt transactions. (1) For purposes of this paragraph (d), the following definitions apply:

(i) Insured credit union means an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(ii) Insured depository institution means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(iii) Optional data means the data identified in § 1003.4(a)(1)(i), (a)(9)(i), (a)(12), (15) through (30), and (32) through (38).

(iv) Partially exempt transaction means a covered loan or application that is partially exempt under paragraph (d)(2) or (3) of this section.

(2) Except as provided in paragraph (d)(6) of this section, an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13) is not required to collect, record, or report optional data as defined in paragraph (d)(1)(iii) of this section for applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases.

(3) Except as provided in paragraph (d)(6) of this section, an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) is not required to collect, record, or report optional data as defined in paragraph (d)(1)(iii) of this section for applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases.

(4) A financial institution eligible for a partial exemption under paragraph (d)(2) or (3) of this section may collect, record, and report optional data as defined in paragraph (d)(1)(iii) of this section for a partially exempt transaction as though the institution were required to do so, provided that:

(i) If the institution reports the street address, city name, or Zip Code for the property securing a covered loan, or in the case of an application, proposed to secure a covered loan pursuant to § 1003.4(a)(9)(i), it reports all data that would be required by § 1003.4(a)(9)(i) if the transaction were not partially exempt;

(ii) If the institution reports any data for the transaction pursuant to § 1003.4(a)(15), (16), (17), (27), (33), or (35), it reports all data that would be required by § 1003.4(a)(15), (16), (17), (27), (33), or (35), respectively, if the transaction were not partially exempt.

(5) If, pursuant to paragraph (d)(2) or (3) of this section, a financial institution does not report a universal loan identifier (ULI) pursuant to § 1003.4(a)(1)(i) for an application for a covered loan that it receives, a covered loan that it originates, or a covered loan that it purchases, the financial institution shall assign and report a non-universal loan identifier (NULI). The NULI must be composed of up to 22 characters to identify the covered loan or application, which:

(i) May be letters, numerals, or a combination of letters and numerals;

(ii) Must be unique within the annual loan/application register in which the covered loan or application is included; and

(iii) Must not include any information that could be used to directly identify the applicant or borrower.

(6) Paragraphs (d)(2) and (3) of this section do not apply to an insured depository institution that, as of the preceding December 31, had received a rating of “needs to improve record of meeting community credit needs” during each of its two most recent examinations or a

rating of “substantial noncompliance in meeting community credit needs” on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)).

§ 1003.4 Compilation of reportable data.

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for covered loans that it receives, covered loans that it originates, and covered loans that it purchases for each calendar year. A financial institution shall collect data regarding requests under a preapproval program, as defined in § 1003.2(b)(2), only if the preapproval request is denied, is approved by the financial institution but not accepted by the applicant, or results in the origination of a home purchase loan. Except as provided in § 1003.3(d), ~~t~~The data collected shall include the following items:

(1)(i) A universal loan identifier (ULI) or, for a partially exempt transaction under § 1003.3(d), either a ULI or a non-universal loan identifier (NULI) as described in § 1003.3(d)(5) for the covered loan or application that can be used to identify and retrieve the covered loan or application file. Except for a purchased covered loan or application described in paragraphs (a)(1)(i)(D) and (E) of this section or a partially exempt transaction for which a NULI is assigned and reported under § 1003.3(d), the financial institution shall assign and report a ULI that:

(A) Begins with the financial institution's Legal Entity Identifier (LEI) that is issued by:

(1) A utility endorsed by the LEI Regulatory Oversight Committee; or

(2) A utility endorsed or otherwise governed by the Global LEI Foundation (GLEIF) (or any successor of the GLEIF) after the GLEIF assumes operational governance of the global LEI system.

(B) Follows the LEI with up to 23 additional characters to identify the covered loan or application, which:

(1) May be letters, numerals, or a combination of letters and numerals;

(2) Must be unique within the financial institution; and

(3) Must not include any information that could be used to directly identify the applicant or borrower; and

(C) Ends with a two-character check digit, as prescribed in appendix C to this part.

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(e) *Data reporting for banks and savings associations that are required to report data on small business, small farm, and community development lending under CRA.* Banks and savings associations that are required to report data on small business, small farm, and community development lending under regulations that implement the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) shall also collect the information required by paragraph 4 (a)(9)(ii) of this section for property located outside MSAs and MDs in which the institution has a home or branch office, or outside any MSA.

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Supplement I to Part 1003—Official Interpretations

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Section 1003.2—Definitions

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2(g) Financial Institution

1. *Preceding calendar year and preceding December 31.* The definition of financial institution refers both to the preceding calendar year and the preceding December 31. These terms refer to the calendar year and the December 31 preceding the current calendar year. For example, in 20~~20~~¹⁹, the preceding calendar year is 201~~9~~⁸ and the preceding December 31 is December 31, 201~~9~~⁸. Accordingly, in 20~~20~~¹⁹, Financial Institution A satisfies the asset-size threshold described in § 1003.2(g)(1)(i) if its assets exceeded the threshold specified in comment 2(g)-2 on December 31, 201~~9~~⁸. Likewise, in 2020, Financial Institution A does not meet the loan-volume test described in § 1003.2(g)(1)(v)(A) if it originated fewer than [50 or 100]~~25~~ closed-end mortgage loans during either 2018 or 2019.

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3. *Merger or acquisition—coverage of surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution is a financial institution under § 1003.2(g) if it, considering the combined assets, location, and lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, satisfies the criteria included in § 1003.2(g). For example, A and B merge. The surviving or newly formed institution meets the loan threshold described in § 1003.2(g)(1)(v)(B) if the surviving or newly formed institution, A, and B originated a combined total of at least ~~5~~⁵⁰⁰ open-end lines of credit in each of the two preceding calendar years. Likewise, the surviving or newly formed institution meets the asset-size threshold in § 1003.2(g)(1)(i) if its assets and the combined assets of A and B on December 31 of the preceding calendar year exceeded the threshold described in § 1003.2(g)(1)(i). Comment 2(g)-4 discusses a financial institution's responsibilities during the calendar year of a merger.

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5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least [50 or 100]~~25~~ closed-end mortgage loans in each of the two preceding calendar years or at least ~~5~~⁵⁰⁰ open-end lines of credit in each of the two preceding calendar years. Comments 4(a)-2 through -4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

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Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions

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3(c) Excluded Transactions

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Paragraph 3(c)(11)

1. *General.* Section 1003.3(c)(11) provides that a closed-end mortgage loan is an excluded transaction if a financial institution originated fewer than [50 or 100]~~25~~ closed-end mortgage loans in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 20~~20~~18 under § 1003.2(g) because it originated 600 open-end lines of credit in 201~~86~~, 650 open-end lines of credit in 201~~97~~, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated ~~30~~30 and ~~45~~45 closed-end mortgage loans in 201~~86~~ and 201~~97~~, respectively. The open-end lines of credit that the bank originated or purchased, or for which it received applications, during 20~~20~~18 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 20~~20~~18 are excluded transactions under § 1003.3(c)(11) and need not be reported. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

2. *Optional reporting.* A financial institution may report applications for, originations of, or purchases of closed-end mortgage loans that are excluded transactions because the financial institution originated fewer than [50 or 100]~~25~~ closed-end mortgage loans in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of closed-end mortgage loans must report all such applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)-14.

Paragraph 3(c)(12)

1. *General.* Section 1003.3(c)(12) provides that an open-end line of credit is an excluded transaction if a financial institution originated fewer than ~~+5~~500 open-end lines of credit in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 20~~20~~18 under § 1003.2(g) because it originated ~~5~~500 closed-end mortgage loans in 201~~68~~, ~~1~~175 closed-end mortgage loans in ~~20~~17~~2019~~, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 75 and 85 open-end lines of credit in 201~~68~~ and 201~~79~~, respectively. The closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 20~~20~~18 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the open-end lines of credit that the bank originated or purchased, or for which it received applications, during ~~20~~18~~2020~~ are excluded transactions under § 1003.3(c)(12) and need not be reported. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

2. *Optional reporting.* A financial institution may report applications for, originations of, or purchases of open-end lines of credit that are excluded transactions because the financial institution originated fewer than 500 open-end lines of credit in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of open-end lines of credit must report all such applications for open-end lines of credit which it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)-14.

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3(d) Partially Exempt Transactions

1. Merger or acquisition—application of partial exemption thresholds to surviving or newly formed institution. After a merger or acquisition, the surviving or newly formed institution falls below the loan threshold described in § 1003.3(d)(2) or (3) if it, considering the combined lending activity of the surviving or newly formed institution and the merged or acquired institutions or acquired branches, falls below the loan threshold described in § 1003.3(d)(2) or (3). For example, A and B merge. The surviving or newly formed institution falls below the loan threshold described in § 1003.3(d)(2) if the surviving or newly formed institution, A, and B originated a combined total of fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13) in each of the two preceding calendar years. Comment 3(d)-3 discusses eligibility for partial exemptions during the calendar year of a merger.

2. Merger or acquisition—Community Reinvestment Act examination history. After a merger or acquisition, the surviving or newly formed institution is deemed to be ineligible for the partial exemptions pursuant to § 1003.3(d)(6) if either it or any of the merged or acquired institutions received a rating of “needs to improve record of meeting community credit needs” during each of its two most recent examinations or a rating of “substantial noncompliance in meeting community credit needs” on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)). Comment 3(d)-3.iii discusses eligibility for partial exemptions during the calendar year of a merger when an institution that is eligible for a partial exemption merges with an institution that is ineligible for the partial exemption (including, for example, an institution that is ineligible for the partial exemptions pursuant to § 1003.3(d)(6)) and the surviving or newly formed institution is ineligible for the partial exemption.

3. Merger or acquisition—applicability of partial exemptions during calendar year of merger or acquisition. The scenarios described below illustrate the applicability of partial exemptions under § 1003.3(d) during the calendar year of a merger or acquisition. For purposes of these illustrations, “institution” means a financial institution, as defined in § 1003.2(g), that is not exempt from reporting under § 1003.3(a). Although the scenarios below refer to the partial exemption for closed-end mortgage loans under § 1003.3(d)(2), the same principles apply with respect to the partial exemption for open-end lines of credit under § 1003.3(d)(3).

i. Assume two institutions that are eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed institution meets all of the requirements for the partial exemption. The partial exemption for closed-end mortgage loans applies for the calendar year of the merger.

ii. Assume two institutions that are eligible for the partial exemption for closed-end mortgage loans merge and the surviving or newly formed institution does not meet the requirements for the partial exemption. Collection of optional data for closed-end mortgage loans is permitted but not required for the calendar year of the merger (even though the merger creates an institution that does not meet the requirements for the partial exemption for closed-end mortgage loans). When a branch office of an institution that is eligible for the partial exemption is acquired by another institution that is eligible for the partial exemption, and the acquisition results in an institution that is not eligible for the partial exemption, data collection for closed-end mortgage loans is permitted but not required for the calendar year of the acquisition.

iii. Assume an institution that is eligible for the partial exemption for closed-end mortgage loans merges with an institution that is ineligible for the partial exemption and the surviving or newly formed institution is ineligible for the partial exemption. For the calendar year of the merger, collection of optional data as defined in § 1003.3(d)(1)(iii) for closed-end mortgage loans is required for covered loans and applications handled in the offices of the merged institution that was previously ineligible for the partial exemption. For the calendar year of the merger, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the merged institution that was previously eligible for the partial exemption. When an institution that is ineligible for the partial exemption for closed-end mortgage loans acquires a branch office of an institution that is eligible for the partial exemption, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled by the acquired branch office for the calendar year of the acquisition.

iv. Assume an institution that is eligible for the partial exemption for closed-end mortgage loans merges with an institution that is ineligible for the partial exemption and the surviving or newly formed institution is eligible for the partial exemption. For the calendar year of the merger, collection of optional data for closed-end mortgage loans is required for covered loans and applications handled in the offices of the previously ineligible institution that took place prior to the merger. After the merger date, collection of optional data for closed-end mortgage loans is permitted but not required for covered loans and applications handled in the offices of the institution that was previously ineligible for the partial exemption. When an institution remains eligible for the partial exemption for closed-end mortgage loans after acquiring a branch office of an institution that is ineligible for the partial exemption, collection of optional data for closed-end mortgage loans is required for transactions of the acquired branch office that take place prior to the acquisition. Collection of optional data for closed-end mortgage loans by the acquired branch office is permitted but not required for transactions taking place in the remainder of the calendar year after the acquisition.

4. *Originations.* Whether applications for covered loans that an insured depository institution or insured credit union receives, covered loans that it originates, or covered loans that it purchases are partially exempt transactions under § 1003.3(d) depends, in part, on whether the institution originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13) in each of the two preceding calendar years or fewer than 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) in each of the two preceding calendar years. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination for purposes of § 1003.3(d).

5. Affiliates. A financial institution that is not itself an insured credit union or an insured depository institution as defined in § 1003.3(d)(1)(i) and (ii) is not eligible for the partial exemptions under § 1003.3(d)(1) through (3), even if it is owned by or affiliated with an insured credit union or an insured depository institution. For example, an institution that is a subsidiary of an insured credit union or insured depository institution may not claim a partial exemption under § 1003.3(d) for its closed-end mortgage loans unless the subsidiary institution itself:

i. Is an insured credit union or insured depository institution,

ii. In each of the two preceding calendar years originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13), and

iii. If the subsidiary is an insured depository institution, had not received as of the preceding December 31 a rating of “needs to improve record of meeting community credit needs” during each of its two most recent examinations or a rating of “substantial noncompliance in meeting community credit needs” on its most recent examination under section 807(b)(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(2)).

Paragraph 3(d)(1)(iii)

1. Optional data. The definition of optional data in § 1003.3(d)(1)(iii) identifies the data that are covered by the partial exemptions for certain transactions of insured depository institutions and insured credit unions under § 1003.3(d). If a transaction is not partially exempt under § 1003.3(d)(2) or (3), a financial institution must collect, record, and report optional data as otherwise required under this part.

Paragraph 3(d)(2)

1. General. Section 1003.3(d)(2) provides that, except as provided in § 1003.3(d)(6), an insured depository institution or insured credit union that, in each of the two preceding calendar years, originated fewer than 500 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13) is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for applications for closed-end mortgage loans that it receives, closed-end mortgage loans that it originates, and closed-end mortgage loans that it purchases. For example, assume that an insured credit union is a financial institution in 2020 under § 1003.2(g) and originated, in 2018 and 2019 respectively, 100 and 200 closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13). The closed-end mortgage loans that the insured credit union originated or purchased, or for which it received applications, during 2020 are not excluded transactions under § 1003.3(c)(11). However, due to the partial exemption in § 1003.3(d)(2), the insured credit union is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for the closed-end mortgage loans that it originated or purchased, or for which it received applications, for which final action is taken during 2020. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

Paragraph 3(d)(3)

1. General. Section 1003.3(d)(3) provides that, except as provided in § 1003.3(d)(6), an insured depository institution or insured credit union that, in each of the two preceding calendar

years, originated fewer than 500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) is not required to collect, record, or report optional data as defined in § 1003.3(d)(1)(iii) for applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases. See § 1003.3(c)(12) and comments 3(c)(12)-1 and -2, which provide an exclusion for certain open-end lines of credit from this part and permit voluntary reporting of such transactions under certain circumstances. See also comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

Paragraph 3(d)(4)

1. General. Section 1003.3(d)(4) provides that an insured depository institution or insured credit union may collect, record, and report optional data as defined in § 1003.3(d)(1)(iii) for a partially exempt transaction as though the institution were required to do so, provided that, if an institution voluntarily reports any data pursuant to any of the seven paragraphs identified in § 1003.3(d)(4)(i) and (ii) (§ 1003.4(a)(9)(i), (15), (16), (17), (27), (33), and (35)), it also must report all other data for the covered loan or application that would be required by that applicable paragraph if the transaction were not partially exempt. For example, an insured depository institution or insured credit union may voluntarily report the existence of a balloon payment for a partially exempt transaction pursuant to § 1003.4(a)(27), but, if it does so, it must also report all other data for the transaction that would be required by § 1003.4(a)(27) if the transaction were not partially exempt (i.e., whether the transaction has interest-only payments, negative amortization, or other non-amortizing features).

2. Partially exempt transactions within the same loan/application register. A financial institution may collect, record, and report optional data for some partially exempt transactions under § 1003.3(d) in the manner specified in § 1003.3(d)(4), even if it does not collect, record, and report optional data for other partially exempt transactions under § 1003.3(d).

3. Exempt or not applicable. i. If a financial institution would otherwise report that a transaction is partially exempt pursuant to § 1003.3(d) and a particular requirement to report optional data is not applicable to the transaction, the insured depository institution or insured credit union complies with the particular requirement by reporting either that the transaction is exempt from the requirement or that the requirement is not applicable. For example, assume that an insured depository institution or insured credit union originates a partially exempt reverse mortgage. The requirement to report lender credits is not applicable to reverse mortgages, as comment 4(a)(20)-1 explains. Accordingly, the institution could report either exempt or not applicable for lender credits for the reverse mortgage transaction.

ii. An institution is considered as reporting data in a data field for purposes of § 1003.3(d)(4)(i) and (ii) when it reports not applicable for that data field for a partially exempt transaction. For example, assume an insured depository institution or insured credit union originates a covered loan that is eligible for a partial exemption and is made primarily for business or commercial purposes. The requirement to report total loan costs or total points and fees is not applicable to loans made primarily for business or commercial purposes, as comments 4(a)(17)(i)-1 and (ii)-1 explain. The institution can report not applicable for both total loan costs and total points and fees, or it can report exempt for both total loan costs and total points and fees for the loan. Pursuant to § 1003.3(d)(4)(ii), the institution is not permitted to report not applicable for total loan costs and report exempt for total points and fees for the business or commercial purpose loan.

Paragraph 3(d)(4)(i)

1. State. Section 1003.3(d)(4)(i) provides that if an institution eligible for a partial exemption under § 1003.3(d)(2) or (3) reports the street address, city name, or Zip Code for a partially exempt transaction pursuant to § 1003.4(a)(9)(i), it reports all data that would be required by § 1003.4(a)(9)(i) if the transaction were not partially exempt, including the State. An insured depository institution or insured credit union that reports the State pursuant to § 1003.4(a)(9)(ii) or comment 4(a)(9)(ii)-1 for a partially exempt transaction without reporting any other data required by § 1003.4(a)(9)(i) is not required to report the street address, city name, or Zip Code pursuant to § 1003.4(a)(9)(i).

Paragraph 3(d)(5)

1. NULI—uniqueness. For a partially exempt transaction under § 1003.3(d), a financial institution may report a ULI or a NULI. Section 1003.3(d)(5)(ii) requires an insured depository institution or insured credit union that assigns a NULI to a covered loan or application to ensure that the character sequence it assigns is unique within the institution’s annual loan/application register in which it appears. A financial institution should assign only one NULI to any particular covered loan or application within each annual loan/application register, and each NULI should correspond to a single application and ensuing loan within the annual loan/application register in which the NULI appears in the case that the application is approved and a loan is originated. A financial institution may use a NULI more than once within an annual loan/application register only if the NULI refers to the same loan or application or a loan that ensues from an application referred to elsewhere in the annual loan/application register. Refinancings or applications for refinancing that are included in same annual loan/application register as the loan that is being refinanced should be assigned a different NULI than the loan that is being refinanced. An insured depository institution or insured credit union with multiple branches must ensure that its branches do not use the same NULI to refer to multiple covered loans or applications within the institution’s same annual loan/application register.

2. NULI—privacy. Section 1003.3(d)(5)(iii) prohibits an insured depository institution or insured credit union from including information in the NULI that could be used to directly identify the applicant or borrower. Information that could be used to directly identify the applicant or borrower includes, but is not limited to, the applicant’s or borrower’s name, date of birth, Social Security number, official government-issued driver’s license or identification number, alien registration number, government passport number, or employer or taxpayer identification number.

Paragraph 3(d)(6)

1. Preceding calendar year. Section 1003.3(d)(6) refers to the preceding December 31, which means the December 31 preceding the current calendar year. For example, in 2020, the preceding December 31 is December 31, 2019. Assume that, as of December 31, 2019, an insured depository institution received ratings of “needs to improve record of meeting community credit needs” during its two most recent examinations under section 807(b)(2) of the Community Reinvestment Act (12 U.S.C. 2906(b)(2)) in 2018 and 2014. Accordingly, in 2020, the insured depository institution’s transactions are not partially exempt pursuant to § 1003.3(d).

Section 1003.4—Compilation of Reportable Data

4(a) Data Format and Itemization

1. *General.* ~~Except as otherwise provided in § 1003.3, § Section~~ 1003.4(a) describes a financial institution's obligation to collect data on applications it received, on covered loans that it originated, and on covered loans that it purchased during the calendar year covered by the loan/application register.

i. * * *

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Paragraph 4(a)(1)(i)

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3. *ULI—purchased covered loan.* If a financial institution has previously assigned a covered loan with a ULI or reported a covered loan with a ULI under this part, a financial institution that purchases that covered loan must report the same ULI that was previously assigned or reported unless the purchase of the covered loan is a partially exempt transaction under § 1003.3(d). For example, if a financial institution that submits an annual loan/application register pursuant to § 1003.5(a)(1)(i) originates a covered loan that is purchased by a financial institution that also submits an annual loan/application register pursuant to § 1003.5(a)(1)(i), the financial institution that purchases the covered loan must report the purchase of the covered loan using the same ULI that was reported by the originating financial institution if the purchase is not a partially exempt transaction. If a financial institution that originates a covered loan has previously assigned the covered loan with a ULI under this part but has not yet reported the covered loan, a financial institution that purchases that covered loan must report the same ULI that was previously assigned if the purchase is not a partially exempt transaction. For example, if a financial institution that submits an annual loan/application register pursuant to § 1003.5(a)(1)(i) (Institution A) originates a covered loan that is purchased by a financial institution that submits a quarterly loan/application register pursuant to § 1003.5(a)(1)(ii) (Institution B) and Institution A assigned a ULI to the loan, then unless the purchase is a partially exempt transaction Institution B must report the ULI that was assigned by Institution A on Institution B's quarterly loan/application register pursuant to § 1003.5(a)(1)(ii), even though Institution A has not yet submitted its annual loan/application register pursuant to § 1003.5(a)(1)(i). A financial institution that purchases a covered loan and is ineligible for a partial exemption with respect to the purchased covered loan must assign it a ULI pursuant to § 1003.4(a)(1)(i) and report it pursuant to § 1003.5(a)(1)(i) or (ii), whichever is applicable, if the covered loan was not assigned a ULI by the financial institution that originated the loan because, for example, the loan was originated prior to January 1, 2018, ~~or~~ the loan was originated by an institution not required to report under this part, or the loan was assigned a non-universal loan identifier (NULI) under § 1003.3(d)(5) rather than a ULI by the loan originator.

4. *ULI—reinstated or reconsidered application.* A financial institution may, at its option, report a ULI previously reported under this part if, during the same calendar year, an applicant asks the institution to reinstate a counteroffer that the applicant previously did not accept or asks the financial institution to reconsider an application that was previously denied, withdrawn, or closed for incompleteness. For example, if a financial institution reports a denied

application in its second-quarter 2020 data submission, pursuant to § 1003.5(a)(1)(ii), but then reconsiders the application, resulting in an origination in the third quarter of 2020, the financial institution may report the origination in its third-quarter 2020 data submission using the same ULI that was reported for the denied application in its second-quarter 2020 data submission, so long as the financial institution treats the origination as the same transaction for reporting. However, a financial institution may not use a ULI previously reported if it reinstates or reconsiders an application that was reported in a prior calendar year. For example, if a financial institution reports a denied application that is not partially exempt in its fourth-quarter 2020 data submission, pursuant to § 1003.5(a)(1)(ii), but then reconsiders the application, resulting in an origination that is not partially exempt in the first quarter of 2021, the financial institution reports a denied application under the original ULI in its fourth-quarter 2020 data submission and an origination with a different ULI in its first-quarter 2021 data submission, pursuant to § 1003.5(a)(1)(ii).

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6. NULL. For a partially exempt transaction under § 1003.3(d), a financial institution may report a ULI or a NULL. See § 1003.3(d)(5) and comments 3(d)(5)-1 and -2 for guidance on the NULL.

Paragraph 4(a)(1)(ii)

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3. *Application date—reinstated application.* If, within the same calendar year, an applicant asks a financial institution to reinstate a counteroffer that the applicant previously did not accept (or asks the institution to reconsider an application that was denied, withdrawn, or closed for incompleteness), the institution may treat that request as the continuation of the earlier transaction using the same ULI or NULL or as a new transaction with a new ULI or NULL. If the institution treats the request for reinstatement or reconsideration as a new transaction, it reports the date of the request as the application date. If the institution does not treat the request for reinstatement or reconsideration as a new transaction, it reports the original application date.

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Paragraph 4(a)(9)

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2. *Multiple properties with more than one property taken as security.* If more than one property is taken or, in the case of an application, proposed to be taken as security for a single covered loan, a financial institution reports the covered loan or application in a single entry on its loan/application register and provides the information required by § 1003.4(a)(9) for one of the properties taken as security that contains a dwelling. A financial institution does not report information about the other properties taken as security. If an institution is required to report specific information about the property identified in § 1003.4(a)(9), the institution reports the information that relates to the property identified in § 1003.4(a)(9) (or, if the transaction is partially exempt under § 1003.3(d) and no data are reported pursuant to § 1003.4(a)(9), the property that the institution would have identified in § 1003.4(a)(9) if the transaction were not partially exempt). For example, Financial Institution A originated a covered loan that is secured

by both property A and property B, each of which contains a dwelling. Financial Institution A reports the loan as one entry on its loan/application register, reporting the information required by § 1003.4(a)(9) for either property A or property B. If Financial Institution A elects to report the information required by § 1003.4(a)(9) about property A, Financial Institution A also reports the information required by § 1003.4(a)(5), (6), (14), (29), and (30) related to property A. For aspects of the entries that do not refer to the property identified in § 1003.4(a)(9) (i.e., § 1003.4(a)(1) through (4), (7), (8), (10) through (13), (15) through (28), (31) through (38)), Financial Institution A reports the information applicable to the covered loan or application and not information that relates only to the property identified in § 1003.4(a)(9).

Paragraph 4(a)(9)(i)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(9)(i) requires a financial institution to report the property address of the location of the property securing a covered loan or, in the case of an application, proposed to secure a covered loan. The address should correspond to the property identified on the legal obligation related to the covered loan. For applications that did not result in an origination, the address should correspond to the location of the property proposed to secure the loan as identified by the applicant. For example, assume a loan is secured by a property located at 123 Main Street, and the applicant's or borrower's mailing address is a post office box. The financial institution should not report the post office box, and should report 123 Main Street.

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Paragraph 4(a)(12)

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7. *Rate spread—~~not applicable~~scope of requirement.* If the covered loan is an assumption, reverse mortgage, a purchased loan, or is not subject to Regulation Z, 12 CFR part 1026, a financial institution complies with § 1003.4(a)(12) by reporting that the requirement is not applicable. If the application did not result in an origination for a reason other than the application was approved but not accepted by the applicant, a financial institution complies with § 1003.4(a)(12) by reporting that the requirement is not applicable. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the rate spread. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(15)

1. *Credit score—relied on.* Except for purchased covered loans and partially exempt transactions under § 1003.3(d), § 1003.4(a)(15) requires a financial institution to report the credit score or scores relied on in making the credit decision and information about the scoring model used to generate each score. A financial institution relies on a credit score in making the credit decision if the credit score was a factor in the credit decision even if it was not a dispositive factor. For example, if a credit score is one of multiple factors in a financial institution's credit decision, the financial institution has relied on the credit score even if the financial institution denies the application because one or more underwriting requirements other than the credit score are not satisfied.

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Paragraph 4(a)(16)

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4. Reason for denial—~~not applicable~~scope of requirement. A financial institution complies with § 1003.4(a)(16) by reporting that the requirement is not applicable if the action taken on the application, pursuant to § 1003.4(a)(8), is not a denial. For example, a financial institution complies with § 1003.4(a)(16) by reporting that the requirement is not applicable if the loan is originated or purchased by the financial institution, or the application or preapproval request was approved but not accepted, or the application was withdrawn before a credit decision was made, or the file was closed for incompleteness. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the principal reason or reasons it denied an application. See § 1003.3(d) and related commentary.

Paragraph 4(a)(17)(i)

1. Total loan costs—~~not applicable~~scope of requirement. Section 1003.4(a)(17)(i) does not require financial institutions to report the total loan costs for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.43(c), and 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(17)(i) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the total loan costs. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(17)(ii)

1. Total points and fees—~~scope of requirement~~not applicable. Section 1003.4(a)(17)(ii) does not require financial institutions to report the total points and fees for transactions not subject to Regulation Z, 12 CFR 1026.43(c), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes, or for applications or purchased covered loans. In these cases, a financial institution complies with § 1003.4(a)(17)(ii) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the total points and fees. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(18)

1. Origination charges—~~scope of requirement~~not applicable. Section 1003.4(a)(18) does not require financial institutions to report the total borrower-paid origination charges for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or

commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(18) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the total borrower-paid origination charges. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(19)

1. *Discount points*—not applicable scope of requirement. Section 1003.4(a)(19) does not require financial institutions to report the discount points for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(19) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the discount points. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(20)

1. *Lender credits*—not applicable scope of requirement. Section 1003.4(a)(20) does not require financial institutions to report lender credits for applications, or for transactions not subject to Regulation Z, 12 CFR 1026.19(f), such as open-end lines of credit, reverse mortgages, or loans or lines of credit made primarily for business or commercial purposes. In these cases, a financial institution complies with § 1003.4(a)(20) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report lender credits. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(21)

1. *Interest rate—disclosures.* Except for partially exempt transactions under § 1003.3(d), Section § 1003.4(a)(21) requires a financial institution to identify the interest rate applicable to the approved application, or to the covered loan at closing or account opening. For covered loans or applications subject to the integrated mortgage disclosure requirements of Regulation Z, 12 CFR 1026.19(e) and (f), a financial institution complies with § 1003.4(a)(21) by reporting the interest rate disclosed on the applicable disclosure. For covered loans or approved applications for which disclosures were provided pursuant to both the early and the final disclosure requirements in Regulation Z, 12 CFR 1026.19(e) and (f), a financial institution reports the interest rate disclosed pursuant to 12 CFR 1026.19(f). A financial institution may rely on the definitions and commentary to the sections of Regulation Z relevant to the disclosure of the interest rate pursuant to 12 CFR 1026.19(e) or (f). If a financial institution provides a revised or corrected version of the disclosures required under Regulation Z, 12 CFR 1026.19(e) or (f), pursuant to 12 CFR 1026.19(e)(3)(iv) or (f)(2), as applicable, the financial institution complies with § 1003.4(a)(21) by reporting the interest rate on the revised or corrected disclosure, provided that the revised or corrected disclosure was provided to the borrower prior

to the end of the reporting period in which final action is taken. For purposes of § 1003.4(a)(21), the date the revised or corrected disclosure was provided to the borrower is the date disclosed pursuant to Regulation Z, 12 CFR 1026.37(a)(4) or 1026.38(a)(3)(i), as applicable.

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Paragraph 4(a)(22)

1. *Prepayment penalty term*—~~not applicable~~scope of requirement. Section 1003.4(a)(22) does not require financial institutions to report the term of any prepayment penalty for transactions not subject to Regulation Z, 12 CFR part 1026, such as loans or lines of credit made primarily for business or commercial purposes, or for reverse mortgages or purchased covered loans. In these cases, a financial institution complies with § 1003.4(a)(22) by reporting that the requirement is not applicable to the transaction. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the term of any prepayment penalty. See § 1003.3(d) and related commentary.

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Paragraph 4(a)(23)

1. *General*. For covered loans that are not purchased covered loans and that are not partially exempt under § 1003.3(d), § 1003.4(a)(23) requires a financial institution to report the ratio of the applicant’s or borrower’s total monthly debt to total monthly income (debt-to-income ratio) relied on in making the credit decision. For example, if a financial institution calculated the applicant’s or borrower’s debt-to-income ratio twice—once according to the financial institution’s own requirements and once according to the requirements of a secondary market investor—and the financial institution relied on the debt-to-income ratio calculated according to the secondary market investor’s requirements in making the credit decision, § 1003.4(a)(23) requires the financial institution to report the debt-to-income ratio calculated according to the requirements of the secondary market investor.

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Paragraph 4(a)(24)

1. *General*. Except for purchased covered loans and partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(24) requires a financial institution to report, ~~except for purchased covered loans~~, the ratio of the total amount of debt secured by the property to the value of the property (combined loan-to-value ratio) relied on in making the credit decision. For example, if a financial institution calculated a combined loan-to-value ratio twice—once according to the financial institution’s own requirements and once according to the requirements of a secondary market investor—and the financial institution relied on the combined loan-to-value ratio calculated according to the secondary market investor’s requirements in making the credit decision, § 1003.4(a)(24) requires the financial institution to report the combined loan-to-value ratio calculated according to the requirements of the secondary market investor.

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Paragraph 4(a)(25)

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5. ~~Loan or application without a definite term—scope of requirement.~~ For a covered loan or application without a definite term, such as a reverse mortgage, a financial institution complies with § 1003.4(a)(25) by reporting that the requirement is not applicable. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the loan term. See § 1003.3(d) and related commentary.

Paragraph 4(a)(26)

1. *Types of introductory rates.* Except for partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(26) requires a financial institution to report the number of months, or proposed number of months in the case of an application, from closing or account opening until the first date the interest rate may change. For example, assume an open-end line of credit contains an introductory or “teaser” interest rate for two months after the date of account opening, after which the interest rate may adjust. In this example, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as “2.” Section 1003.4(a)(26) requires a financial institution to report the number of months based on when the first interest rate adjustment may occur, even if an interest rate adjustment is not required to occur at that time and even if the rates that will apply, or the periods for which they will apply, are not known at closing or account opening. For example, if a closed-end mortgage loan with a 30-year term has an adjustable-rate product with an introductory interest rate for the first 60 months, after which the interest rate is permitted, but not required to vary, according to the terms of an index rate, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as “60.” Similarly, if a closed-end mortgage loan with a 30-year term is a step-rate product with an introductory interest rate for the first 24 months, after which the interest rate will increase to a different known interest rate for the next 36 months, the financial institution complies with § 1003.4(a)(26) by reporting the number of months as “24.”

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Paragraph 4(a)(27)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(27) requires reporting of contractual features that would allow payments other than fully amortizing payments. Section 1003.4(a)(27) defines the contractual features by reference to Regulation Z, 12 CFR part 1026, but without regard to whether the covered loan is consumer credit, as defined in § 1026.2(a)(12), is extended by a creditor, as defined in § 1026.2(a)(17), or is extended to a consumer, as defined in § 1026.2(a)(11), and without regard to whether the property is a dwelling as defined in § 1026.2(a)(19). For example, assume that a financial institution originates a business-purpose transaction that is exempt from Regulation Z pursuant to 12 CFR 1026.3(a)(1), to finance the purchase of a multifamily dwelling, and that there is a balloon payment, as defined by Regulation Z, 12 CFR 1026.18(s)(5)(i), at the end of the loan term. The multifamily dwelling is a dwelling under § 1003.2(f), but not under Regulation Z, 12 CFR 1026.2(a)(19). In this example, the financial institution should report the business-purpose transaction as having a balloon payment under § 1003.4(a)(27)(i), assuming the other requirements of this part are met. Aside from these distinctions, financial institutions may rely on the definitions and related commentary provided in the appropriate sections of Regulation Z

referenced in § 1003.4(a)(27) of this part in determining whether the contractual feature should be reported.

Paragraph 4(a)(28)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(28) requires a financial institution to report the property value relied on in making the credit decision. For example, if the institution relies on an appraisal or other valuation for the property in calculating the loan-to-value ratio, it reports that value; if the institution relies on the purchase price of the property in calculating the loan-to-value ratio, it reports that value.

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Paragraph 4(a)(29)

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4. *Scope of requirement.* A financial institution reports that the requirement is not applicable for a covered loan where the dwelling related to the property identified in § 1003.4(a)(9) is not a manufactured home. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the information specified in § 1003.4(a)(29). See § 1003.3(d) and related commentary.

Paragraph 4(a)(30)

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6. *Scope of requirement.* A financial institution reports that the requirement is not applicable for a covered loan where the dwelling related to the property identified in § 1003.4(a)(9) is not a manufactured home. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the information specified in § 1003.4(a)(30). See § 1003.3(d) and related commentary.

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Paragraph 4(a)(32)

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6. *Scope of requirement.* A financial institution reports that the requirement is not applicable if the property securing the covered loan or, in the case of an application, proposed to secure the covered loan is not a multifamily dwelling. For partially exempt transactions under § 1003.3(d), an insured depository institution or insured credit union is not required to report the information specified in § 1003.4(a)(32). See § 1003.3(d) and related commentary.

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Paragraph 4(a)(33)(i)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § 1003.4(a)(33)(i) requires a financial institution to indicate whether the applicant or borrower

submitted the application directly to the financial institution that is reporting the covered loan or application. The following scenarios demonstrate whether an application was submitted directly to the financial institution that is reporting the covered loan or application.

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Paragraph 4(a)(33)(ii)

1. *General.* Except for partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(33)(ii) requires financial institutions to report whether the obligation arising from a covered loan was or, in the case of an application, would have been initially payable to the institution. An obligation is initially payable to the institution if the obligation is initially payable either on the face of the note or contract to the financial institution that is reporting the covered loan or application. For example, if a financial institution reported an origination of a covered loan that it approved prior to closing, that closed in the name of a third-party, such as a correspondent lender, and that the financial institution purchased after closing, the covered loan was not initially payable to the financial institution.

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Paragraph 4(a)(34)

1. *NMLSR ID.* Except for partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(34) requires a financial institution to report the Nationwide Mortgage Licensing System and Registry unique identifier (NMLSR ID) for the mortgage loan originator, as defined in Regulation G, 12 CFR 1007.102, or Regulation H, 12 CFR 1008.23, as applicable. The NMLSR ID is a unique number or other identifier generally assigned to individuals registered or licensed through NMLSR to provide loan originating services. For more information, see the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008 (S.A.F.E. Act), 12 U.S.C. 5101 *et seq.*, and its implementing regulations (12 CFR part 1007 and 12 CFR part 1008).

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Paragraph 4(a)(35)

1. *Automated underwriting system data—general.* Except for purchased covered loans and partially exempt transactions under § 1003.3(d), A financial institution complies with § 1003.4(a)(35) requires a financial institution to by reporting, except for purchased covered loans, the name of the automated underwriting system (AUS) used by the financial institution to evaluate the application and the result generated by that AUS. The following scenarios illustrate when a financial institution reports the name of the AUS used by the financial institution to evaluate the application and the result generated by that AUS.

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Paragraph 4(a)(37)

1. *Open-end line of credit.* Except for partially exempt transactions under § 1003.3(d), § Section 1003.4(a)(37) requires a financial institution to identify whether the covered loan or

the application is for an open-end line of credit. 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), ~~§ Section~~ 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.

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Proposed changes to take effect January 1, 2022:

§ 1003.2 Definitions.

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(g) *Financial institution* means a depository financial institution or a nondepository financial institution, where:

(1) *Depository financial institution* means a bank, savings association, or credit union that:

(i) On the preceding December 31 had assets in excess of the asset threshold established and published annually by the Bureau for coverage by the Act, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve month period ending in November, with rounding to the nearest million;

(ii) On the preceding December 31, had a home or branch office in an MSA;

(iii) In the preceding calendar year, originated at least one home purchase loan or refinancing of a home purchase loan, secured by a first lien on a one- to four-unit dwelling;

(iv) Meets one or more of the following two criteria:

(A) The institution is federally insured or regulated; or

(B) Any loan referred to in paragraph (g)(1)(iii) of this section was insured, guaranteed, or supplemented by a Federal agency, or was intended by the institution for sale to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

(v) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least [50 or 100] closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least 2500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10); and

(2) *Nondepository financial institution* means a for-profit mortgage-lending institution (other than a bank, savings association, or credit union) that:

(i) On the preceding December 31, had a home or branch office in an MSA; and

(ii) Meets at least one of the following criteria:

(A) In each of the two preceding calendar years, originated at least [50 or 100] closed-end mortgage loans that are not excluded from this part pursuant to § 1003.3(c)(1) through (10) or (13); or

(B) In each of the two preceding calendar years, originated at least 2500 open-end lines of credit that are not excluded from this part pursuant to § 1003.3(c)(1) through (10).

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§ 1003.3 Exempt institutions and excluded and partially exempt transactions.

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(c) *Excluded transactions.* The requirements of this part do not apply to:

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(12) An open-end line of credit, if the financial institution originated fewer than 2500 open-end lines of credit in either of the two preceding calendar years; a financial institution may collect, record, report, and disclose information, as described in §§ 1003.4 and 1003.5, for such an excluded open-end line of credit as though it were a covered loan, provided that the financial institution complies with such requirements for all applications for open-end lines of credit that it receives, open-end lines of credit that it originates, and open-end lines of credit that it purchases that otherwise would have been covered loans during the calendar year during which final action is taken on the excluded open-end line of credit; or

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Supplement I to Part 1003—Official Interpretations

Section 1003.2—Definitions

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2(g) Financial Institution

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3. *Merger or acquisition—coverage of surviving or newly formed institution.* After a merger or acquisition, the surviving or newly formed institution is a financial institution under § 1003.2(g) if it, considering the combined assets, location, and lending activity of the surviving

or newly formed institution and the merged or acquired institutions or acquired branches, satisfies the criteria included in § 1003.2(g). For example, A and B merge. The surviving or newly formed institution meets the loan threshold described in § 1003.2(g)(1)(v)(B) if the surviving or newly formed institution, A, and B originated a combined total of at least 2500 open-end lines of credit in each of the two preceding calendar years. Likewise, the surviving or newly formed institution meets the asset-size threshold in § 1003.2(g)(1)(i) if its assets and the combined assets of A and B on December 31 of the preceding calendar year exceeded the threshold described in § 1003.2(g)(1)(i). Comment 2(g)-4 discusses a financial institution's responsibilities during the calendar year of a merger.

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5. *Originations.* Whether an institution is a financial institution depends in part on whether the institution originated at least [50 or 100] closed-end mortgage loans in each of the two preceding calendar years or at least 2500 open-end lines of credit in each of the two preceding calendar years. Comments 4(a)-2 through -4 discuss whether activities with respect to a particular closed-end mortgage loan or open-end line of credit constitute an origination for purposes of § 1003.2(g).

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Section 1003.3—Exempt Institutions and Excluded and Partially Exempt Transactions

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3(c) Excluded Transactions

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Paragraph 3(c)(12)

1. *General.* Section 1003.3(c)(12) provides that an open-end line of credit is an excluded transaction if a financial institution originated fewer than 2500 open-end lines of credit in either of the two preceding calendar years. For example, assume that a bank is a financial institution in 2020 under § 1003.2(g) because it originated 100 closed-end mortgage loans in 2018, 175 closed-end mortgage loans in 2019, and met all of the other requirements under § 1003.2(g)(1). Also assume that the bank originated 75 and 85 open-end lines of credit in 2018 and 2019, respectively. The closed-end mortgage loans that the bank originated or purchased, or for which it received applications, during 2020 are covered loans and must be reported, unless they otherwise are excluded transactions under § 1003.3(c). However, the open-end lines of credit that the bank originated or purchased, or for which it received applications, during 2020 are excluded transactions under § 1003.3(c)(12) and need not be reported. See comments 4(a)-2 through -4 for guidance about the activities that constitute an origination.

2. *Optional reporting.* A financial institution may report applications for, originations of, or purchases of open-end lines of credit that are excluded transactions because the financial institution originated fewer than 2500 open-end lines of credit in either of the two preceding calendar years. However, a financial institution that chooses to report such excluded applications for, originations of, or purchases of open-end lines of credit must report all such applications for open-end lines of credit which it receives, open-end lines of credit that it

originates, and open-end lines of credit that it purchases that otherwise would be covered loans for a given calendar year. Note that applications which remain pending at the end of a calendar year are not reported, as described in comment 4(a)(8)(i)-14.

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