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August 13, 2010

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551
Via email: regs.comments@federalreserve.gov

RE: Docket No. OP-1388, Possible HMDA Revisions

Dear Ms. Johnson:

On behalf of the Greater Rochester Community Reinvestment Coalition (GRCRC), we would like to thank the Federal Reserve Board for conducting hearings and holding a public comment period on possible revisions to the Regulation C that implements the Home Mortgage Disclosure Act (HMDA) data.

Since 1993, Empire Justice Center and its predecessor, the Public Interest Law Office of Rochester (PILOR), have convened the Greater Rochester Community Reinvestment Coalition to generate and continue discussions about lending patterns in Rochester. GRCRC has a membership of over 30 locally based not-for-profits and individuals. GRCRC monitors the lending and community reinvestment obligations of Bank of America, Canandaigua National Bank, RBS Citizens Bank, HSBC, JPMorgan Chase, KeyBank and M&T Bank.

GRCRC, Empire Justice Center and PILOR have over 16 years of experience in working with the HMDA data and the Community Reinvestment Act (CRA) Small Business lending data. We have used these two datasets to release 12 home mortgage, small business and subprime lending reports comparing access to credit and the pricing of mortgage loans across income, race/ethnicity and neighborhood.[1] We also use these datasets to analyze the mortgage and small business lending of the banks noted above,

[1] Our most recent analyses compare differences in mortgage lending between 2006 and 2008. Our multi-state collaborative report "Paying More for the American Dream IV" can be found at: http://www.empirejustice.org/publications/reports/paying-more-for-the-american-3.html and our Empire Justice Center report "The River Runs Dry" can be found at: http://www.empirejustice.org/about-us/press/press-releases/the-river-runs-dry-decreased.html.

and to submit comments during CRA exams and mergers, based on the data, to the appropriate state and federal regulators.

HMDA has been instrumental in reducing the incidence of redlining, and in encouraging homeownership and asset building in lower income communities and communities of color. The Board's 2002 revisions (implemented with the 2004 data) to include price information for high cost loans and other data enhancements has increased transparency in the mortgage market, allowing community advocates to identify disparities in access to affordably-priced loans. However, our extensive experience analyzing the HMDA data, along with Empire Justice Center's (and other coalition members') work with clients at risk of foreclosure and the national foreclosure crisis point to critical gaps in the data.

Increased transparency under Dodd-Frank

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) recently signed by President Obama closes many of these gaps. Additional data elements required to be disclosed under Dodd-Frank include:

- **Loan terms** including total points and fees, rate spread and term of any prepayment penalty for all loans; and the term to maturity, length of introductory period and presence of negative amortization for all loans and applications.
- **Property information** for all loans and applications including property value and, as the Bureau may determine to be appropriate, the parcel identification number.
- **Originator information** for all loans and applications including the channel (such as retail or broker) through which the application was made and, as the Bureau may determine to be appropriate, a unique identifier of the loan originator (as set forth in the S.A.F.E. Act).
- **Borrower information** including age for all mortgage loans and the credit score of mortgage applicants and mortgagors, in a form prescribed by the Bureau.
- A **universal loan identifier**, as the Bureau may determine to be appropriate.

GRCRC is very pleased that these data enhancements were included in the recent financial reform legislation. However, we are concerned that some of the transparency may be clouded by how the data are eventually made available to the public. That is why we urge the Federal Reserve Board and the Consumer Financial Protection Bureau to implement these data enhancements at the individual application and loan level rather than aggregating by various categories such as census tract, applicant race/ethnicity or loan type. Our extensive experience with both the HMDA data (at the individual loan record level) and the CRA small business lending data (aggregated by census tract, census tract type and business size) clearly demonstrates that loan level data are much more useful in analyzing and examining differences in lending by group and neighborhood.

Additional HMDA enhancements

While we are pleased with the data enhancements in Dodd-Frank, there are still gaps in the HMDA data that need to be addressed. Further enhancements are needed to enable HMDA to fully meet its objectives of assessing whether financial institutions are meeting community needs and identifying possible discriminatory lending patterns. Therefore, in addition to fully and transparently implementing the data elements in Dodd-Frank, GRCRC urges the Federal Reserve Board to make the following improvements to HMDA:

1. **Additional information about loan terms:** While some loan term information is in Dodd-Frank, it is also important require the reporting and public disclosure of whether the loan is fixed or adjustable rate to fully assess which borrower groups receive a disproportionate amount of onerous loans.

2. **Information on critical underwriting factors:** Again, Dodd-Frank includes several pieces of data related to underwriting. Additional information, however, would improve the ability for advocates and other stakeholders to determine whether racial disparities in pricing or access are likely the result of discrimination. Therefore, GRCRC urges the Federal Reserve to require the disclosure of debt-to-income ratios and extent of income documentation.

   While not directly related to underwriting, but critical in determining the extent of disparities across borrowers is the primary language of the applicant compared to language of the application and loan documents. We urge that these data elements be included in HMDA as well.

3. **Close gaps in the types of loans reported:** Some loan types have had an inconsistent track record in helping to meet credit needs in a responsible manner. Unscrupulous home equity lending was one form of problematic lending that exacerbated the current foreclosure crisis. In fact, a story in yesterday's New York Times[2] demonstrates the dangers resulting from the lack of home equity lines of credit (HELOC) reporting. Unaffordable HELOCs can result in the foreclosure of the prime first mortgage when there's not enough equity in the home. Such foreclosures will further devastate communities. Therefore, the reporting of home equity loans and lines of credit should be mandatory rather than optional as it is currently. Likewise, reverse mortgage lending has frequently been the target of irresponsible practices; the mandatory reporting of reverse mortgages would help to identify and curb such abuses.

4. **Loan performance data linked to HMDA data:** Loan performance is an important indication of whether lending institutions are meeting community needs. While the Dodd-Frank financial regulatory reform bill authorizes the creation of two separate loan performance and loan modification databases, these

[2] This story can be found at: http://www.nytimes.com/2010/08/12/business/12debt.html.

data sets are separate from HMDA and separate from each other. In addition, the loan modification database does not include data about the terms of the modifications or for modifications outside of the HAMP program.

GRCRC urges the Federal Reserve Board (and other federal regulators as appropriate) to use the Dodd-Frank authorized universal loan identifier to link the HMDA data to the loan performance and loan modification databases. The linking of these three databases would provide a valuable resource to consumer advocates and regulators in understanding the nature of delinquencies, foreclosures and modifications. While the loan performance data is to be made available to the public at the census tract level, HUD can at least connect individual loan performance to borrower characteristics and loan terms and provide summary information at these levels, as well. A universally unique loan identifier can easily be created in the HMDA Loan Application Register (LAR) data by joining the Agency variable to the Respondent ID to the Lender Loan Number (which is currently hidden in the public HMDA data).

5. **Remove gaps in purchased loans:** HMDA reporters are currently not required to report demographic data on the loans they purchase or to distinguish which loans are affiliate purchases and which are external purchases. These gaps make it difficult to analyze purchased loans in any meaningful way, even though institutions receive credit for many of these loans on their CRA exams. The Federal Reserve should make the reporting of demographic information on all purchased loans mandatory and distinguish "internal" from "external" or non-affiliate purchases. While there is an affiliate institution code in the HMDA LAR's Type of Purchaser field, our discussions with lenders indicate a lack of clarity on how/when to use this.

6. **Mandatory reporting of parent institution:** The reporting of parent institutions is currently not mandatory in the HMDA data. This information is critical for the public to know whether an institution as a whole or whether its affiliates are engaged in responsible or reckless lending. Moreover, to best facilitate quality analysis, the parent institution needs to be the institution that is at the top—the bank holding company or the top most company, not the institution immediately above the HMDA reporter. While Empire Justice Center has been able to obtain the Federal Reserve's enhanced lender transmittal information for the past several years, this dataset is generally not available to the public unless specifically requested.

7. **Close gaps in reporting institutions:** HMDA data for rural areas and smaller metropolitan areas is incomplete since only depository institutions that report CRA small business or farm loan data are required to report HMDA data in rural counties and for geographical areas beyond their branch network. This gap should be closed by requiring the collection of data from lenders that take more than fifty loan applications, in addition to those institutions currently required to report HMDA data.

In addition, any institution that goes under or is taken over by the FDIC (or other federal regulator) in a given year should be required to report any HMDA data for that year. Recently, some failures of large subprime lenders resulted in a significant amount of missing HMDA data because they were not required to report (or the FDIC was not required to report on their behalf) data from their last year of operation.

8. **More transparency by regulators:** Regulatory agencies must report publicly on which lenders they are investigating for problematic lending patterns based on HMDA, and the results of those investigations.

Less useful HMDA data

As GRCRC and Empire Justice Center have limited time and resources, we use the data that intuitively makes sense and leads to useful conclusions. Our experience suggests that the following HMDA data elements are less useful for analyzing lending disparities than the rest of the data:

- Edit Status. Never used this. Would be more useful to know if a HMDA reporter had above a certain number or percentage of errors.
- Preapproval. Never used this for analysis, its usefulness is not apparent.
- The 2nd – 5th race variables. Have found very few applications with more than one race indicated.
- Type of Purchaser. Have periodically used this. Would be more useful with Suggestion #5 above.
- HOEPA Status. Never used this for analysis, as we find the pricing information more useful.
- Application Date Pre 2004 Flag. Not sure why this is still in the HMDA LAR data. Never used this, and it is likely that it is no longer relevant.

We appreciate that the FFIEC adds U.S. Census information to each of the HMDA LARs. We have used each of the variables at one time or another in our analyses and/or discussions with banks. In particular, when recommending that banks increase their lending in specific census tracts, we can limit our recommendations to those tracts that have a minimum number of 1-4 family units or owner-occupied units, so that there are actually families to which banks can lend.

Conclusion

The Federal Reserve Board's consideration of Regulation C that implements HMDA is vital. Enhancing HMDA data is needed so that HMDA can more fully realize the statutory goal of assessing if credit needs are met and if discrimination is present. GRCRC urges the Federal Reserve Board to implement Regulation C revisions to expand HMDA data, and in so doing, to improve the equity and efficiency of the marketplace.

Thank you for this opportunity to comment on this important matter. If you have any questions, please contact us at 585-454-4060 or via email: Ruhi Maker at rmaker@empirejustice.org or Barbara van Kerkhove at bvankerkhove@empirejustice.org.

Sincerely,

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