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November 22, 2010

Sent via FedEx

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Request for Comment on Changes to Regulation C:
The Home Mortgage Disclosure Act ("HMDA")

Dear Ms. Johnson:

This letter is submitted on behalf of Wells Fargo & Company and its affiliates ("Wells Fargo") in response to the request for additional comments on changes to the Home Mortgage Disclosure Act ("HMDA") data requirements to more fully achieve the purposes of HMDA. Wells Fargo appreciates the opportunity to comment further following our participation in the August 5, 2010 hearing in San Francisco

Wells Fargo supports collection of HMDA data that will provide a more complete explanation for mortgage lending decisions. We urge the Federal Reserve Board ("Board") and, following its formation, the Bureau of Consumer Financial Protection ("Bureau") to focus on only those data elements actually used by creditors in the underwriting process. Collection of this information will support more transparent analysis of lending patterns and meaningful insights into loan decisions. Collection of information not relevant to credit decisions, particularly information that may compromise consumer privacy or increase the risk of identity theft, should be avoided.

Our response is provided in the context of both the Board's periodic review of HMDA as well as the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Act"). The Act identifies four categories of additional HMDA data elements for collection:

1. Required data elements, which include the applicant's age; total points and fees; the difference between the loan APR and a benchmark rate; prepayment penalty in months; the value of real property security; the term of any introductory period after which the interest rate may change; the ability to make less than fully amortizing payments; the loan term in months; and the channel in which the loan was originated.

2. Data "in such form as the Bureau may require": credit scores of applicants and mortgagors.

3. Data the Bureau "may determine to be appropriate": the loan originator's S.A.F.E. Act identification number; a universal loan identifier; and the parcel number of the real property securing the loan; and

4. Such other data as the Bureau may require.

We believe the absence of data on key risk factors has resulted in an incomplete and inaccurate understanding of lending decisions. We believe inclusion of the correct risk factors in the HMDA data will explain the majority of lending decisions and help bring an end to the irresponsible and speculative assumptions that have affected the discussion of HMDA data. Visibility into the true risk factors, and recognition of some of the borrowing and spending patterns of American consumers, will lead to a more constructive understanding of responsible mortgage lending.

Clearly, the inclusion of the risk factors discussed below will not explain 100% of lending decisions. Different lenders may use additional and unique criteria in making their loan decisions, and there will always be loan files requiring individual review to explain the basis of the lending decision. Nonetheless, we believe that the inclusion of these risk factors will bring the HMDA data into much clearer focus.

Meaningful Risk Factors that should be Collected as part of HMDA Data

A. Borrower Risk Factors

1. *Credit Score*

We believe the single most important risk factor is the borrower's credit score.

Credit score information will be required under the Act. Ideally, the score reported for HMDA purposes should be the score used to decision the loan. However, due to lenders' use of proprietary scoring models and/or differing credit score selection methodologies, we believe that it would be preferable to require creditors to report one of the widely available and accepted, standardized credit scores for the borrower (the selection of which should be clearly defined) in order to promote uniformity for comparison. Clear rules would need to be established if lenders using wholly or partially proprietary scoring models were required to report those proprietary scores rather than the borrower's standardized credit score.

2. *Debt-to-Income Ratio*

Another major risk factor that plays a significant role in making loan decisions is the borrower's total debt-to-income ratio ("DTI"). DTI is not explicitly required under Act, but should be required under the Act provision giving the Bureau discretion to require additional data elements.

We believe DTI is an important risk factor in the credit decision. However, since lenders, and the investors whose underwriting criteria are employed, may use differing guidelines for what is to be included in "income" and "debt", it may be difficult to obtain standardized information that will allow for comparison across lenders and loan products. One alternative might be to require reporting of DTI based on the definitions used by the investors where these are national standards (FHA, VA, and perhaps Fannie Mae and Freddie Mac or their successors). To the extent the Bureau specifically defines the components of DTI, it could, in effect, be writing credit policy for creditors and investors such as FHA, VA, and Fannie Mae and Freddie Mac or their successors. Nonetheless, we believe DTI is such a significant factor that its absence would result in an incomplete view of the actual risk factors utilized by creditors.

3. *Prior Bankruptcy, Foreclosure, or other Prior Credit Issues*

Relatively recent prior bankruptcy or foreclosure, mortgage lates, and the presence of collection activity are other borrower-specific factors that significantly impact loan decisions. While some of this information may be reflected in the credit score used to decision and/or price the loan, we believe there is no consistent methodology for the credit bureaus' incorporation of these factors into the credit score and the relative emphasis each bureau places on the individual items may vary. Our research has shown that these factors have statistically significant predictive effects in explaining loan decisions that go beyond their reported inclusion in the calculation of the borrower's credit score. These aspects of the borrower's credit history are not included in the Act requirements and should be included.

4. *Employment Status of Borrower*

The employment status of the borrower, if self-employed, also plays a measurable role in lending decisions; again, this information is not included in the new Act requirements.

B. Property Risk Factors

In addition to the borrower risk characteristics discussed above, several property-related risk factors also play a significant role in loan decisioning. The first is whether the loan-to-value ratio ("LTV") or combined loan-to-value exceeds certain levels (e.g., 80% or 90%) based on other transaction and credit circumstances. In addition, the occupancy status of the property and whether the loan is for home improvement purposes, which are data elements already reported under HMDA, also play a role. The Act requirements include property value, which, together with loan amount, will allow for calculation of the LTV.

We believe that the Board should consider the inclusion of the above factors to better explain the basis of lending decisions, which will be to the benefit of both consumers and lenders.

C. Other Data Elements

We also believe that HMDA data collection should be *limited to* those elements that generally explain lenders' decisions (subject to the understanding that different lenders may use additional unique criteria). Additional information should not be required absent a clear benefit, particularly where the additional data, individually or cumulatively, create a risk of loss of consumer privacy or of identity theft.

This issue is of concern with respect to the borrower's age and credit score, however, we believe the importance of these HMDA data elements requires that the Board and Bureau identify a method of requiring the data elements without compromising borrower privacy. Other discretionary HMDA data elements under the Act such as parcel number, transaction ID number, and S.A.F.E. identifier play no role in explaining lenders' decisions; as a result, when balanced against the risk to consumers, they should be omitted. Finally, the Board and Bureau should carefully consider the cumulative effect of adding multiple pieces of less meaningful data to the publicly available data if doing so significantly increases the likelihood individual borrowers will be identifiable.

With respect to the following data elements, which the Act classified "as the Bureau may determine is appropriate", we believe the privacy risks to consumers and others outweigh the inclusion of this information, particularly given their lack of value in explaining the loan decision.

Parcel Identification Number. We do not believe the parcel identification number provides valuable data since the race of borrower and their census tract already provide the information necessary for racial and neighborhood redlining analysis. Also, it would be very easy to link this number to the particular borrower using public records. If this number is included in the publicly available HMDA data, it can easily be matched to other publicly accessible documents, such as the security instrument or other local records, to determine the identity of the borrower, resulting in a loss of privacy and an increase in identity theft.

Mortgage Loan Originator Number (MLO). We do not believe that the inclusion of the MLO number increases understanding of loan decisioning. The MLO unique identifier is easily traceable to the MLO, and, if included in the publicly available HMDA data, could create privacy concerns for the MLOs. With access to this number, any individual could identify the MLO by name, address, etc. Internally, employees who work as MLOs might also be able to use this information to view their peers' sales activities. In addition, HMDA data are reported as an institution's data. Reporting information about individual MLOs would alter the institutional approach and provide data about individual employees, as well as MLOs employed by third parties. Finally, HMDA data focus on the final decision regarding a mortgage loan (whether to originate or decline, if the loan is a higher-priced mortgage, etc.) and MLOs do not make decisions on mortgage loans.

Additional Comments as Requested by the Board

A. Rate Spreads

We believe rate spreads should be based on the survey-based Average Prime Offer Rate for all loans reported versus only higher-priced loans. The most recent changes to Regulation C were intended to more closely align with the way lenders price loans and align to the higher-priced mortgage calculation of Regulation Z. However, the Regulation Z requirements for determining higher-priced mortgage loans apply only to owner-occupied principal dwellings while under Regulation C, all HMDA reportable originated loans require the reporting of any rate spread over the established thresholds.

B. Home Equity Lines of Credit (HELOCs)

HELOCs are currently reported only to the extent that the institution chooses to report. This usually results in institutions choosing not to report due to the additional data to gather and scrub. However, not having these data included for all institutions can result in a skewed interpretation of the data. Clear and concise definitions should be included to require institutions to report the HELOCs that they originate as this will give a more complete picture of the lending patterns and communities being serviced.

Wells Fargo strongly urges the Board to consider the inclusion of the additional data elements discussed above to provide transparency about the basis of lending decisions and demonstrate that responsible lenders are achieving the goal of fair and responsible lending. Collection of data that are actually used by lenders in making credit decisions will provide the public with a greater understanding of lending patterns, one that is devoid of unsubstantiated speculation about decisions.

If you have any questions or would like to discuss our comments, please contact me at (515) 213-4572.

Thank you for the opportunity to share our comments. We appreciate your consideration.

Sincerely,

David L. Moskowitz
Deputy General Counsel
Wells Fargo & Company