MORTGAGE BANKERS ASSOCIATION®
Investing in communities

September 24, 2010

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

Re: Potential Improvements to the Board's Home Mortgage Disclosure Act Data Requirements, Regulation C Credit (Docket No. OP-1388)

Gentlepersons:

The Mortgage Bankers Association[1] is pleased to submit this comment to be considered in conjunction with the Board's review of possible improvements to data required to be reported by lenders and disseminated under the Home Mortgage Disclosure Act (HMDA).

For the reasons explained here, MBA urges that if the Board of Governors of the Federal Reserve (Board) and/or the Bureau of Consumer Financial Protection (CFPB) require reporting of a universal loan identifier for mortgage loans as part of the HMDA data, the mortgage identification number or "MIN" issued by the Mortgage Electronic Registration Systems, Inc. (MERS) should be required. Additionally, MBA urges that in determining definitions and file formats for potential data items, the Board require the use of the standard and uniform definitions developed during the last ten years by the Mortgage Industry Standards and Maintenance Organization, Inc. (MISMO®).

Finally, data including the MIN number, should not be released in a form that risks undue harm to the privacy interests of individual mortgage borrowers and originators.

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

Background: The recently enacted Dodd-Frank Wall Street Reform and Consumer Protection Act amended HMDA to require that numerous new data elements be collected and reported by mortgage lenders and released to the public as appropriate.

Notably, these data points include a universal mortgage loan identifier as determined appropriate by the CFPB. The data points also include credit scores. Dodd-Frank also requires transfer of regulatory authority under HMDA from the Board to the new Consumer Financial Protection Bureau by the designated transfer date of July 21, 2011.

MBA's Comment: While HMDA data serves useful purposes, MBA cannot stress enough the regulatory burden that HMDA and other reporting and compliance requirements place on the industry. The largest shares of investments in technology today are going to reporting and compliance needs, with no direct benefit to companies or their customers. The use of existing, commonly used, voluntary consensus industry standards would help minimize the cost and other impacts on the industry avoiding the creation of competing formats that would create additional operational issues within the industry. For these reasons, MBA urges that in implementing these new data requirements, the Board and the Bureau utilize approaches that minimize regulatory burden and unnecessary costs.

Application of this principle, in our view, dictates that (1) any requirement for a unique loan identifier call for the use of the MIN number and (2) that data elements be implemented in accordance with Mortgage Industry Standards and Maintenance Organization, Inc. (MISMO®) standards. Additionally, data should be released to the public in a form that does not cause undue harm to the privacy interests of individual mortgage borrowers and originators.

The Board or Bureau Should Require the Use of a MIN Number If a Universal Loan Identifier is to be Collected.

For more than 13 years, the MERS® System has been tracking mortgages and related information assigning a MIN, or mortgage identification number, as the unique loan identification number to each mortgage. Under MERS, a MIN is assigned at the time of origination and the MIN does not change during the life of the loan. MERS operates a loan registry system that reduces the need for paper mortgage assignments, providing a reliable one-stop repository of information on who holds an interest in a mortgage loan.

The use of the MIN allows loans to be tracked from origination through servicing and sale in the secondary market. This feature has proven valuable to the industry in identifying and preventing mortgage fraud.

For this reason, and the many other efficiencies that tracking and electronic recordkeeping brings, MERS® and MIN have become ubiquitous in the loan origination, servicing and secondary marketing processes. Virtually every mortgage originator, servicer and every loan origination, servicing and delivery system now interfaces with MERS and incorporates the MIN into its service application.

Today, more than 60 percent of existing mortgages have an assigned MIN, making a total of 64,000,000 loans registered since the inception of MERS® in 1997. Simply put, imposition of any other loan identification modality would be ill-advised and it would cause unnecessary confusion and costs.

The Board and the Bureau Should Use the Standard and Uniform Definitions Developed by the Mortgage Industry Standards and Maintenance Organization, Inc. (MISMO®) in Determining Definitions and File Formats Under HMDA.

Over the last decade, the Mortgage Industry Standards and Maintenance Organization, Inc. (MISMO®) has established common definitions and standards for mortgage industry data. MISMO standards prevail in the industry today and are part of the reporting systems used in the Fannie Mae, Freddie Mac and Ginnie Mae programs.

Effective September 1, 2011, Fannie Mae and Freddie Mac will require the use of the MISMO-based loan delivery data requirements. Reliance on these definitions also would greatly reduce the regulatory compliance burden by allowing lenders and vendors furnishing HMDA compliance services to pull from existing MISMO-compliant databases to report under HMDA. It would also reduce the errors associated with entering data and the phase-in period for trying to interpret and then implement and test new Board or Bureau definitions.

Reliance on the MISMO dictionary and standards would also help deal with the ambiguity surrounding some of the data elements specified in Dodd-Frank. For example, Dodd-Frank specifies that credit scores be reported. MISMO recognizes that there is no such thing as a single credit score so, while it has a field for the score, it also has a field for the credit score model type (such as TransUnion Vantage Score), and the credit repository source. Rather than asking lenders to map multiple fields into a single number to be reported to the Board or Bureau, that would not appear in any credit file, the Board or Bureau could simply ask for the multiple fields dealing with credit scores and therefore retain the freedom to perform any type of analysis desired.

MBA also wants to draw the Board's attention to the sound policy reflected in OMB Circular A-119, which states a strong preference for government use of voluntary industry consensus standards in regulations rather than development of *de novo* government standards (see OMB-Circular A-119). MISMO's existing voluntary consensus XML data standards meet the criteria for "voluntary consensus standards," as defined in OMB Circular A-119. "Voluntary consensus standards," as used in the Circular, refers to standards that have been developed in conformity with specific criteria related to the openness of the standards development process and the availability of the standards to users on a royalty-free basis.

Finally, relying on MISMO definitions would facilitate the inevitable future changes required to accommodate evolving business practices, permitting tweaking of data requirements while lessening the regulatory burden.

For these reasons, the Board should leverage existing XML consensus standards already in use within the industry to expedite compliance with the Board's substantive reporting requirements.

Data Should Only Be Released to the Public in a Form that Does Not Cause Undue Harm to the Privacy Interests of Individual Mortgage Borrowers and Originators.

While MBA recognizes that loan identifier data is required by Dodd Frank, it nonetheless is concerned that these data and credit scores also required to be reported under Dodd Frank – along with age, race and location data – if not properly released to the public can undermine the privacy interests of borrowers and originators. HMDA data that contains personal information can be matched with other data to permit data mining and even identity theft. For these reasons, we urge that these data only be released in forms, for example appropriate aggregations, to avoid such harm.

Dodd-Frank addressed this concern by conferring on the Bureau the authority to require modification of itemized information to be reported for the purpose of protecting the privacy of borrowers. MBA would like to work with the Board and Bureau on this issue which we regard as exceedingly important to our industry and the consumers we serve.

Conclusion

MBA appreciates the opportunity to comment on possible improvements to data required to be reported by lenders and disseminated under the Home Mortgage Disclosure Act (HMDA). We look forward to working with the Board and the Bureau on this matter. If you have further questions, please contact Ken Markison at (202) 557-2930 or kmarkison@mortgagebankers.org, or Jay Brinkmann at (202) 557-2739 or jbrinkmann@mortgagebankers.org.

Sincerely,

John A. Courson

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Mortgage Bankers Association