Jim Campen

September 23, 2010

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

Re: Docket Number OP - 1388

Dear Ms. Johnson:

I was a panelist at the Board's Public Hearing on the Home Mortgage Disclosure Act (HMDA) held at the Federal Reserve Bank of Chicago on September 16, and am submitting these written comments to amplify and supplement my written and oral remarks at that hearing. Although these comments are being submitted after the August 20 date specified in the Board's *Federal Register* notice, I have been informed by Fed staff that written comments received before or soon after the final public hearing will be considered timely.

I am a Professor Emeritus of Economics at the University of Massachusetts Boston, a Board member of the Massachusetts Affordable Housing Alliance (MAHA), and a former Board Chair of the Fair Housing Center of Greater Boston. I have made extensive use of HMDA data in my research and writing for over twenty years, beginning at a time when it was necessary to go to local data depositories and copy information by hand from large-format computer printouts. This month I have begun working on *Changing Patterns XVII: Mortgage Lending to Traditionally Underserved Borrowers & Neighborhoods in Boston, Greater Boston, and Massachusetts, 2009* – the latest in a series of annual reports that I have prepared for the Massachusetts Community and Banking Council since 1995.

For the last four years, I have participated on behalf of MAHA in a collaborate effort of seven local and regional policy and advocacy organizations that has produced the *Paying More for the American Dream* series of annual reports highlighting racial/ethnic disparities in mortgage lending in all of our local metropolitan areas. Both in my individual work and in this and other collaborative efforts, I have regularly confronted the limitations of current HMDA data.

Although HMDA data have been a powerful tool for shining light on mortgage lending patterns, current HMDA data lack important information needed to effectively address two important questions. First, what is the *nature* and *quality* of the loans that are reported? Second, are observed *disparities* in the lending and denial rates to borrowers and neighborhoods of color the result, at least in part, of illegal *discrimination* by lenders, or can they be fully accounted for by differences in applicant/borrower credit-worthiness? The only current HMDA LAR field related to loan quality is rate spread, which is a very imperfect proxy for identifying subprime loans. None of the current fields are good proxies for the main indicators of borrower credit-worthiness that are used in legitimate loan underwriting.

The Dodd-Frank Act (hereafter DFA) mandates the collection of much additional information that will shed light on these questions. Indeed, I am very pleased that for most of the potential new data fields identified in the Fed's call for public comments in connection with its public hearings on HMDA, the issue is no longer *whether* these variables should be included in HMDA data, but *how* this should best be done.

The first section of these written comments reproduces, from my prepared oral statement for the September 16 hearing, my discussion of four potential changes, not mandated by DFA, that I regard as particularly important in helping HMDA meet its stated objectives. I have inserted, in bulleted points, more detailed discussion of some the issues raised in that prepared statement. In subsequent sections, I address a number of additional issues that confront the Board as it considers how best to revise HMDA data.

I. More Detailed Discussion of the Four Suggestions in My Prepared Oral Statement

[*Note: the main text in this section is unchanged from my prepared oral statement. All additional comments take the form of indented "bullets."*]

1. Identify lending families, not just individual lenders

For many purposes it is useful to be able to analyze all of the lending by what I call "lending families," that is, all lenders who are part of the same corporate entity. This simply cannot be done with current HMDA data. The "parent" fields in HMDA Transmittal Sheet data are seldom helpful, because not all lenders are required to identify a parent, and those who are do not have to list their "top level" parent. As a result, many relationships among HMDA reporters are not revealed. In my own work, I draw on a variety of sources to place lenders into lending families, but this is a time-consuming process, draws on knowledge of the industry that many users of HMDA data do not have, and results in a list that I am sure contains errors. With the "top parent" field added to HMDA TS data, users of HMDA data would easily be able to identify all members of each lending family.

- To the extent that the revised Reg C establishes reporting requirements (or exemptions) for lenders based on loan/application volume and/or on asset size, these reporting thresholds should be applied to the entire lending family rather than to individual lenders. If the lending family as a whole meets the threshold, then every individual lender with at least one application/loan should be required to submit HMDA LAR data.
- The FFIEC now prepares "Disclosure Reports" for each HMDA reporter (nationwide, for each MSA or MD where it has a branch/office, and for all other areas combined). In addition, the FFIEC should prepare Disclosure Reports for each lending family as a whole, each linked to a readily available list of all individual lenders included in the lending family.
- While the TS data (currently released in September) would, if this suggestion is adopted, enable HMDA users to identify all lenders affiliated with any lender of interest, additional steps will be needed to make this information available to those making earlier requests for HMDA data, directly to individual lenders. Reg. C should be revised to require lenders to provide, upon request, data from all lenders within its lending family.
- In recent years, Robert Avery of the Fed's staff has produced a "HMDA Lender File" that includes, among much other data, information on lenders and their parents. I have found this file somewhat helpful, but in its current form, this file falls short of providing a simple, accessible, accurate listing of lending family members: it is not widely known among HMDA users; it is too complex (the file for 2008 HMDA reporters has 23 columns many with cryptic names); and it contains numerous inaccuracies.

2. Report on reverse mortgages

It has been widely recognized that the volume of reverse mortgages is growing rapidly and that these loans are potentially subject to great abuse, particularly given the vulnerability of many senior citizens. Compelling accounts of the emerging problem have been provided by sources as diverse as former Comptroller of the Currency John Dugan and the National Consumer Law Center. Currently, there is only very limited data about the nature of reverse mortgage loans, about what lenders provide them, and about the borrowers who receive them.

Thus, it is important that lenders be required to include reverse mortgages in their HMDA data. The goal of identifying reverse mortgages could be accomplished by simply adding a new code to the "purpose" field. However, the nature and mechanics of reverse mortgages raise interesting issues of how best to specify the reporting requirements for these loans. I address some aspects of this matter in my written comments, and will be pleased to discuss the matter during the Q&A period.

- In the "loan type" field, two new codes could be added: one for HECM loans (Home Equity Conversion Mortgages, backed by HUD), and one for all other reverse mortgages. (This would create some redundancy, with RMs also identified in the "purpose" field, but each field will add useful information.)
- To enable lenders to complete the "rate spread" field, the FFIEC would have to provide a table of average APRs on prime reverse mortgage loans, analogous to the "Average Prime Offer Rates" tables that it now provides.
- Some fields, perhaps including the current "income" field, as well as the DFA-mandated fields for credit score and for identifying loans with other than fully amortizing terms, should have specified entries of "NA," given the nature of reverse mortgage lending.
- For the "loan amount" field, the issue is complicated by the fact that reverse mortgage borrowers can receive a fixed amount at the time of origination, a regular monthly amount, a line of credit to be drawn upon at any time, or any combination of these. The same issues for "loan amount" arise for home-equity loans and home-equity lines of credit. I will discuss these issues later in these comments.

3. Mandate the use of a universal loan identifier

The DFA suggests reporting a universal loan identifier for each loan, "as the Bureau may determine to be appropriate." I strongly urge the Board to require the collection of this very important piece of data. Widespread use of a unique identifier for each loan would greatly facilitate the ability of researchers and others to link a variety of (existing and future) data sets in ways that could dramatically increase our understanding of many aspects of mortgage lending.

With such an identifier, the information contained in HMDA LAR data could potentially be linked to, among others: databases including data from TILA, RESPA, and HUD-1 disclosure forms (or their successors); databases on loan performance, delinquency, and foreclosure, including that mandated by the DFA; databases on loan modifications; databases maintained by Registries of Deeds in counties across the country; databases maintained by Fannie, Freddie and their successors; and loan-level data that securitizers provide to their investors and regulators.

This identifier could also be used in an additional field in the HMDA LAR to link the loan being reported on to other loans being made either at the same time (e.g., when a first mortgage and a piggy-back mortgage are originated simultaneously) or made earlier (e.g., the loan or loans being refinanced by a refinance loan, or the primary mortgage that is being supplemented by a HELOC, or the preexisting HELOC that was drawn upon during the current year).

- In the absence of such a loan identifier, researchers at the Center for Responsible Lending spent considerable ingenuity, money, and effort to match records from HMDA data and from a proprietary database. The powerful and interesting results of this research – which showed that African-American and Latino borrowers were more likely to receive higher-rate subprime home loans than white borrowers, even when controlling for legitimate risk factors - indicate the potential benefits from making it relatively easy for researchers to link databases.
- The unique loan identifier could enable what Susan Wachter, in her oral statement at the Fed's Atlanta hearing, characterized as "a cradle to grave loan tracking system linking individual loans and their performance to their originators."
- Although such a loan identifier should be incorporated into as many relevant databases as possible, for use by regulatory agencies and qualified researchers, for privacy reasons it may be appropriate to exclude the loan identifier from the publicly available portions of some databases.

4. **Include data on the debt-to-income ratio**

The debt-to-income ratio is the only one of the central variables used in mortgage loan underwriting that is neither currently collected nor mandated by the DFA. Its inclusion is needed to enable a more powerful initial assessment, on the basis of HMDA data alone, of whether observed racial/ethnic (or other) disparities in loan denials or originations are likely to reflect, at least in part, the presence of illegal discrimination. The debt-to-income ratio is also highly relevant to an assessment of the sustainability/affordability of the mortgage loans that are made.

Figuring out how best to provide DTI information raises many issues and deserves careful consideration. I suggest simply adding three fields for monthly debt service payments: (1) the maximum possible monthly payment during the life of the loan, as disclosed to the borrower pursuant to the interim rule released by the Fed on August 16; (2) the maximum possible monthly payment, if any, on other dwelling-secured debt, either pre-existing or being considered concurrently; and (3) the monthly payment on all other existing consumer debt. The HMDA LAR already includes borrower income.

- Each of these three measures is potentially useful, depending on the question being investigated. Lenders have all three and reporting all three would not be substantially more burdensome than reporting just one.
- Reporting the dollar amounts would be simpler for lenders, and easier for regulators to monitor during compliance exams than reporting of ratios. Users of HMDA data could easily calculate the ratios of interest. Alternatively, of course, the FFIEC could compute the ratios and include them in the HMDA LAR data made available to the public.
- I encourage the Board to use this opportunity to introduce a more accurate term for what is now commonly referred to (even in my preceding comments) as the "debt-to-income ratio." The fact that debt itself does not enter into the ratio is bound to be a barrier to understanding of this concept to those who are newcomers to the world of mortgage finance. Ever as simple a revision as "debt service to income" would be a substantial improvement.

II. HMDA Coverage: Lenders and Loans

1. The value of broad coverage.

While many users of HMDA data are interested in lending by one or more individual lenders, HMDA also has great value as the best publicly accessible source of information on overall mortgage lending. In revising Regulation C, I urge the Board to keep in mind the great value of broad coverage of the mortgage market. In most cases, lender claims of the burdens imposed by HMDA reporting should be greeted with great skepticism, and in all cases the compliance costs for lenders should be considered in light of the great public benefit of having as complete information as possible about overall lending both nationwide and for smaller geographical areas. Particularly in rural areas and small towns, the lending by small lenders is likely to comprise a substantial portion of total lending.

Currently, lender exemptions (as outlined in the flow charts on pages 3-4 of *A Guide to HMDA Reporting: Getting It Right!*) are quite limited. Thus, the published estimate of Fed researchers that "lenders currently covered by the law account for approximately 80% of all home lending nationwide" seems to me implausibly low. My guess is that the incompleteness in HMDA's coverage of the total mortgage lending market results substantially more from the exemption of certain categories of loans from mandatory reporting (e.g., some home improvement loans, home equity loans, and home equity lines of credit) than from the exemption of certain lenders. In any case, I urge the Board, as part of its review of HMDA data, to prepare and make available a detailed estimate of the completeness of current HMDA coverage of the universe of home mortgage lending, by major categories of lenders and loans.

2. Coverage of lenders

As noted above, I would urge that any amounts of loans, applications, and/or assets that are established as thresholds in determining an institution's exemption from HMDA reporting should be applied to entire lending families rather than to individual lenders.

It is not obvious to me why not-for-profit non-depository lenders should be exempt from HMDA reporting, as they now are. Their inclusion, as long as they are not exempt from reporting on the same criteria that are applied to other non-depository lenders, would improve the coverage of HMDA data.

Furthermore, it is not obvious to me why – other than on the basis of precedent – HMDA data should be focused on metropolitan areas, at the expense of rural areas. The three major objectives of HMDA – helping determine the extent to which housing finance needs are being met, helping to guide public and private investment, and indicating possible violations of fair lending laws – seem to me as relevant in rural areas as in urban ones.

3. Coverage of loans

I suggest that loans/applications be reported in HMDA LARs if and only if they are secured by a home as collateral. Currently, some loans not secured by a home are reported (e.g., some home improvement loans) while other loans secured by a home are not required to be reported (e.g., reverse mortgages and home equity loans). Loans used for housing purposes, but not secured by a home, would not be reported under this proposal. Whether or not a loan is used (or is intended to be used) for a housing related purpose is a much more flexible and subjective issue than the objective question of whether or not a loan results a home being subject to a legally recorded lien.

III. HMDA Data Fields

Please note that some of the preceding comments above are also concerned with the use of current or new data fields.

1. Privacy issues

There are legitimate concerns that some of new data reporting mandated by the DFA could threaten the privacy rights of borrowers/applicants by allowing users of HMDA data to obtain potentially sensitive information about individual persons or transactions. In reviewing these issues, however, the Board should recognize that such concerns are most persuasive when advanced by genuine privacy or consumer advocates rather than by lenders whose primary interest in this area is in shielding their own behavior from public scrutiny.

In cases where the Board determines that public release of certain detailed information would violate legitimate privacy concerns, it should still require the reporting of this information. In these cases, the publicly available HMDA LARs could report the variable in question in terms of broad categories or bands rather than in terms of an exact number (e.g., age between 65 & 75 rather than age 67), but the full dataset, as collected, would be available to regulators and qualified researchers under properly controlled arrangements. In some cases, as is done now with dates of application and action, particularly sensitive fields might be omitted altogether from the publicly available HMDA LARs, but this step should be taken only as a last resort.

2. New or modified data fields

- Consolidated loan-to-value ratio. The DFA mandates reporting the value of the property; together with the currently reported loan value, HMDA data users will be able to calculate a loan-to-value ratio. What is really needed, however, is a *consolidated* loan-to-value ratio that takes into account the amount of all loans secured by the same property, whether these loans were made previously to or concurrently with the loan being reported. There are alternative ways to get at this information, but the simplest might be to have the lender report the consolidated loan-to-value ratio.
- Unique identifiers for individual loan originators and, where applicable, the third-party companies that employ them. HMDA should take advantage of the national mortgage licensing system pioneered by the states and adopted in the SAFE Mortgage Licensing Act of 2008 to identify the individual loan originator who worked directly with the borrower. An additional field should be used to identify the brokerage company or correspondent lender, if any, that this individual worked for. Such entities play an extremely important role in many loan originations and their participation should be reported. In my state, Massachusetts, the lists of the largest lenders compiled by Warren Information Services contain the names of many companies who are not HMDA reporters, but that obviously play a very important part in the state's mortgage lending industry.
- Unique property identifier or parcel number. This would help greatly, over time, in being able track the history of lending on individual homes, shedding light on many interesting and important questions. This would also aid in identifying two or more loans on the same property made at the same time. This information is generally available publicly in Registries of Deeds, but is not easily accessible. Recent research done at the Federal Reserve Bank of Boston which traced the history of lending and foreclosure actions on all Massachusetts properties shows the potential power of research based on this information.
- CRA assessment area. In a new field, lenders could report if the property was located within the lender's CRA assessment area, within an affiliated lender's assessment area, outside of the assessment area(s) of the lender and any affiliate, or if the lender and all affiliates are not subject to CRA. Much previous research, including my own, has indicated that this variable is highly correlated with lender performance. HMDA data currently provides information on whether or

not a lender has a branch office in an MSA/MD, but this information is insufficient to accurately determine what census tracts are included in a lender's CRA assessment area.

- <u>Loan or line</u>. If HMDA data coverage is expanded to include reverse mortgages and/or mandatory reporting of home equity loans (HELs) and home equity lines of credit (HELOCs), it will be important to add a field that would allow lines to be distinguished from loans. If an application results in both an immediate loan and an additional line of credit to be accessed in the future, this fact could be indicated by a code (e.g., 1 = loan, 2 = line, 3 = both, 4 = NA); the code 2 would be used only for lines of credit for which no actual loan was advanced during the reporting period.
- <u>Loan amount</u>. In the case of a regular loan, this field would be as currently used. In the case of a line of credit for which the loan amount outstanding at the end of the period was greater than the loan amount at the beginning of the period, the increase during the period would be reported. (Net loan repayments would not be reported, just as repayments of other loans are not reported; the minimum amount reported in this field would be zero.) Note that the same loan (or line), with the same universal loan identifier, could appear in HMDA LAR data for more than one year; this is appropriate if additional funds are advanced during the year.
- <u>Line of credit amount</u>. This field would be used to indicate any increase in the available, unused portion of a line of credit outstanding during the reporting period. Again, only increases would be reported; the minimum amount reported in this field would also be zero. Note that the same line of credit could appear in HMDA LAR data for more than one year; this is appropriate if the line of credit is increased during the year.
- <u>Purchaser</u>. This field is currently limited because the purchaser is only reported for loans sold by the originator during the same calendar year that they are reported in the HMDA LAR as originated. The use of a universal loan identifier, as suggested above, would make it possible to identify the purchaser of loans originated during the previous year. The same loan would show up in both years, perhaps flagged in the second year by a code of in the "Action Taken" field. This would provide a more complete picture of this dimension of mortgage markets (albeit with a one-year lag).

3. Data fields that might be eliminated

The Board has asked for comments on whether any existing data elements should be eliminated. The data that I have not found useful in my own work include: data in the "Preapproval" field and the third through fifth fields for race for both applicant and co-applicant (I sometimes make use of the data in the second field for race).

IV. Other Comments

1. Compliance costs

Many lender representatives have alleged that expanded data collection under HMDA would impose heavy compliance costs. I urge the Board to evaluate all such claims with deep skepticism. Data processing costs have steadily declined for decades and can be expected to continue to do so. With rare possible exceptions, all of the additional data fields and information proposed would ask for data that lenders already have, or should have, in their internal information systems. And, as Faith Anderson of American Airlines Federal Credit Union said at the Fed's public hearing in Atlanta, "Generally, if [a] mortgage or consumer lending system captures data, it is not difficult to transfer this information to the Loan Application Register."

Nevertheless, compliance with HMDA reporting requirements is not costless, and the Fed should do what it can to eliminate excess compliance costs by providing instructions and guidance that is clear and unambiguous, by requesting data that is consistent with that required by other federal regulations wherever possible, and by eliminating requests for data that is of limited value such as that related to preapproval programs and home-improvement loans not secured by a lien on the home.

I recently came across a striking example of how the resources that the Fed provides to lenders can be far from user-friendly. The HMDA portion of the FFIEC website provides a page with "rate spread calculator" (www.ffiec.gov/ratespread/newcalc.aspx). While the actual calculator at the bottom of this page is clear and helpful, the page also has a link to an Excel table of "Average Prime Offer Rates – Fixed," and this table is not so helpful. Although this table is only relevant for loans with application dates after October 1, 2009, a lender wanting to finding the average prime offer rate for 30-year fixed rate mortgage for the first week of that month would have to go to the 507th row and 31st column of that table to find the answer.

2. Uniform treatment of all HMDA reporters

In response to potential compliance costs for smaller lenders, the Massachusetts Banking Commissioner, Steven Antonakes, suggested at the Fed's public hearing in Atlanta that certain new data requirements be applied first only on the nation's largest lenders, and then be evaluated before applying them to other lenders (many of whom would still be major lenders). Although I am a great admirer of Commissioner Antonakes, I strongly believe that this suggestion would be bad public policy. From the viewpoint of the smaller lenders, the result of the proposal would only be a delay in responding to the new requirements rather than a permanent exemption (assuming that the new requirements are carefully and thoughtfully adopted and so would not be abandoned after the trial period). But from the viewpoint of the users of HMDA data, analysis and interpretation would be significantly compromised and complicated, if certain data elements were available for only a subset of lenders. This would mean not only that mortgage-market-wide findings, on these dimensions, would be impossible, but also that comparing the performance of the biggest lenders with other lenders could not be done. Furthermore, it seems that this suggestion may be inconsistent with the data reporting mandates included in the DFA. Whatever revisions to HMDA data are finally adopted by the Board should be implemented across the board on the same timetable for all HMDA reporters.

3. Use Metropolitan Statistical Areas (MSAs) rather than Metropolitan Divisions (MDs)

Currently, for the eleven MSAs that are divided into MDs, HMDA LAR data reports the MD in the field identifying the metropolitan area within which the property is located, and the HMDA LAR data as released by the FFIEC contains a field that reports the Median Family Income (MFI) of the census tract as a percentage of the MFI in that MD, rather than as a percentage of the MFI of the MSA of which the MD is a part. In the Boston area, at least, the use of MDs rather than MSA makes no sense. Although the economies of Cambridge and Boston (two cities in the heart of the metropolitan area, separated only by the Charles River) are completely interwoven, they are regarded in HMDA data as being in different metropolitan areas. To define subordinate metropolitan areas by drawing a line through the heart of a large metropolitan area produces areas that lack economic or social meaning. The FFIEC should abandon the use of MDs.

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The Board is to be highly commended for initiating this process of seeking public comments on possible revisions of HMDA data, and for soliciting input from a wide range of perspectives.

I thank you again for this opportunity to offer my comments on potential revisions to HMDA regulations.

Sincerely,

Jim Campen