



August 20, 2010

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

**Re: *Home Mortgage Disclosure Act Request for Comment (Docket No. OP-1388,  
RIN Number 7100-AD51)***

Dear Ms. Johnson:

This comment letter is submitted by the American Financial Services Association (“AFSA”) in response to the request for comment on the Home Mortgage Disclosure Act (“HMDA”) published on June 21, 2010, by the Board of Governors of the Federal Reserve System (“Board”) in the Federal Register. AFSA appreciates the opportunity to provide its comments.

AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its 350 members include consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, mortgage servicers, credit card issuers, industrial banks and industry suppliers.

HMDA, enacted in 1975 and made permanent in 1988, sought to determine if potentially discriminatory practices in the area of mortgage lending were occurring. Under the law, the data reported is intended to provide information to address fair-lending concerns about loan pricing and to gain a better understanding of the mortgage market. To the extent that HMDA data is being collected to verify that mortgage lending decisions are being made on the basis of objective, risk-based credit criteria, AFSA members have no objection to providing such data. Although some additional data collection and related technology issues can be overcome, AFSA believes that requiring substantial additional data to be collected will not only prevent these goals to be met, but on the contrary, will harm consumers.

AFSA recognizes the importance of ensuring that all people have equal access to credit. We note that the price of a mortgage is based on the economic risk involved in making the loan and competition between lenders, not on racial or ethnic considerations. We believe that the Equal Credit Opportunity Act (“ECOA”) and Regulation B contain the necessary restrictions and enforcement tools to end discrimination, and we do not believe that access to affordable credit will be enhanced by requiring additional HMDA data. To the contrary, increasing HMDA data collection obligations may decrease the credit options available and increase the cost of credit for

consumers. Additionally, making this amount of personal data public raises significant privacy concerns.

Section 1094 of The Dodd-Frank Wall Street Reform and Consumer Protection Act already will require new data to be collected, so AFSA does not believe that any additional HMDA data should be collected. There will be little benefit, significant cost, and serious privacy issues associated with requiring lenders to report the borrower's credit score, loan-to-value ratio, parcel number of the property to be pledged, debt-to-income ratio, or age.

Increasing data collection under HMDA would provide little benefit because there is scant statistical evidence to demonstrate that race or gender plays a role in access to or the cost of credit. Rather, studies suggest credit scores and related risk factors determine access to and the cost of credit. As you know, the Board conducted a study to determine the relationship between credit scores and actual credit losses and how these relationships vary for groups protected under ECOA.<sup>1</sup> The Board concluded that credit scores accurately predict credit risk for the population as a whole and for all major demographic groups.

Imposing a mandatory data collection requirement should be driven by evidence that there is a lack of access to credit or fairness in pricing based upon discriminatory factors. In the more than 30 years since the enactment of ECOA, creditors' systems for underwriting and pricing non-mortgage credit have undergone tremendous changes. Today, most credit is underwritten and priced by creditors using objective, risk-based credit criteria, without face-to-face interaction or any information regarding the applicant's race or other prohibited characteristics. These risk-based decisioning systems provide the very best assurance that consumers receive credit based on objective, nondiscriminatory criteria. It is hard to imagine that mandatory collection of racial information will improve this system.

Significant costs are associated with additional mandated data collection and reporting requirements. Collection and reporting require tremendous time and resources. Lenders must collect, compile, organize and clean the data. They must then analyze the data to explain how any perceived discriminatory result relates to creditworthiness factors. These costs will inevitably be passed along, at least in part, to consumers at a time when consumers and creditors alike cannot afford increases in credit costs. Based on the 2007 credit score study, we would expect the data to reveal that consumers in some protected categories may, on average, pay more for credit, but the reasons for this will not be based on anything other than the risk-based decisioning systems. Thus, there may be little additional information gained.

Collecting and reporting consumers' personal information also raises serious privacy concerns. Both consumers and their creditors have a vital interest in protecting the privacy of consumers' personal information, and AFSA is concerned about the improper use of this personal information by some groups to unscrupulously market to or identify those consumers for improper purposes. Our experience with HMDA reporting has shown that it is already sometimes possible, with the addition of other public data, to identify consumers in HMDA loan registers. The collection and reporting of additional data for mortgage transactions significantly increases

---

<sup>1</sup> Report to Congress on Credit Scoring and Its Effects on the Availability and Affordability of Credit, August 2007, p. S-1.

the risk that a consumer's sensitive personal information will enter the public domain. Also, it may be that consumers will object to detailed personal information being made public, even with controls in place, and see this as a violation of their privacy. As responsible mortgage lenders, AFSA members insist on protecting the rights of their customers, who trust them to respect their financial privacy.

The risks associated with mandating additional HMDA data are great. The misuse of the data could unfairly characterize the process of mortgage lending and lead some to assert that certain companies make decisions based on a consumer being in a protected category. Such a conclusion is impossible to draw, even with the use of more information. Even worse, some could misinterpret the information to believe that race correlates to cost, which it does not.

We thank the Board for the opportunity to comment. Please feel free to contact me with any questions at 202-296-5544, ext. 616 or [bhimpler@afsamail.org](mailto:bhimpler@afsamail.org).

Respectfully submitted,

Bill Himpler  
Executive Vice President  
American Financial Services Association