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MASSACHUSETTS COMMUNITY & BANKING COUNCIL

TO: Board of Governors of the Federal Reserve System
Federal Reserve Board Consumer Advisory Council

FROM: Massachusetts Community & Banking Council

DATE: September 22, 2010

RE: Comments on Potential Revisions to Regulation C

The Massachusetts Community & Banking Council is pleased to submit the following comments on potential revisions to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA).

Massachusetts Community & Banking Council

The Massachusetts Community & Banking Council (MCBC) was established in 1990 to bring together community organizations and financial institutions to promote positive change in the availability of credit and financial services across Massachusetts. MCBC seeks to achieve this goal by encouraging community investment in low- and moderate-income and minority neighborhoods, promoting fair and equitable access to financial products and services and providing research, assistance and direction in understanding and addressing the credit and financial needs of low- and moderate-income individuals and neighborhoods.

MCBC operates through three committees – Banking Services, Economic Development and Mortgage Lending – each co-chaired by representatives of a financial institution and a community organization. Committee meetings are open to all those who wish to attend. The meetings offer an opportunity for sharing information on new initiatives, emerging issues and investment opportunities, and for networking and developing relationships. Today, nearly 200 representatives of financial institutions, community organizations, public agencies and others from cities and towns in the Boston metropolitan area participate in and/or receive regular information on MCBC committee activities. More detailed information on MCBC and its committees is available on MCBC's website at www.mcbc.info.

Changing Patterns

Since 1995, MCBC and its Mortgage Lending Committee have sponsored the development of annual reports on mortgage lending patterns in Boston, Greater Boston and Massachusetts,

including data on lending by race and income and the comparative performance of major types of lenders. These reports, entitled *Changing Patterns*, have all been prepared for MCBC by Jim Campen, professor emeritus of economics and senior research associate to the Gaston Institute at UMass Boston utilizing federal HMDA data, supplemented by data on populations and income from the U.S. Census Bureau and annual data on metropolitan area income levels from the Department of Housing and Urban Development. This year, over 350 copies of *Changing Patterns XVI* were distributed to financial institutions, community organizations housing advocates and public officials across the state. In addition to the data in the report, MCBC also provided data on all Massachusetts cities and towns in a set of on-line tables. Copies of all of the *Changing Patterns* reports are available on MCBC's website at www.mcbc.info/reports/mortgage.

2010 CRA Roundtable Discussions

This year, in commemoration of its 20th anniversary, each of MCBC's committees hosted a roundtable discussion on CRA to provide representatives of financial institutions, community organizations, public agencies and others an opportunity to share their views on how CRA is working and whether and to what extent proposed regulatory and legislative changes to CRA can help to encourage more responsible lending in low- and moderate-income communities. MCBC's Mortgage Lending Committee discussion, attended by over 50 representatives of banks, public agencies, regulatory agencies, trade associations and community development, advocacy and housing organizations, included significant discussion about current HMDA reporting requirements. The comments offered below also reflect the input and areas of consensus from those participants.

Comments

MCBC commends the Federal Reserve Board for this timely review of Regulation C. The mortgage market has changed dramatically in recent years, as has the focus of public and regulatory oversight. MCBC's most recent report on mortgage lending patterns noted that, in recent years, the focus of the reports have "shifted from concern for *fair access to credit* for traditionally underserved borrowers and neighborhoods to concern for *access to fair credit* for these same borrowers and neighborhoods." Prior amendments to Regulation C, which included the addition of pricing information for certain higher cost loans and mandated reporting for certain non-depository mortgage lenders, has helped federal and state regulators and organizations like MCBC to document increases in higher-cost loans and the performance of various types of mortgage lenders.

The recent foreclosure crisis has made clear the importance of HMDA data in providing regulatory agencies and the public with information on mortgage lending performance. It has also pointed out the limitations of the current data in evaluating lender performance and in

identifying disparate lending patterns. Many of the recommendations below seek to address these limitations.

Data Elements

MCBC strongly recommends expanding HMDA data elements to include additional information about:

- The *borrower* (e.g. creditworthiness, such as credit score)
- The *lender* (e.g. the top-level corporate parent to facilitate identifying affiliated lenders)
- The *lending channel* (e.g. broker, originating loan officer, correspondent lender, or retail) to facilitate identification of not just individual brokers and lenders but also any institution, including correspondent lenders, involved in the transaction
- The *type of loan* (e.g. fixed-rate or variable-rate)
- Expanding the *loan purpose* field to identify reverse mortgages
- *Loan ratios* (e.g. loan-to-value ratio, cumulative loan-to-value ratio and the debt-to-income ratio)
- *Loan features* (e.g. prepayment penalty, balloon payment, single-payment credit insurance, low- or no-doc, stated income, interest-only, payment-option) and loan pricing (e.g. separate information on interest rate and fees).

MCBC believes that the mandated elements included in the Dodd-Frank Wall Street Reform and Consumer Protection Act represents a good baseline for this information. In addition, MCBC encourages:

- The addition of debt-to-income (DTI) ratios. We recognize that there may be differences in the income used by various lenders to determine qualification. For reporting purposes, the use of “qualifying income” may, therefore, be more accurate and informative (than just income) in describing a borrower’s financial position.
- The addition of cumulative loan-to-value (CLTV) data. The CLTV data is critical in differentiating between first and second loans. For both DTI and CLTV, further clarification should be provided to ensure consistency and comparability for reported data.
- Expanding the loan purpose field to specifically identify reverse mortgages.
- The use of loan identifier numbers to provide a means of tracking lender, broker and correspondent lender activity, as well as the loans, on individual properties.

MCBC recognizes the concerns that have been raised about the increase in reporters’ compliance burden and costs that such additional information would require. However, we believe that the public benefit of providing the necessary information to identify possible discriminatory lending patterns and enforcing antidiscrimination statutes outweighs any individual burden. Ample time for implementation (up to one year), along with regulatory support and training, should be provided.

MCBC also notes the comments of the Massachusetts Commissioner of Banks, Steven Antonakes, at the Federal Reserve Board public hearing on July 15, 2010 regarding the Division of Banks' recent experience with high error rates by HMDA filers. MCBC agrees that the usefulness of HMDA data, whether by regulatory agencies or by the public, is dependent on the submission of accurate data. We applaud the Commissioner's aggressive actions to enforce the submission of corrected HMDA data and to require the establishment, implementation and maintenance of operating policies and training procedures to ensure on-going corporate compliance. MCBC strongly encourages the Federal Reserve Board to anticipate and similarly enforce submission of any required data to ensure fair, consistent and thorough treatment of all lenders.

Coverage and Scope

In his July 15th testimony, Commissioner Antonakes supported the proposal in the Dodd-Frank Act to require all mortgage lenders to include the Nationwide Mortgage Licensing System (NMLS) assigned unique identifier of any mortgage broker, licensed non-bank loan originator, or registered loan originator associated with all HMDA reportable loans rather than requiring HMDA submissions from mortgage brokers. MCBC concurs with the Commissioner's recommendation and agrees that this approach "reinforces the core principle that any mortgage lender remains ultimately responsible for the action of the third parties they do business with."

We further recommend that HMDA reporting be universally required as much as possible. Currently, for example, non-profit lenders are exempt from reporting regardless of the affiliation of the non-profit. Universal reporting would provide information on any potential abuse and broader coverage of the mortgage market.

Compliance and Technical Issues

MCBC recommends that further clarification be provided on the reporting of temporary financing as it applies to multifamily housing.

Conclusion

MCBC appreciates the opportunity to offer comments on potential revisions to Regulation C, which implements HMDA. HMDA data has been critical to our own on-going effort to document and better understand local mortgage lending patterns, to identify racial and ethnic disparities and to assess the performance of major types of lenders in meeting the needs of low- and moderate-income homebuyers and neighborhoods. The expansion of HMDA data along the lines we have suggested will certainly enhance our ability to provide a clearer picture of mortgage lending patterns to both our bank members and our community partners. We applaud the Board's effort to consider these proposed revisions. Please direct any questions regarding

MCBC's comments to MCBC's Manager, Kathy Tullberg, at 857 350-4916 or via e-mail at ktullberg@mcbc.info.