Testimony Of

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On

Regulation C

Implementing the Home Mortgage Disclosure Act of 1975

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Good morning, my name is Preston DuFauchard and I am the Commissioner for the California Department of Corporations. The Department of Corporations is responsible for the regulation and enforcement of the California Securities Laws, and also California's lending laws for non-depository institutions. In this latter area, we are charged with regulating everything from large commercial lending, to mortgage lending, and payday lending. When I took office, the Department's largest mortgage lending licensees included companies like New Century Financial, American Home Lenders, Ameriquest, and Countrywide Financial Corporation.

Much has changed. And with that change has come a new perspective. So, I appreciate the invitation to be on this panel at this point in time to share some of my perspective on whether and how some changes to HMDA can and should occur. Specifically, I will address the need for one additional data element and one change in coverage and scope of HMDA reporting.

DATA ELEMENTS:

Any additional data elements that must be captured by HMDA reporters will increase the regulatory burdens and costs of compliance. Having been in the private sector, I remain sensitive to the costs of regulation, and always measure the costs versus the intended benefits. The Dodd-Frank bill, recently passed by Congress and signed into law, creates additional data points that need to be collected by HMDA reporters. I agree with the new elements to be reported especially the presence of a negative amortization feature in the loan, and credit scores – although the credit scoring issue may be somewhat in flux as companies try to develop new and alternative models for credit scoring.

Yet I support adding one additional data element not already included in HMDA by Dodd-Frank. That element is the loan-to-value (LTV) ratio. I suggest this for two reasons.

First, there are various ways HMDA data are used to study whether minority communities pay a higher cost for mortgages than others. Interest rate spreads and yield spread premiums are two such measures. As the frequency and use of these costs recede, either as a result of legislative restrictions or market constraints, LTV ratios may present another metric to study whether up-front costs are higher among certain communities than others. In a more normalized housing market, for example, it will be interesting to see whether minority communities carry lower LTV loans at origination, which may translate into a more restrictive credit market for similarly situated consumer groups.

The second reason for including this data element in HMDA reports has to do with monitoring asset values, like the housing bubble we experienced in the beginning of this century. California has a structural deficit of housing. That is there is always more household formation in the state than there is available housing stock. For that reason, there is a premium for home prices in the state. But using LTV can provide a good barometer of whether a bubble in home prices exists on an MSA level and statewide level. In other words, if lenders are originating relatively high LTV loans amid an increased rate of home price appreciation, this would be an indication of artificial asset appreciation. And at that time, regulators would likely see the need to react, that is assuming the data gets reported in a timely fashion.

COVERAGE AND SCOPE:

In addition to LTV, I believe the scope of information reported by HMDA reporters should be broadened to include reverse mortgages. In California, we have enacted substantial consumer protection laws pertaining to the origination of reverse mortgages. But we have no way of capturing how many such mortgages are originated. Given the aging population, and the recent increases in consumer debt, it is important for us all to be aware of how many reverse mortgage transactions take place.

This information has policy implications as well. One premise of the societal value homeownership brings concerns wealth generation. Homeownership has been viewed as a way to consolidate wealth and pass it on the next generation. Reverse mortgages have the tendency to liquefy any wealth created by homeownership. To the extent such mortgages become popular among baby boomers, homeownership may be viewed as a way to supplement social security.

CONCLUSION

Finally, I would like to add that we have implemented the SAFE Act, as are other states, in order to maintain better information about the individuals who originate mortgages. We are just beginning to implement the law, and unfortunately it is too early to tell whether there may be other data elements or scope of coverage issues that can easily migrate from the database for mortgage loan originators, NMLS, to HMDA reports. As we continue with that system, however, we may determine there are additional data that make sense to be included in HMDA reporting. So perhaps there will be more to come on that issue.

Again I want to thank the Federal Reserve for inviting me to talk and to share my perspective with you today.