



*Docket No. OP-1388
August 5, 2010
Federal Reserve Bank of San Francisco*

**Remarks of Keith Ernst at
Federal Reserve Board Hearing on Potential Revisions to Regulation C**

The Center for Responsible Lending thanks the Federal Reserve for this timely review of Regulation C and for the invitation to appear today. While reviews of HMDA are always prudent, the financial crisis has heightened appreciation for HMDA's fundamental purposes and the need for better home lending data.

As a baseline, I note that CRL wholly supports the recent statutory amendments to HMDA. Those advances are substantial and will require thoughtful implementation. Setting that technical conversation aside for the time being, CRL suggests that HMDA should be further strengthened by revisions to required fields, reportable transactions, and covered reporters.

First, to better assess the fairness of any given loan, regulators and others need information beyond the fields explicitly mandated by Congress. We strongly support adding basic underwriting information such as debt-to-income ratios, combined loan-to-value ratios, and reporting on escrow status.

Second, we believe loan coverage should be expanded to include virtually all types of home-secured lending. One lesson from the subprime crisis was that unscrupulous lenders were heavily incented to encourage borrowers to extract home equity. Today, it is easy to imagine such a lender turning their sights to open-ended home equity loans, for example. In a revision that expanded the scope of reported loans, it may be advisable to preserve certain narrow exceptions and to add one for loans that create only a remote interest in a home through cross-default provisions.

In addition, the paucity of mortgage modification data has greatly complicated efforts to address the foreclosure crisis and particularly, in HMDA's terms, for policymakers to understand where additional public investments may be necessary. Consequently, we believe the Federal Reserve should require institutions to report data on mortgage modifications and related applications. Such reporting could include information that would allow the modification or application to be linked back to the original HMDA-reported loan, where possible.

Third, in terms of reporting institutions, we believe that HMDA's data collection should reflect the key role played by the secondary market. To this end, we support extending reporting to the full range of secondary market participants that purchase mortgages. Finally, we believe that HMDA reporting requirements for non-depository institutions should be updated. One challenge with current reporting requirements is that they potentially allow "low road" lenders to evade detection while nevertheless affecting many families. We believe a for-profit, non-depository lender should be required to

report HMDA data if it originates or purchases more than 25 mortgages during the course of a year.

Incorporating new information into HMDA will doubtless present many choices and challenges. We also want to take advantage of this opportunity to offer three principles as a guide for the revision process.

First, HMDA should remain an application- and loan-level database which is broadly available to the public. The present database structure and availability has enabled users with diverse perspectives to draw important lessons. While a “trusted researcher” model should be established to supplement the content of public releases of HMDA data where necessary, its existence should not serve as a rationale for constricting access to reported information.

Second, especially to assist in detecting potential discrimination, HMDA should include key variables that lenders generally use to underwrite and price loans. These variables could be constructed to ensure internal consistency within lenders and promote external consistency of measurements among lenders. When balancing the costs and benefits of adding variables, we believe it makes sense to distinguish ongoing marginal costs from implementation costs. In addition, while privacy protections are important, thoughtful procedures should eliminate the need to choose between protecting privacy and collecting important variables. Time prevents me from elaborating this point now, but I hope we will have some discussion of how multiple and layered measures can be used.

Third, regulators should seek opportunities to enhance HMDA's usefulness independent of specific reporting requirements. For example, we recommend exploring steps to release the data more quickly. This could be accomplished both by decreasing time from submission to release or by increasing the frequency of releases. However, increases in frequency should be evaluated carefully for potential privacy implications. In addition, staff should explore opportunities to enhance the data's usefulness by, for example, taking advantage of new fields to identify piggyback loans, prepare a fine-grained set of housing price indices, or even add information that would allow for the parsing of first-lien loan transitions within and between annual data sets.

Thank you again for the chance to comment. I look forward to our discussion.