

The Role of the Home Mortgage Disclosure Act in Maintaining Institutional Accountability and Transparency

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My name is Janis Bowdler. I am the Deputy Director of the Wealth-Building Policy Project at the National Council of La Raza (NCLR). NCLR is the largest national Hispanic civil rights and advocacy organization in the United States, dedicated to improving opportunities for Hispanic Americans. I oversee our research, policy analysis, and advocacy on issues critical to building financial security in Latino communities, such as homeownership, consumer credit, auto lending, and financial planning.

The Home Mortgage Disclosure Act (HMDA) was established in 1975 with three purposes: 1) shed light on whether lenders are meeting the housing needs of the community; 2) guide public investment; and 3) detect discriminatory practices. Since the Act's inception, data collection has been expanded to include additional fields, such as race, ethnicity, and loan price. The publicly available data set has been used by scholars, advocates, local governments, and lenders to highlight positive and negative lending activity. Lenders have come to boast about their high approval ratings and low rates of high-cost lending compared to their peers. Others have used HMDA data to show the disparate lending patterns based on gender or race and ethnicity. NCLR has used HMDA data to examine individual lenders' performance in various geographic areas. For example, prior to the Wachovia-SunTrust merger, NCLR reviewed Wachovia's lending to Latino borrowers in the southeastern United States where the Wachovia brand was the strongest. Our research revealed that compared to its peers, Wachovia had secured very few loans for Latinos. We included this information in our public comments on their merger in which we recommended that Wachovia develop a signature program to effectively reach and serve Hispanic clients. Without HMDA data, the public would have no sound means by which to hold lending institutions accountable for their performance and lending record.

Despite the solid foundation HMDA data has established, many lenders claim that the data are not sufficient to draw useful conclusions about disparate treatment based on gender, age, or race and ethnicity. Critics reason that HMDA does not include all of the variables necessary to model the complex equations lenders use to make mortgage credit decisions. Therefore, the argument goes, HMDA data alone cannot prove discrimination or disparate treatment. Interestingly, many of the same critics reject the idea of expanding HMDA for the burden it would create for covered institutions. However, HMDA must keep pace with a changing marketplace by expanding its data collection to include new key fields and institutions.

The mortgage market has changed dramatically since HMDA was passed into law. Lenders extend credit well beyond their branch locations using mortgage brokers and online portals. Underwriting procedures have become opaque and vary dramatically for loans secured privately

(i.e., those not secured by either Fannie Mae or Freddie Mac). The Federal Reserve must take care to maintain those elements of HMDA that have been the most successful while carefully expanding in a manner aligned with its original public purpose. NCLR offers three successful elements of HMDA that should not be altered, as well as recommendations for expansion and accommodations to improve public use.

Keeping what works

While considering how HMDA must be updated, it is prudent to start by reviewing elements of the Act's implementation that have made it successful and useful to date. As discussed above, publicly available HMDA data are relied upon by a diverse set of stakeholders and for a variety of purposes. The clear demand from the public for this data is indicative of the Act's value. NCLR points to three elements of execution that have made HMDA relevant and practical.

- **Standardized data collection.** While standardized data collection seems commonsense at this point, without HMDA it would be nearly impossible to compare lenders against their peers or across geographies. The uniform coding of data makes research, investigations, and comparisons possible. As the Federal Reserve considers changes, standardization must be upheld before altering requirements for various entity sizes.
- **Public accessibility.** The availability of data via Federal Financial Institutions Examination Council's (FFIEC) website or by mail via compact disc (CD) is critical for individual organizations ask their own research questions and analyze the data accordingly. Public outlets are also important to holding regulators accountable. It is not enough for certain data to only be released to federal agencies that may not share the experience or lens of the community. Various stakeholders must be able to examine the data as necessary.
- **Key data fields.** Driven by new research questions and calls for accountability and transparency, new fields have been added to HMDA over the course of its history. Most recently, changes were made to include ethnicity (Hispanic of any race or White non-Hispanic) and to include price information. The evolution of the data to reflect modern-day questions has been a fundamental part of the data applicability to the mortgage market.

Modernizing to meet a public purpose

Over the last decade, HMDA data have been used to show disparate lending between White borrowers and borrowers of color, as well as between men and women. However, regulators and mortgage lenders counter the findings by arguing that HMDA does not collect sufficient data to demonstrate the complete reason for denial or origination of a high-cost loan, including two variables in particular that are weighted heavily in mortgage applications: the borrower's credit score and the loan-to-value ratio. NCLR applauds Congress for mandating data collection on these two points and others in the recently passed Dodd-Frank Wall Street Reform and Consumer Protection Act. In addition to these updates, Dodd-Frank gives the Consumer Financial Protection Bureau the power to collect additional information as necessary. NCLR recommends four areas in which greater transparency would serve an important public purpose and align with the original congressional intent of the Act.

- **Collect loan performance and servicing records.** The bursting of the housing bubble and the subsequent rise in foreclosures have demonstrated that initial loan origination is only half of the story. Lenders were able to skirt regulations and disclosure requirements by adjusting the initial payment structure of a loan. Therefore the initial origination told us little about the potential success or failure of the loan, which is critical to determining whether a lender is meeting the community's mortgage needs or whether discrimination is occurring. Beyond the performance of a loan, the manner in which a loan servicer handles the mortgage can also determine success or failure.
- **Collect information on a wider array of loan types.** More information is needed on the extension of Home Equity Lines of Credit (HELOCs), second liens, and reverse mortgages. These types of loans receive less scrutiny since they are not traditional purchase or refinance products. However, in many cases, the size and terms of such products can have as much of an impact on a borrower's ability to maintain their home as a traditional primary home loan.
- **Collect a broader set of data fields.** In addition to the updates included in Dodd-Frank, other data fields would also be valuable, including total income, the originator's compensation, delivery channel (online, mortgage broker, retail), and who purchases the loan on the secondary market.
- **Expand data collection to other types of financial institutions.** All owners are required to have homeowners' insurance, yet a lack of competition and transparency in the sale of the product calls into question whether or not borrowers are being well-served. Moreover, paired testing has uncovered disparate treatment based on race and national origin.

Making data more user-friendly

In addition to the substantive changes described above, there are two changes that could make HMDA data easier for the public to access.

- **Maximize the quantity and efficiency of data available to the public.** Data takes as long as 18 months to become publicly available and not all data collected is public. For example, FFIEC has data available through 2008 on their site. Modern technology should make data aggregation and publication much easier and speed delivery to the public. Moreover, regulators should report their activities, such as discrimination investigations, on datasets that are not fully public.
- **Allow data to be downloaded in multiple formats.** FFIEC recently changed the format of data available online from "html" format to a Portable Document Format (PDF). Unfortunately this change makes it harder to download information directly from the web. While CDs are useful, it can also be difficult to extract certain data in a format that can be easily manipulated for more simple research questions. A better model is Census data, which can be downloaded in multiple formats directly from the Internet.

HMDA continues to play an important role in holding lending institutions and their regulators accountable. In fact, in the current environment of restricted credit, transparency is paramount. Thank you for including NCLR in this important and timely hearing. We are happy to answer any questions you may have.