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Regulation C: The Mortgage Disclosure Act (HMDA)
Public Hearing: August 5, 2010
San Francisco, California

Good Morning Director Braunstein, members of the Consumer Advisory Council, and staff. My name is David Moskowitz and I am Deputy General Counsel of Wells Fargo and Company.

Wells Fargo is a leading originator of residential mortgage loans and lines of credit and one of the nation's leading financial services companies. Wells Fargo is committed to mortgage lending that helps customers achieve financial success, to fair and responsible lending standards, and to offering its customers appropriate products at appropriate prices.

Wells Fargo commends the Federal Reserve Board for periodically reviewing Regulation C to ensure it continues to remain relevant given changes to the law and in the mortgage market.

Today, there are two major components to any discussion of HMDA and HMDA data. The first is how to improve the existing collection of information so that a more complete picture of mortgage lending can be created. Wells Fargo has a number of comments relating to the existing requirements of HMDA and the nature of the information that is currently collected.

The second, and far more important discussion, involves the new requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Wells Fargo believes that including appropriate "missing" risk factors in HMDA will help explain the nature of mortgage lending decisions and result in greater transparency, which will ultimately be to the benefit of both consumers and lenders.

As HMDA reporting is currently constructed, lenders are left to explain that the reasons for most lending decisions are imbedded in the missing risk factors, none of which are currently made public. In the case of Wells Fargo, for example, virtually all transaction terms and lending decisions can be explained by several established risk factors such as credit score, debt-to-income ratio, and loan-to-value ratio.

But without this risk information, external parties such as consumer groups, academics, and advocacy groups have either speculated on the missing risk factors or, worse, responded as if these risk factors were not relevant to lending decisions. We have also seen examples of studies that attempt to proxy risk factors, sometimes using information like presumed income to identify discriminatory patterns in lending.

Lenders and statisticians recognize that data such as income amount are not part of the transaction decision-making process and do not predict the risk performance of a loan. Lenders instead rely on established risk factors that have been determined to accurately predict the likelihood of default such as the ones I previously mentioned and items such as the existence of a prior bankruptcy or foreclosure, or previous mortgage late payments. The absence of these predictive risk factors from HMDA has not resulted in an enhanced level of public understanding of lending decisions.

Most of these risk factors cannot be proxied in an academic study and can only be properly evaluated through a review of loan-level predictive risk data or, to be comprehensive, a review of the "story" contained in every individual loan file.

Wells Fargo believes that the inclusion of appropriate risk factors in the HMDA data will help suppress some of the irresponsible and speculative assumptions that have impacted the discussion of HMDA data. Visibility into the true risk factors, and a recognition of some of the borrowing and spending patterns of American consumers, will lead to a more constructive understanding of responsible mortgage lending.

As we discuss and debate the nature of the new risk factors to be included in the "new" HMDA, the key will be to assure that reporting of any new information does not accidentally divulge to the public personal financial information of individual consumers. In addition, the new data fields must be precisely defined to avoid a scenario where different HMDA reporters are using different definitions, which will result in an inability to consistently compare data across HMDA reporters. And finally, the new fields must bear a meaningful relationship to lender decision-making. Other than as required by law and in furtherance of the goal of identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes, there is no point in including in HMDA data fields that are not actually used by lenders in making transaction decisions. Data that are not logically related to a lending decision do not serve to upgrade the nature of HMDA analysis or the related dialogue about fair lending.

Wells Fargo supports controlled transparency in mortgage lending and looks forward to active discussions with all parties regarding HMDA. Our goal is not to obscure the nature of lending decisions but instead to enlighten the public about those decisions. Enlightenment will be a substantial improvement over today's data-free and speculative conclusions about lending decisions.

Wells Fargo strongly urges the Board to consider first the additional data that will specifically be required as result of the new Consumer Protection Act and what additional data requirements are needed to provide transparency about the basis of lending decisions. Let's not just collect additional data because we can, rather let's identify the data that are needed to achieve the purpose of the Act and demonstrate that responsible lenders are achieving the goal of fair and responsible lending.