

Home Mortgage Disclosure Act Public Hearings, September 24, 2010
Panel Two: Patricia McCoy

PATRICIA McCOY:

We'll test it with me. My name is Patricia McCoy. I'm a law professor at the University of Connecticut. Thank you so much for having me today.

In my remarks, I would like to discuss two things, the need for a comprehensive federal mortgage database; and two, privacy safety guards that could balance public access with borrower privacy.

In the wake of the financial crisis, it became apparent that the need for public mortgage data has grown beyond the three purposes contemplated by HMDA. The federal government also needs mortgage data to analyze safety and soundness, investor protection, consumer protection and systemic risk.

As we know, HMDA's data fields currently are too narrow to serve these added purposes very well. Just as an example, HMDA right now cannot address the effect of various loan terms on default risk, something that, of course, had systemic implications.

Partly in response to HMDA's limitations since 2008, the federal government has established other scattered databases on mortgages. We know of the loan modification databases at the Treasury Department, OCC and OTS. The SEC plans to expand mortgage reporting for asset-backed securities. Dodd-Frank instructs HUD and the new CFPB to set up a default and foreclosure database. The Federal Reserve Board will likely need expanded mortgage data to assess systemic risk. Meanwhile, state banking regulators have their own system and now I'm breathless.

So having multiple mortgage reporting systems simply does not make sense. It is difficult to study many important research questions without merging these disparate data sets, but merging is difficult because the data fields are not standardized and the coverage varies. It also puts duplicative reporting burdens on lenders.

Consequently, I urge the board to the extent possible within its powers to consider aiming for a comprehensive mortgage database, and -- and at a minimum trying to standardize terms across regimes.

Now I would like to turn to privacy safeguards. HMDA has a long and very important tradition of public access to HMDA data. When Congress mandated expanded HMDA reporting in the Dodd-Frank Act, it sent a clear signal that public access should continue.

At the same time, as HMDA data expand to include things like credit scores and debt to income ratios, concerns about borrower privacy become heightened. So we have a challenge. It's to design safeguards to give borrowers privacy, while allowing the fullest possible public access to HMDA data.

One way to do this is to adopt a two tier disclosure system that adjusts the level of public access according to the sensitivity of the data. In the first tier, members of the public would have full access to a scrubbed set of loan level data that would blur or censor a few data fields to protect the identity of the property and the borrower. And I refer you to my written testimony for four techniques for doing this.

However, the privacy protections in this scrubbed public data set would make it impossible to analyze certain research questions that are important, to permit that type of important research under tighter safeguards, I would also have a second tier, which would give access to virtually the complete data set, but restrict that access to three groups: to federal researchers, to state government analysts, and then to what I call trusted independent researchers under strict safeguards such as the Census Bureau's research protocols.

My written testimony also contains a fuller description of the census system. This two tier approach is one model, but it's not the only one. And here we don't need to reinvent the wheel. In addition to the Census Bureau, other federal agencies have grappled with this issue. They have well established privacy protocols that allow outside researchers to do sophisticated research on highly sensitive data. These include the social security administration. Thank you very much.