Home Mortgage Disclosure Act Public Hearings, September 24, 2010
Panel One: Question and Answer Session

ELIZABETH DUKE: Thank you. It's interesting in Washington, D.C., everybody can stay under five minutes.

[Laughter]

MALE VOICE:
We practiced.

ELIZABETH DUKE:
Let me start with in just about every hearing we've had, there's been this distinction between the data that's collected and the data that's disclosed. And some discussion of the concern about individual privacy.

And so for users of data, in particular, I'm interested in your thoughts on ways that privacy can be protected without impacting -- the data can be most usable while still protecting the privacy of the individuals involved.

JOSH SILVER:
Well, the privacy – anybody? Can I just chime in? -- argument is argument that NCRC has heard for several years but it's an argument that I find a bit of a red herring and the reason I say that is because the financial industry knows a lot more about my credit history and my credit score than I do.

I was told my credit score for the first time about two months ago when my wife and I bought a new car, and it was a very good credit score, but, you know, my goodness. I think the financial industry knows everything that's even in Dodd-Frank and sells everything about yourself to third parties, as Cy mentioned. So I don't think that Dodd-Frank additional data elements would really introduce a lot more privacy concerns.

Nevertheless, there are intelligent ways to report the data publicly to address these concerns. For example, credit scores can be expressed as quintiles or percentiles as Mr. Brinkmann mentions and, you know, didn't -- and NCRC does ask for loan level disclosure data. We think that's very important. But if there's a particular concern about a very sensitive data element, you can report it on a census tract level. Again, we prefer loan level disclosure, but there are -- I think there are thoughtful options to deal with this important question.

ELIZABETH DUKE:
Thank you. Others uses of data?

CY RICHARDSON:
I would only add, as an addendum to Josh's comments I think the Census Bureau has this right. I think for researchers and academics and in the advocacy space, I think there might be a way to somehow identify or certify the ability of certain researchers to have access to this kind of

granular information, perhaps, it might provide somewhat of a stop gap against some of the privacy concerns particularly for those doing that microlevel analysis.

But I -- I also would underscore the point that I think it's a little bit of Kennard and I think there are some -- some validity to the argument. I think more transparency to err on that side is better.

ELIZABETH DUKE:
Ms. Rice?

JAY BRINKMANN:
I think one issue is more data is not a cure of modeling and failure to acknowledge some of the problems in trying to copy credit models just with what's available and what's proposed but that fundamentally we have to look at liability. And so what does the liability on the lending institutions in providing the information versus what is ultimately then disclosed? And as long as we are protected on the liability front, then it really is up to the bureau and the Fed as to trying to solve this issue.

I'm personally not a privacy expert, but that's the way we see it.

ELIZABETH DUKE:
Okay. Thank you. Ms. Braunstein.

SANDRA BRAUNSTEIN:
Okay. Thank you. And thank you to all the panelists for your testimony. It's very helpful.

I want to ask a few questions all around the same theme. Is that, you know, HMDA data has been around for quite a long time, and I hear the concerns about the burden, and we know that we're going to have to add, for sure a certain number of new elements according to the legislation, possibly some others.

So, you know, are there some things that are not as useful that could be taken off the table that we currently collect and one -- and specifically, I want to hear if there's others besides this, but I know Lisa, in your testimony, you address that it would be a mistake to remove the preapproval information and we -- that has come up at other hearings, as you know. People have suggested that. So to you specifically, I would ask in terms of that information, the way it's collected now, I mean, is that something -- is it -- I know that there is a good possibility that discrimination or not a good possibility, but there is a chance that discrimination can take part during that part of the process, but the information that's currently collected under HMDA, is that actually helpful to ferreting out discrimination in the preapproval process?

You know the value of that particularly, and then more generally to the panel, are there other things that are collected currently in the HMDA data that maybe aren't so useful where if we are going to add a lot of things there's something we can take off the table?

LISA RICE:

The urban institute conducted a study of a lending testing project that the National Fair Housing Alliance undertook in which we engaged in conducting almost 600 tests in eight states across the United States. We found that in those 600 tests, in two thirds of them, African American and Latino borrowers were discriminated against or experienced disparate treatment, and the tests were all conducted sort of at the preapproval stage. So I think removing that very important data set from the HMDA process would be very critical. We do think that there should be more robust reporting in that area, and also that there should be more attention paid to the accuracy of the reporting of the preapproval data.

In our testimony, we give you three examples. They are all hail from the Toledo fair housing center, of course, because that's where I previously came from and I'm very familiar with those cases and was involved in either trying to resolve those complaints or litigating them, the ones that were filed in court. And it's very, very clear that there's this recurring theme of inaccuracy in reporting the data, particularly data at the preapproval stage, and there is this sort of recurring theme also of lenders saying that a person has not applied for a preapproval, or not applied for a loan when they clearly have.

So again, paying more attention to the accuracy of the data, paying more attention to lenders' compliance with the reporting requirements will help us tremendously in just knowing what we already know. You know, what is already being reported.

FAITH SCHWARTZ:
That's interesting, because it's terrible if people aren't even getting in a door to get considered for a full application for approval, but I would just say there's a lack of uniformity across the market on preapprovals. So it's kind of garbage in and garbage out. I think preapproval data is fuzzy, and it means nothing in this environment.

To get a final approval, as we all know takes far too long right now in this credit environment, but if anything changes, it's material. And so you don't even get the final -- the real approval or the denial of credit which it becomes a complex issue. So I'm a believer, it's not relevant because the way it's collected today, it's not a uniform process. Maybe you think you have an option for a great loan and then you absolutely get denied later on. So that's why I have an objection to that not being relevant.

JOSH SILVER:
I just want to respond to Faith's questions and I will support the National Fair Housing Alliance on the preapproval because we know during this crisis that a lot of the problem was the aggressive marketing of high cost loans to minority communities and financially vulnerable borrowers. So the interaction between the real estate agency or the broker or the loan officer, at the preapproval stage I think is a very important thing to capture to make sure that there is not any unscrupulous behavior, and if there's a lack of uniformity, let's get our heads to go and make the data more standardized in the order form. I think the preapproval data is important.

If we are to streamline the HMDA data, you know, NCRC is a believer in data and transparency that makes markets more efficient and marketable, so I wouldn’t recommend deleting any data elements. If you have loan to value ratio, debt to income ratio, credit score, and additional elements recorded by Dodd-Frank, you may not need the reasons for denial that's reported in the HMDA data, and that's an optional reporting item. I think if you are regulated by the OTS and the OCC, you have to report it but if you are regulated by the other agencies, you don't have to report it. So it's not a complete universe anyway. So you know, maybe look at reasons for denial.

I want to respond to what Mr. Brinkmann was saying with econometric modeling, and they can misinterpret the data. I think even without doing the econometric, if you look at the enhanced data, if you have loan to value ratio and debt to income ratio and you control those variables and you are a community group and you are studying a merger, a possible merger between two institutions, you find one institution controls those variables but still treats modest income or minorities differently than Caucasian borrowers, then that's a problem and that's something that the public absolutely has a right to bring to the regulators' attention. I think that the enhanced data will make -- will make -- will make it much easier for the public to know which lenders are being responsible and which lenders are being unscrupulous and also save regulatory resources.

Because you can really -- with the enhanced data, do a much better job of knowing which institutions need more investigation for discrimination and when you have to do the more resource intensive file review. So I think that the more data is better and, you know, even at the risk of running some inaccurate econometric modeling, I think it's a very important thing to do.

Multifamily data, I think should become much better. We should know whether it's a loan to purchase a multifamily property or refinance a multifamily property or do home improvement. I was interested that Mr. Brinkmann was talking about multifamily data.

The last thing I will say is report the parent institution, please, in the HMDA data. You have Wells Fargo and other large lenders with several affiliates, and it's very hard for researchers or members of general public to use the data as it is now.

SANDRA BRAUNSTEIN:
So you took off denials and added six more things.

JOSH SILVER:
Sure.

THOMAS NOTO:
On the preapproval data, I sort of agree with Faith. The numbers are a little soft. And I fully agree with the other panelists that the other phenomenon that we are discussing is very important, but that's not preapprovals. That's basically prescreening at the application stage of the process, and that's not a phenomenon that would be picked up under the preapproval definition as it exists right now. So extremely, extremely important issue but not one that relates to the definition of preapprovals under HMDA.

SANDRA BRAUNSTEIN:
Yeah, Lisa?

LISA RICE:
I would just further comment that the preapproval is so important in today's real estate environment, meaning the first thing -- one of the first things your real estate agent tells you is to get a preapproval from a lender so that you are more marketable when you are out there trying to purchase a home. So it is something that the industry is pushing, the housing industry is pushing. It's something that consumers find to be very valuable, and we do need to know what's happening to people around that space. If -- and I understand Tom's point and Faith's point. I think it's a very legitimate one, but I think that we are smart enough, if we put our heads together, that we can develop better systems, better standardization, in order to make that preapproval process work, make it more streamlined and make it easier to report the data and to get the data accurate, than to just say, well, everybody is using a different system and there's not a lot of standardization in the market place and so therefore the data is rather fuzzy, so let's just eliminate it all together.

I think the process is just too important to our current market place. I mean, it's what's happening and we need to know about it.

JOSH SILVER:
If I can just add to that. I very much agree. I think the preapproval process is one to gain and understand, and I talked about backing it up to the preapplication process, and to happen into communities that might be operating from information deficits.

I think, though, we look at this from a kind of systems change perspective, and if -- if HMDA is going to provide that framework, I think we need to advance from looking at individual stages, as snapshots of time to elongate them, to see more of a motion picture, what is happening at the community level and I think the preapproval process is one we need to monitor.

JAY BRINKMANN:
I would like to mention, I was in New York, meeting with the leadership of the National Association of Realtors and their complaints that preapprovals are meaningless these days to some extent I can't agree with them. One of them is the borrowers don't always tell you truth in the preapplication.

So when you finally go through it, you find the income is a little less than what they said they made when they applied tore the preapproval. The property values are far different, you can't go to the expense of verifying information like that on a preapproval because you are not going to make any money until they actually start going through the application process.

So unless there's a real desire to sort of change this to a real applications process approach, to really a prescreening and more of an advisory role to folks saying, you know, giving you ratios, you might really want to rethink this. I think that was one of the real benefits of Fannie Mae and Freddie Mac programs over the years in working with borrowers that we found the people who came out of those programs were much better in terms of having a meaningful preapproval, but I think in the current environment, I think the Realtors have a point about the usefulness.

SANDRA BRAUNSTEIN:

Thank you. Ms. Chanin.

LEONARD CHANIN:
I want to follow up a little bit on the data collection and touch on some specific points in terms of the data and then a bit broader topic.

So first on the specific, I would like to know if anyone currently uses the category, if you will of unsecured home improvement loans and if so how. If not, should that category be deleted from HMDA?

JOSH SILVER:
We actually call for the mandatory reporting of the home equity loans, so I would go the reverse direction. We know that there was a lot of problematic home equity lending during this crisis. And likewise, home improvement lending has been under reported element in HMDA data. So I actually hope you tighten it up.

LEONARD CHANIN:
Let me interrupt you. This is for unsecured. So home equity lines presumably are secured. This is unsecured where someone gets a loan that's not secured by their dwelling. It's principally used for home improvement process. Is that used by anyone?

LISA RICE:
I think it's data that would be very useful and one of the reasons you may not be seeing it used by more players is, you know, some of the comments that have been said earlier, it's not really, really easy to access a lot of the data and you have to be able to partner with other institutions that have more resources than you do.

So there definitely is a grave interest to know what's happening in that space, particularly when you look at older communities. So being from the center of the universe, Toledo, Ohio, I just want to put a -- just caution that I don't think you should eliminate the data. I think you should do a little bit more research to find out why more folks aren't using the data if you think they are not.

LEONARD CHANIN:
If you think of the Midwest cities like Cleveland and Toledo
and Akron, that's a credit need. Unsecured home improvement lending.

CY RICHARDSON:
And I think given the interest of folks particularly during this latest period of economic unpleasantness there, they are interested in remaining in their homes and I think that's important lengths to look at.

LEONARD CHANIN:
Any other?

THOMAS NOTO:

I would look at the technical. Those are pretty much reports or not reported more or less at the institution's discretion because you have to characterize them as such. The data is probably the softest data that there is in the reg right now from my perspective.

I think the second technical issue it's not technical, it's the Home Mortgage Disclosure Act at the point at which you start moving outside of dwelling secured transactions I don't know where you draw that line. You know, I bought plumbing stuff at home depot last weekend with my credit cart. You know? Hopefully it will improve my home.

Yeah, I don't know where you draw that line and I think, you know, harkening back to the title of the statute, one clean way of doing it is to stick with loan security.

LEONARD CHANIN:
Other thoughts?

FAITH SCHWARTZ:
I agree with those comments. To me, it's the same as a credit card and all the unsecured debt we are having problems with but you are talking about something outside of a secured mortgage instrument against the home.

LEONARD CHANIN:
Okay. Thank you. So on a little bit broader basis, Faith, I think you had mentioned if I understand you correctly, possibly reporting or gathering information on loss mitigation information, and so my question is for all of the panelists, as you know, under the Dodd-Frank bill, HUD is required to set up a default and foreclosure database. Whether it makes sense to separate from that, obviously, to collect loss mitigation data, and then if so, given the lag time that is inherent in reporting this data, of several months at least, how would that data be useful to folks or how might you envision it useful to folks in the future?

JOSH SILVER:
Well, NCRC's testimony calls strongly for loan performance data and modification data and loss modification data. If you think of the times that we are in, we are in a foreclosure crisis, and whether credit needs are being met and in a responsible manner, first of all, you need to though whether lenders are making loans that perform, whether a particular lender has high delinquency and default rates.

Secondly, if a loan is not performing, is the lending institution or the servicer making good faith efforts to modify the loan. I think you can construct in a thoughtful manner data fields that capture whether it's a principal reduction or whether it's a forbearance or whether you are adding an amount at the end of the mortgage. So I believe that this data is essential and I hope that the data the database that HUD is creating can be linked to the HMDA data at least on the Census track level.

LEONARD CHANIN:
Faith?

FAITH SCHWARTZ:
My thinking around that, and one thing that is really obvious to me is that we haven't been able to do a great job, really in our industry to connect the front end to the back end and the sustainability and so it's really a systemic risk issue, as well as a fair lending issue and we all know that, we know that's a front end and a back end that we should be mindful of.

Better coordination among -- I don't think we know what HUD's going to collect and, again, my experience on data collection on this issue is you can target seven good data points, but it may not be at all relevant to what you are trying to get at. And so I mean that as equally protection for industry and the regulatory environment.

LEONARD CHANIN:
Thank you.

THOMAS NOTO:
I was going to say, HMDA was adopted in '77?

SANDRA BRAUNSTEIN:
'75.

LEONARD CHANIN:
CRA was ’77. It was ‘75.

SANDRA BRAUNSTEIN:
Yes, ’75.

THOMAS NOTO:
Let's put it this way, a long time ago. Here today we are attempting to tune up the data so that it captures one process which is the origination of mortgage loans, okay, and we have been at it for I can't do it that math. Now essentially if we morph it over and try to model another process, you know, identifying outcomes is one thing, but explaining outcomes is another thing. And I think that, you know, HMDA as it has evolved is designed not to just to say that a phenomenon exists, improper as it is, that's been the exercise.

I think when you move it over into an entirely different world and entirely different set of criteria and considerations and what not, the secondary market investors and what not, that you are servicing loans for you have a completely different process.

And I think that this is a much, much larger undertaking than it seems at first blush to not just get the outcomes but to get some reasonable explanation and fair explanation of those outcomes.

JOSH SILVER:
Yet HMDA talks about meeting credit needs in a responsible fashion. I think just as the nation has evolved since 1975 and the financial industry has evolved since 1975, so must our thinking about a statute that says whether credit needs are being met in a responsible fashion. And I think if nothing else, the foreclosure crisis has taught us it's not good enough just to make a loan and

hope it works. You have to make a loan and make sure it's sauce stainable and really gives families an opportunity to build wealth.

And so integral to the loan origination process is whether the loan is going to perform and if there's an issue with performing whether there's a good faith effort to modify the loan and not just throw people on the street when you have a “robo-signer” at a financial institution, not even looking at whether the bank owns the mortgage or the house that the bank is going to foreclose upon. So I think it's very important to shed sun light on all of these processes because they are not distinct. They are actually the same thing. Originating a loan that will give the family an opportunity to build a home, to build wealth to provide security for their children, and to make sure that the loan performance over time, making credit needs in a responsible fashion.

And lastly, I will say, I think there should be some thought to improving the race and ethnic disclosures under HMDA. For example, Asians. We have some West Coast members that make a good point that the difference of more recent Asians like the Hmong community is probably different than the Chinese, for example. And the HMDA data doesn't make those distinctions. Same thing with the Hispanics. And if you -- and if you -- I think it's very important to look at race and ethnicity in the context of loan modifications, and loss mitigation and loan performance. It would vastly improve our fair lending performance.

CY RICHARDSON:
These are excellent, but to go at it further, I think this looks at HMDA and CRA. CRA for meaningful modifications would be an enhancement in this space in our judgment.

LEONARD CHANIN:
Any other thoughts on loan mitigation data and the like?

LISA RICE:
I would add we have seen -- this is anecdotally -- but in a number of lawsuits in the servicing space, how integral servicing is to loan performance, and that good servicing can actually promote good loan performance, and bad servicing can have the opposite effect.

So I do think that it is -- I mean, we have to report the loan performance data. That's a requirement. So we should do it in the best way possible to glean as much information, useful information, as we can about what is going to help promote homeownership preservation.

LEONARD CHANIN:
Thank you. Paula?

PAULA BRYANT-ELLIS:
Well, I'm a little late here but I wanted to try to get back in on the preapproval discussion.

I was just curious Lisa, in some of the examples you gave, what do you think it would take, what do you think we would have to have in data to have a really -- to be able to do a really good robust analysis of the preapproval process. I think we’d all agree it is definitely murky. What would we have to do have to do that?

LISA RICE:
I don't know if the data elements or the data points are what is at question so much as the process, the varied processes that lenders use in order to give someone a preapproval and the quality of that process.

PAULA BRYANT-ELLIS:
How would we capture that? What would you --

LISA RICE:
Well, again, I think -- and I'm not trying to suggest, you know, that everybody has to be an apple and we can't have any oranges or strawberries – but, but there should be -- if the industry can work together to develop some standardization, and some streamlining to improve the actual process so that we know the information that we are getting from borrowers, consumers is accurate, at the preapproval stage, so that the preapproval really does mean something, and you don't have a situation where a person is preapproved and at the end of the day, they are not going to be qualified for that preapproved amount, but also the reverse of that. Because we see the opposite of that, right?

We see many examples of times when the mortgage originator is filling out and completing the data and the data is not completely accurate. And that can have a negative impact as well, because they are just trying to get a person in the door. If the regulators could come together to get a more streamlined approach, one that generates more accurate information, then I think we would see that data becoming more robust.

PAULA BRYANT-ELLIS:
Okay. Go ahead.

CY RICHARDSON:
I would add, once they get together then they can come meet with us, the housing counseling industry because we don't disagree. We think an important role for the ombudsman in the process, the unbiased ombudsman is a very important role and I think the housing counseling area would have comments to share.

PAULA BRYANT-ELLIS:
Any other comments?

Thomas, this is directed for you, but please, anyone, give your comments you said piecemealing, it will not engage in more robust data analysis. In your opinion, what will? How do we provide the public with --

THOMAS NOTO:
I think my principal theme as I mentioned at the outset and that was an elliptical reference to it as well, let's do this all at once. There's a lot of hard work to be done here. It is an enormously complicated undertaking, Dodd-Frank. We are talking about credit scores. You would spend

days on any one of these issues. I think my concern and I think I speak for others in the industry, if you go through one tranche in this process and another tranche in Dodd-Frank, you know,A, the burden is very, very high and number two, just from a reporting perspective, you end up with one year of data that kind of looks like this and another year of data that kind of looks like that. I guess what I would urge you in thinking about this to do, you know, let's get it all done at once and let's settle in and see what it looks like, rather than incremental changes over time. You think about the treasuries versus the APRs -- an excellent, excellent change. You look at the analyses of the data that you have to chop it down the data and you look at it one way under one arrangement and another way under another arrangement. We are urging the board as it thinks about this to kind of do it all at once. Jay?

JAY BRINKMANN:
And just to build on Tom's excellent points is that it's not just a case of simply adding a data field that you turn on a switch and suddenly it's there. You've got to go out and say, okay, which part of our system has it? How accurate is it? Is it being read in the right way and how do we test? Because there are penalties for being outside allowable variances on accuracies. So building it and testing it and making sure you get the right, and just understanding the right items. And that's one of the key things. When we put it out, if there's a definition that differs from what the industry sort of is used to thinking of as that definition, that then brings in this whole issue of interpretation, and it may take several years to work that out.

So as you are trying to get there, to go out with one set of, okay, here's the expanded data needs and then stick to it.

JOSH SILVER:
And it's also important as you go forward to make sure that the efforts are working together because in Dodd-Frank, you have HUD that's doing the foreclosure database, you know, and whether the loans are delinquent, foreclosure and also under water -- I think that's a very important part of that provision -- but to make sure that HUD is working with the Federal Reserve Board and the Consumer Financial Protection Bureau to make sure that the foreclosure database and HMDA talk to each other and hopefully are linked to each other, because I do think that, again, that loan origination should be linked with loan servicing and loan performance because it -- in my mind, it is all one and the same and I'm thankful that Dodd-Frank recognized that disclosing loan performance is a very important data element.

So make sure that -- so make sure that they are talking to each other.

FAITH SCHWARTZ:
Maybe I would just add, maybe one way to skin that cat is that universal loan number and then coordinating with HUD because what I worry about is all the different databases required out there, Fannie Mae, Treasury, HOPE Now, and the Federal Reserve, the HMDA collection, it would be great to have a coordinated effort.

JOSH SILVER:
And also the HAMP disclosures required by Dodd-Frank, make sure that's talking to HMDA data. It's interesting that the Dodd-Frank just required disclosures of HAMP, maybe they

thought it would be easier just to say, require the disclosures under a government program, HAMP, but as we know non-HAMP modifications are maybe half or more of the modifications right now. So we do encourage you -- I think that's very important, disclosing the non HAMP modifications as well.

ELIZABETH DUKE:
I would like to continue down this -- this line for just a minute. We have talked a lot this morning about different uses of data, and uses that go beyond the original HMDA purposes and over the last two years there's been a lot of frustration over the lack of data on a lot of different fronts but data collected nor different purposes is likely to be requested in different ways whether you are looking at financial stability or you are looking at servicer issues you are looking at foreclosure information, you are looking at delinquency information, and I believe there was mention made about whether the lender actually uses this information in order tore the initial approval. I think if you were going to build a great big database of information, and you had all of the factors, which a lender might be able to use, I mean, could you end up with some studies that would actually determine what were the best predictors of ultimate success, be they product type or -- or borrower characteristics.

So -- and I'm not quite sure what the question here is, but I would like your response to this, to what extent would you be willing, for your purposes to trade off data that can be used for a number of different purposes versus specific data points that are important to you for your purpose?

And then the second piece is it occurs to me that in terms of availability of credit, there's some credit that if it doesn't fit into, you know, however lengthy the reporting process is, if it -- if it can't be fit into that reporting process, then it -- then those are loan products that just may whither and go away.

So I'm just curious, any reactions on this process of expanding out the purposes of the data and -- and the data that we collect?

LISA RICE:
Well, let me just comment on that from a practitioner's standpoint. A lot of times the data that we push for is reflective of our being pushed someplace else, right?

So, for example, in the 1990s, through the 2000s, there were a number of fair housing and civil rights organizations who were pushing Congress and who were pushing their elected officials to enact anti predatory lending statutes and so the push back from the public officials was what's the data? Well, how many foreclosures are occurring? How many of these predatory loans are being made? How many hybrid option ARMs are there? And so we could give anecdotal information and for some of us who had more resources, we could give information about what was happening at our local level in the city of Toledo or in the city of Raleigh.

But being able to paint a broader picture and to let legislators know what was going on more broadly was a little bit more difficult because we didn't have these data elements. So some of the requests for the data elements that you see are a direct result of that. Because in order to affect public policy, in order to get those kinds of changes that are important, public officials, elected officials want to know more data to justify the legislative actions that they are taking.

In 2007, a number of civil rights organizations called for a foreclosure moratorium while the federal government, the consumer protection and civil rights industry and the lending industry could formulate a very broad scale homeownership preservation program.

So we had sort of our data and the lending community had its data, and we said there's going to be a foreclosure crisis, there's going to be a credit crisis. The markets are going to freeze up, and we are going to see foreclosures like we have never seen before, and the lending community came with their data and said, no, that's -- you know, pie in the sky. You are -- what is it called? The chicken, sky --

ELIZABETH DUKE:
Chicken Little.

LISA RICE:
Thank you. And said, No. If you take out Ohio, Indiana, Michigan, Pennsylvania, and one other state, it's a normal housing market.

So what happened? We got the pie in the sky, the sky fell.

And so some of the push that you see coming from us is because it's what we get pushed for when we ask for changes to be made and the elected officials are saying, no, they don't need to be made, or the industry is saying, no, it doesn't need to be made.

ELIZABETH DUKE:
Yes, Faith?

FAITH SCHWARTZ:
It's pretty complicated. There’s a lot of data out there. I would say the OCC metrics and their reporting has become very robust and they have a better knowledge of what's going on at the banks. The state regulatory group that collects their data, they have great knowledge too, and we had an aggregate level at Hope Now we trends in data, but that's not what we are talking about there. I think you need to put it out for notice and comment, because the burden of not knowing what the front-end data is, versus the back-end is real. And I would challenge the regulators to work together, HUD and the Fed to really solve for this, and be very thoughtful that everything collected is relevant and nothing more.

Because this gets back to, why is all of this data going out there if it doesn't have anything to do with the key questions being asked, whatever those are. I can't predict what those are, but I think it's up to the regulators to also come together and figure that out.

ELIZABETH DUKE:
Well, in a lot of cases there's some real cases of data envy going on. I know the researchers here would like to have access to some of the data.

JOSH SILVER:
You have Cy and me. You motivated us.

CY RICHARDSON:
Just briefly, I couldn't improve on anything that Lisa said. I would say, though, I understand the maxim that not all things are meant to be measured, but given the gravity of what we have been through, I don't think that's one of these issues.

JOSH SILVER:
And I would like to echo and elaborate on what Cy just said, should we pick and choose what data elements. Think about the crisis that we have just been through: the worst recession since the great depression. And if we could have had data disclosure -- I'm not going to be so simplistic to say that better disclosure data would have prevented this great recession, but I think it could have curbed severity of this great recession because when I was listening to the congressional testimony in 2007, and when you had the comptroller of the currency and the director of the office of thrift supervision and the chairman of the Federal Reserve Board testifying before Congress and saying, we think that the crisis is going to be contained within subprime lending, you know, we did not know, because we did not have access to publicly available data on option ARM lending, on exotic prime mortgage products that the crisis was, indeed, as we quickly became -- as we quickly realized, it was beyond subprime lending. This irresponsible lending was pervasive throughout the lending market place.

So that more transparency and disclosure, I think, could have significantly curbed these reckless lending practices and perhaps we may not be seeing the economic mess that we are sitting in today.

And I remember talking to an editorial writer for The New York Times and mentioning that to him and he said, “You have a press release, and you have a press conference,” because when you think of the costs and the benefits and, yes, collecting data does involve costs, but I think -- think of the benefits to this country and think of the trillions of dollars of wealth that we have lost and if we had more robust data collection, we may -- we may not have lost trillions of dollars and I worry about the new generation going out and finding jobs. When you think of robust data collection, you never know what's going to be important. I remember a few years ago, talking to Glen Canter and Glen was saying. We should be talking what should be on the FFIEC web page. I said to Glen, you probably do want some high cost lending trends on FHA lending. He and I knew that there's traditionally hasn't been a whole lot of high cost lending in FHA lending, but recently, you look at the HMDA data and there is some high cost lending in FHA lending. We need to know more what's going on there.

I think it's important to have a robust database because you don't know what trends are going to emerge. I think the benefits will greatly outweigh the costs.

ELIZABETH DUKE:
Thank you.

SANDRA BRAUNSTEIN:
Yeah, I would like to get some -- hear your thoughts on the collection, specifically of credit score information. This is something that's been raised for years that people have asked for, to be added to the HMDA data, at least I will say the community and consumer side have asked for it to be added to the HMDA data. And it's always mentioned as a key factor, but, in fact, there are some issues around it, because there are different kinds of credit scores, different numbers, different systems. You know, some the FICO is the one that's most widely known, but a lot of industry use their own proprietary systems.

And so if this data is going to be meaningful and we collected, how would we do that so that you can actually make some comparisons so that it's actually useful? Do you have any suggestions for us on that?

JOSH SILVER:
Yes now

SANDRA BRAUNSTEIN:
I actually thought you would.

JOSH SILVER:
I was wondering if my industry panel partners --

SANDRA BRAUNSTEIN:
You didn't give them a chance.

JOSH SILVER:
I sensed some hesitation, but actually I was going to agree with Mr. Brinkmann. He mentioned that on the credit disclosure, you have one data field that indicates the type of credit score. Is it proprietary, is it FICO, or is it some other, is it some other credit score model? You know, you could have three to five categories, whatever seems to make sense, and then you could also have a category called alternative credit score because there are -- there are private companies using utility payments and rental payments. So you could even have that as a category.

And then you have another data field that indicates the percentile of risk or the quintile of risk rather than the specific numerical score because the specific numerical score will differ across the different types of credit scores.

And I think those -- those two data fields will be very, very useful.

You know, when NCRC has been able to get this data on a one time basis, we have found controlling for credit scores and other key underwriting variables that racial disparities in lending remains, and the Federal Reserve Board finds that as well. So I think it is very important information. And I think also another important thing to think about is you can compare and you can look at fair lending within the credit score companies. Is there a credit score company that looking at all the other variables in the data set, that are giving, say, protected classes much lower scores? And the other credit score companies are giving them higher scores. That would be something worth more investigation and something else where I think you could use a very important use of this new data.

JAY BRINKMANN:
One of the issues is that by providing and asking for the various elements around the score, that would allow the bureau or the Fed to come up with their own interpretation of how then do you compare this across companies? How do you then compare this within the company? What are some of the differences, just in terms of what bureau is reporting it? But also there's a time variant feature. Credit scores are not constant over time. They are not constant in their predictability from necessarily perhaps one year from the next but not over a five year period.

One of the not so funny jokes in the industry right now is that, for example, 700 FICO is the new 600, because when you look at performance based on models and scores that are just far off from what would have been predicted at the time the loan was made. So with all of that, that's why we think -- it's one thing for the regulator, for the examiner to pick it up, so they better understand. The issue then is how do you interpret it and put it back out for public use.

FAITH SCHWARTZ:
And if I could jump in on that. One thought around credit scores, certainly historically they have been heavily weighted towards the credit decision with other risk features like loan to value, debt to income and they are highly correlated with outcomes historically.

To Jay's point, maybe that changed with risk layering, with no docs, et cetera. My recommendation would be to think through -- I know there are people like vantage score and others that have different methods of looking at credit scoring without using any one system, although traditionally FICO has been the dominant one. You have small to mid-sized companies that may just use that one and don't have access to several different options and investors would require things differently. It's a complicated issue.

My other concern around the credit score going forward is, they are really going to be taxed on this last round of what's happening in the borrower credit world due to the foreclosure issues and the stress of modifications and repayment plans and the catch-ups.

So the integrity of the scores has got to start being more robust over what everyone is uniformly doing to report on those scores or they will become less meaningful over time.

CY RICHARDSON:
I agree with all the points made, Jay's as well. I would say though, Josh makes a good point. I'm less concerned about the system employed by Bank of America, for example, but I'm interested in what -- in the uniform exercise of what they have learned in their credit making decisions, and I think judging them against themselves is what we're interested in, in many cases. I think that's very important give than we seem to be in that national campaign on heightening awareness around the importance of credit and different mechanisms to gauge it.

I think I would like to understand generally, you know, judging a bank against itself and how it uses credit in that process, whether it's FICO or another system.

THOMAS NOTO:
Well, I was going to make a comment. It was one thing to judge a bank against itself, but I think really the statute is heavily weighted towards giving some cross industry comparability and if I could just sort of get back to you in a second, Cy. You know, I think everyone knows the different scores. You have some internal scores and whatnot and I think in that world, putting digits down on a piece of paper, which is really in a lot of ways meaningless, because unless you know what those digits mean and unless you can sort of figure out some way of normalizing them across, you know, wildly disparate models they don't do anything.

So in absolute disclosure, I think there are a lot of challenges with that.

We have talked all here, I think, about maybe a relative disclosure, trying to spread things out, some type of tiering approach to show sort of where people fall within different strata. That seems to be something that would get you a lot closer to what we're trying to do here, which is to just show some, you know, differential there, but absolute numbers I don't see how they are going to, you know, do anything.

In terms of individual banks, you know, scores can be used differently for different products. There's a lot more to it. This is yet another example where, you know, the data says so much, but there's a lot more oftentimes going on underneath the surface and, you know, my fear and I think that of others in the industry is that, you know, people will disclose data that's useful, but they are very concerned if it can be misinterpreted and it's incomplete. So that's the challenge that I think we all have here.

LISA RICE:
And I just want to echo what I said earlier and that is that at least the National Fair Housing Alliance does feel very strongly that a number of these scoring mechanisms have a disparate impact in the market place and in our comments we discussed that in much more detail, excuse me. Part of it is, you know, right, the product versus the borrower argument, right?

Is it the borrower's characteristics that that generate a certain outcomes or is it the product characteristic that generates certain outcomes and I think we have seen a lot of very, very good study that has indicated that the product features can very well impact it and do impact loan performances.

We have also seen a lot of study that reveals Latinos and African Americans are disproportionately receiving those unsustainable and sort of product harmful loans. And how does that impact then ultimately one's credit score? We believe it impacts it in a negative fashion.

And so we discussed the FICO score in a little bit more detail, and the five sort of categories that FICO is broken down into, and how we feel that each one of those categories may pose disparate impact in the market place. I want to underscore that.

And secondly, highlight the fact that there are some lenders who don't use a score, and we certainly don't want to see this reporting requirement be interpreted in the market place as, you know, becoming some kind of a compelling component to -- to make an originator use a score. We -- there are lenders who have very large portfolios who are doing very, very well without using a scoring mechanism, and we don't think that they should feel that they are compelled to use a score.

JAY BRINKMANN:
One of the other issues on the score is to keep in mind a sense of phenomenon called mean reversion on the scores, and this would tie more into a performance database rather than the origination, that there are some borrowers who can be counseled as to how to get their scores up. They can undertake various other activities to get the score up for purposes of originating the loan and then over time it reverts back down to where it was beforehand. So it's sort of a longer term trend sometimes that needs to be understood in terms of credit scores.

JOSH SILVER:
I was very interested when I was reading the testimony of the wells Fargo representative in the San Francisco hearing, because he was making the point that the data right now, in its limited nature may lead to misinterpretation. He was saying you need to disclose key underwriting variables like credit scores, debt to income ratios and loan to value ratios so the general public and regulatory agencies and other stakeholders can better understand what's going on in the lending market place. So I thought that was a very interesting and enlightened argument from a lending institution, arguing for more disclosure, and in general, NCRC's view is more disclosure and transparency will make market places work more efficient and more equitable rather than freezing lenders to using or not using particular products or approaches that if you have more disclosure, I think you are going to get more fair -- for fair pricing and more equitable and efficient market place.

And that, you know, with credit scores, why is it, you know, that the best studies to date have consistently found that after controlling for credit scores, you still have in other key underwriting variables you have racial disparities in lending and I hope with enhanced data disclosure, in ten years that finding, I hope goes away. And I hope that with the better disclosure plays a key role in making it go away.

LEONARD CHANIN:
So I've had a number of discussions of late, with community banks including in Chicago yesterday, and after listing the litany of regulations that the board has issued recently dealing with mortgages, as well as many things to come that will be issued by the board or the new bureau, there's concern whether they will exit in terms of market lending. And so my question deals with coverage of small institutions and whether or not you believe they will exit the market place, we still will engage in a balancing of benefits and burdens and you have to look at the cumulative burdens not only HMDA, but also truth in lending, ECOA, et cetera.

So my question is whether we should recalibrate both for depository institutions but also non-depository institutions who have to report. Currently for depository institutions, I think they have to report if they are in or have a branch in a metropolitan area and they originate one mortgage loan, one home purchase loan, et cetera.

So my question is, should that threshold be increased so that they don't have to report? Is there usefulness in terms of data for small lenders in terms of small number of loans reporting?

JAY BRINKMANN:
Well, we're staying in, so don't worry about Bank of America.

LEONARD CHANIN:
You are probably beyond the threshold.

JAY BRINKMANN:
That’s $300 million this year. We’re staying in.

[Laughter]

THOMAS NOTO:
You are not a small bank. We are in. So -- Josh?

JOSH SILVER:
I'm going to read you a quote: “Obtaining from testimony at these hearings, obtaining HMDA data from only a subset of mortgage lenders that provide mortgage services to a specific segment of the market does not give regulators an accurate picture of mortgage lending patterns. I believe that the only way to determine an accurate portrayal of mortgage practices in a particular area or market is to require HMDA reporting of mortgage brokers, non lender loan purchasers and originators that meet the threshold criteria.”

That was not an advocate. That was William loving, Jr., president and CEO of Pennington community bank at a Federal Reserve hearing in Atlanta and this was a bank, I think that had about $250 million in assets.

So here is a community bank arguing for more disclosure, and the reason I think he's arguing for disclosure is not just to get it for his competitor, though I think that's a good thing too, but to make -- but he gains more valuable information about how competitive he is in the market place and whether he's missing market opportunities.

I think in the enlightened self interest of bankers, there are some savvy bankers like this gentleman, who does believe that there should be more reporting of HMDA data rather than less, and in terms of your threshold, it is very confusing because you have depository institutions that have different thresholds and non depository institutions. I was talking with Fed staff a while back and suggested just make it the same for everybody. If you make more than 50 reportable more than 50 loans, reportable under HMDA, you disclose because 50 is generally a statistically significant number for meaningful quantitative analysis. So that's a threshold I would propose across the board for non depositories and depositories.

FAITH SCHWARTZ:
If I could add to that, the community bankers, you know, they do a good job out there. That said, I don't disagree with Josh. I think everyone should have the burden of reporting that has any meaningful originations out there, and I doubt it's HMDA that would take the community bankers out of the market. There are a lot of other regulatory burdens going on for the community bankers and it is a real issue and a concern, but I think they need to report.

LISA RICE:
Let me echo what both Faith and Josh said to some degree. With the caveat if an institution is linked in any way to a larger depository institution, every institution within that chain -- they should be required to report HMDA data no matter how many loans they do.

And then the second question I would pose is -- or maybe the thing I would ask is that you do maybe a little bit more analysis to see -- to ferret out all the reasons why the smaller lending institutions that you have been talking to are saying that they are going to go out of business.

This is an argument that we have heard from lenders over and over and over again, and some and insurance companies quite frankly, but every lender and insurance company who has given us that argument that has gone out of business, they went out of business for another reason. It had nothing to do with the HMDA or CRA provisions or with the fair housing provisions.

LEONARD CHANIN:
If I said go out of business, I misspoke. What they have said, and we have seen this, is that they will exit particular products.

LISA RICE:
I see.

LEONARD CHANIN:
There are a number of community banks who stopped lending adjustable rate mortgages coming out of the Truth in Lending and there are some other funding costs and other things that go into calculus, but there are clearly some institutions that simply cannot afford the additional compliance person or persons if they are $200 million bank in terms of those products.

LISA RICE:
So then I would want to know more about those products that they are no longer offering and how they performed in the market place.

LEONARD CHANIN:
Mm hmm.

JOSH SILVER:
I think Lisa is right. There's other reasons. It's not a HMDA reporting reason. I do believe that the great majority of banks, they want to know how they are competing in the marketplace and they are collecting data whether they are sharing it public or internally. I think in this day and age, we are not in the 1970s where we use calculators. We are, you know, several decades later

and I think technology has improved. You have private sector vendors that assist lenders with HMDA data compliance. And if you look at the big picture, again, I think the benefits greatly outweigh the cost and I think that you had you had a community banker around the $200 million asset range in Atlanta saying this is a valuable thing, the data reporting requirements should be expanded.

LEONARD CHANIN:
So I will tell you I still use a calculator when I don't use pen and paper, and encourage my kids to do the same.

You had mentioned Josh, a threshold of 50. Is that something because that is higher than we currently have, at least for some institutions. Is that something -- my question is, how useful is the data if, for example, someone is reporting 20 loans? Clearly it's not useful for fair lending because it's too small of a number depending on where they are in the market place.

JOSH SILVER:
You know, I think 20 years is a useful number. If I had to pick one threshold, and let's make it simpler because you have the threshold -- even for non depositories, it's sometimes the percent of loans in their portfolio that determines whether they are a HMDA reporter. It's sometimes the dollar amount of loans that they are making. You know, looking at Regulation C and you have to puzzle it through.

So, you know, in the interest of making things more straightforward and simple, let's just have one straight threshold, 50, and if there's a lender that's, you know, making 20 or making 30, and it's a bank, you know, we'll at least have a CRA exam that looks at a few years of their lending activity.

LEONARD CHANIN:
Okay.

JAY BRINKMANN:
If I could just mention a little bit of industrial organization. A bank that small probably doesn't have a full staff to do all of the different issues associated with making these loans and a typical structure would be they will make some loans to their existing customer base, maybe pick up a few on the side, and they will essentially then rely on an upstream correspondent to run the credit, to handle everything for them. They will close it, but it's immediately sold up.

So then the question is, what is of value to find out? It would be a value to find out how many loans are being made by these small institutions, but the expectation of then having any type of meaningful analysis of all of these different variables. Now it could be the upstream correspondent says, here's what we are collecting; we are giving it back in the way, so you can send it in. So it's the same information on the same loan. 50 loans, they are really originating through someone else's platform.

LEONARD CHANIN:
Okay. Thank you.

PAULA BRYANT-ELLIS:
I wanted to get the panel's perspective on home equity line of reporting. Today it's optional. I wanted to know the panel's thought on should it be required and how would collecting that HMDA data advance HMDA reporting?

CY RICHARDSON:
I think it should certainly be required, as I mentioned earlier. Within the broader context of the economic malaise we are in, I think folks who are both aging in place and remaining in their homes in certain geographies, who are trying to invest in their homes, to build back equity, I think it's important lens to understand and to gauge and I think it should be a compulsory component of expanded HMDA reporting.

LISA RICE:
We also see that HELOCs are gravely impacting loan mitigation efforts, loan modification efforts, and so it would be very helpful to have information about what's happening in that space so that we can track and gauge, you know, just exactly how it is impacting homeowners.

JOSH SILVER:
And I just want to echo the comments of Cy and Lisa. It should be a mandatory reporting item and we state that in our testimony. And in addition, I think it's important to know for future regulatory rule making purposes the presence of HELOCs and whether there's problematic practices because the Federal Reserve Board just revised the homeownership and equity protection act, Regulation Z that implements HOPEA and not to extend some of the extra protection to HELOCs. The theory is that banks make HELOCs and hold HELOCs on the books and banks are more regulated than other institutions, therefore we don't think we need to expand the extra, you know, Regulation Z to HELOCs, but is that true? I kind of hope it's true but let's have that as a mandatory reporting item in HMDA and see if that's true and if it's not true then we need to go back and clang Regulation Z. We know that there's abuses -- you know, significant abuses in the home equity line of credit market, so we actually did -- we actually did think that the extra Regulation Z should have been applied to HELOCs. HELOCs and HMDA data is important for a lot of purposes, including regulatory.

THOMAS NOTO:
I think we would go a different way on that. You know, they are not for purchases generally they are not for home improvement. They are a field, I think from the original purposes of HMDA. There's a lot on the table that needs to get worked through and I guess our suggestion would be, let's work that true and not layer on additional reporting requirements or additional categories of transactions.

PAULA BRYANT-ELLIS:
Would that be a significant increase or burden on your organization to start reporting on HELOCs?

THOMAS NOTO:

My organization, right now, it probably would not be, just given volume flows, but I'm sure it would be for others.

JAY BRINKMANN:
One of the things to keep in mind is that HELOCs are made through the consumer divisions of banks as opposed to the mortgages. What you are requiring them to do is reach over to a portion of the institution that they may not even talk to, and say, by the way, now we've got to incorporate that reporting in or else in the sense by the way you've got this separate reporting over there of which the mortgage division has no direct responsibility. There are some institutional challenges in attempting to expand that too much.

LISA RICE:
Can I just make one very anecdotal comment, but when I purchased my home I wasn't even thinking about getting a HELOC and my mortgage originator -- I purchased a home with a loan from a depository institution, retail, and the loan officer said to me, you need to get a HELOC and gave me all of these reasons why. And so I was sold my mortgage and my HELOC at the same time by the same originator. Every institution doesn't do it the same way. I didn't ask for it. It was something that the lending institution sold to me, and she did a very, very good job of selling it to me. I think there are different experiences out there.

JOSH SILVER:
I just want to respond quickly. There are different departments in the bank that do different things and we have heard that many times over the years. I remember back in the late 1990s, the whole issue of banks acquiring subprime mortgage specialists and community organizations were saying if you walk into a city financial office and you qualify for prime, can you get the prime product? And the response was, well, it's different departments.

So I think it's about time, whether it's a data disclosure requirement or other incentives for the departments to start talking to each other because I think that's going to make a more efficient and equitable lending market place.

MALE VOICE:
Bravo.

ELIZABETH DUKE:
Does anybody here have a question that you haven't had a chance to ask.

LEONARD CHANIN:
So if you report home equity lines, what would you report? The line is established, let's say, for $100,000 potential draws. You may or may not have an initial advance. Let's leave aside reverse mortgages in terms of coverage or possible coverage of those. Would you report the $100,000? Would you report if there's advance of $10,000? $10,000? It's only that snapshot. It's not a future snapshot. And what value is there in those data fields?

JOSH SILVER:

I think certainly reporting the initial line because the lender thought the borrower was qualified for up to that amount. Now, you know, have a public comment period. You know, whether there needs to be an additional disclosure when lines are drawn. And I think that's -- I think it's a very important when you think of combined loan to value ratios and other underwriting variables to know how much -- how much potential debt the borrower is taking on. So you know, at least the initial line and let's explore whether we are going to be creating -- I hope over time a longitudinal database when he have -- you know, with linking hopefully the loan performance information that HUD is collecting with HMDA data. So if we are over time collecting a longitudinal database, you know, I think you can think about also when there's a draw on the home equity line of credit.

LISA RICE:
And so let me also say, I don't think that reporting the initial line, the credit line is unuseful. I think it could be very useful. So, for example, over time if we see that through the HUD database that a home is under water, that helps us to paint a better picture of how that loan was that property was evaluated and that lender's underwriting processes and maybe perhaps how well that lender is monitoring the appraisal vendors that they are using because if the home is under water on the first mortgage but then they have a HELOC, that raises all kinds of other questions, right?

LEONARD CHANIN:
Thank you.

ELIZABETH DUKE:
Well, with that, let me thank panel one. You have done a terrific job and the information has been very helpful. We will take a break now and we will reconvene with panel two at 11:00.