Home Mortgage Disclosure Act Public Hearing, July 15, 2010
Panel One Q&A Part 1

Governor Duke:
Thank you and thanks to all of you. I'm going to start with a few questions, and then I'll ask my colleagues to jump in with their questions. First of all, for those of you who are data reporters under HMDA, there's been a lot of discussion about two sets of data that could be added. One set has to do with indicators of credit worthiness such as loan-to-value, debt-to-income, and credit score information. We'll deal with just those three. And then, others have to do with the quality of the credit that's being provided such as the terms the point's fees, rate spreads, variable versus fixed rate, prepayment penalties, that sort of things. When you're making a loan, at the time of origination, most of these data elements are known. So, I'm curious as to the additional burden to record those data elements as part of the LAR.

Faith Anderson:
I'd like to answer that. We rely on third party vendors for our system. So, to the extent that it's already there and that we can just plug in the information, because we have a mortgage lending system, and we have a home equity line of credit system. So, to the extent that we can capture it right, you know, at closing, that LAR. It's relying on the third party vendor since we, we don't develop our own software.

Governor Duke:
Well, but presumably, the vendors, if it was a required element, the vendors would modify the systems.

Faith Anderson:
You would hope so.

Governor Duke:
Mr. Greer.

Phil Greer:
If I may address that question, and yes, certainly, the information is available at the time of application or approval. However, in many small community banks, that data's collected manually. And, in our case, it is. We collect the data manually; the loan officer puts it into a spreadsheet manually. That information then has to be reviewed by another party, and then put it into the LAR, and it has to be verified for accuracy. And so, from our perspective, the manual input creating additional data elements just intensifies and increases the amount of time and, obviously, the cost of that transaction.

Bill Loving:
Governor Duke, in our particular situation, in our particular situation, number one, I advocate the collection of the additional data. I think it is important. I think it will add a great deal of transparency to the HMDA data. I do not believe that, in our case, it's going to be burdensome at

all. Most of our stuff is collected on in-house systems. And the modification list systems will not be a major hurdle from our standpoint.

Governor Duke:
Okay, thank you. And then, for those of you who are users of the data, I believe Miss Anderson suggested that a change to the data that's collected so that all loans that are secured by residential real estate, if I understood you correctly, should be reported. Unsecure loans should not be reported, and brought up that home equity loans should be reported if the total dollar amount. Would that cause you any difficulty or any issues in using the data? Mr. Jordan?

Will Jordan:
I'm going to look at my expert in the audience and see if I can make contact with her.

Governor Duke:
Are we having phone a friend here?

[Laughter]

Will Jordan:
What do you think.

Governor Duke:
I'm sorry, could you speak into the microphone so we can get it on the tape?

Female audience member:
I think it would be helpful to have all loans reported just to, and unsecured home equity loans, reverse mortgages like Mr. Shank suggested as well. I think the gaps in the HMDA data coverage right now are just leaving out a lot of loans that are, you know, unsustainable and discrimination that's probably in those and having a wider coverage of the loans that can be reported would be helpful for us to get a clearer picture of the lending that's going on for all institutions.

Governor Duke:
Thoughts on home equity lines being reported if the total amount on the line versus the amount that was drawn.

Female audience member:
Again, just a better fuller picture would just be more helpful.

Governor Duke:
Okay, okay. And then a second questions, which is I understand the desire to have the data reported in more granular format and more easily manipulated. How do we address, or how would you suggest that we address questions of privacy and balance that privacy versus availability?

Arden Shank:

The privacy concerns are very important and cannot be set aside. But, I believe that the loan officer or whoever the person is working with the individual borrower already knows all that data. So, the disclosure of that data to the lending institution is already being done. All of the personal identifying factors such as social security number, name, all of that can be removed so that, when it goes into the data system, it's not disclosing private information that can be tracked to an individual.

Governor Duke:
Some of the information actually can, if you work with it properly, in other words if you bring it down the census tract and there are small numbers of loans, particularly in some areas, you could actually begin to identify individuals and groups of individuals.

Bill Loving:
If I may add, I would agree. In our area and marketplace, one could take the data and append it to what's already available in the public records and pinpoint, specifically a borrower. And so, adding additional data to the information that's available does give, give me and other community bankers concern as to privacy issues. And, I'm not sure I have the exact answer on how you balance the two, but there are significant privacy concerns with adding additional data.

Governor Duke:
Mr. Jordan, did you have something else that you wanted to?

Will Jordan:
Not right now.

Governor Duke:
Okay.

Faith Anderson:
I just wanted to add that also, for credit unions, we are, you know, concerned about reverse engineering or if they're able to do that, because credit scores, loan evaluations are considered personal information.

Governor Duke:
Okay thank you. Miss Braunstein.

Sandra Braunstein:
Yeah, thank you. I just have a couple questions. Getting to some of the date elements that now will be required under the new legislation, I was wondering, in terms of trying to define the total points and fees that are payable at origination, I wonder if you have any ideas for us in terms of what we should include in that? Should it be, you know, finance charges? What about originator compensation? What kinds of things, how could we best define that to, on the one hand, get the best information we can, but also, at the same time minimize the burden on the reporters?

Bill Loving:

I'll be happy to address that issue. At the present time, there are other regulations that define finance charge, prepaid finance charge. So, I believe, any change or any ruling should be consistent with other regulations so that it does not create confusion. I have concern with including total closing cost in those fees because, in our marketplace, for example, we operate in Virginia and West Virginia, you could look at two mortgages of the same amount but yet get different remarks or different results because the state of Virginia requires recording costs based on the amount of the mortgage while West Virginia's simply per page fee. And so, you're going to get skewed information if you include total closing cost in that information. And, I would suggest we look at finance charge, prepaid finance charge points in origination. And if you're saying originator compensation, that would, that would be included in the closing cost or the origination fee in points as well as prepaid finance charges.

Unidentified male:
I think one of the things that my organizational experts wanted me to emphasize is that, maybe, we can look at the channel where the loan came from also, you know, to identify whether it came through a broker or correspondent or retail or loans because that information had been provided several years ago and we would be able to more easily identify the trends if that was included.

Phil Greer:
I'd somewhat like to echo Mr. Lovings comments. I would like to see consistency between truth and lending disclosure in regard to finance charges and what we would disclose in HMDA. I would like to see not total closing cost, but simply, those that are related to specific loan. Attorney fees, title insurance, that type of thing really doesn't need to come into play. The lender, or the loan officer compensation, I think, is something that, based on what has occurred the last three, four, five years and apparently has created issues for our economy as borrowers were steered here, there, and beyond, I think the loan officer compensation should be disclosed.

Faith Anderson:
For that part, I just want to state that not all mortgage loan officers are incentivized, that's the word. So but, maybe if they just are paid on the set regular normal salary you don't include them. But, if it's based on, you know, commission, on how many mortgage loans end up in closing maybe that is added.

Will Jordan:
I also support the reporting of originator compensation.

Sandra Braunstein:
Okay, and another question, kind of along those lines is one of the things that's in the legislation that would be mandated going forward, if the legislation's enacted is the reporting of credit scores. And I know, for us internally, we've talked about this. And, this could be one of the more difficult kinds of things to define because there's so many different kinds of scoring systems out there. Some lenders use their own proprietary scores, you know, other, a lot of people use third parties, Fair Isaac's others. So, I wonder if you have any advice for us on how we should define the use of credit scores so that that data could be meaningful somehow, and we're not looking at a lot of apples and oranges on that.

Arden Shank:
When we do lending, we often do not use a credit score for underwriting and making credit decisions. We use other types of data about the borrower's behavior, financial behavior. But, having said that, I think the reporting of the credit score is still important. But, it may be necessary to differentiate between those that were underwritten using the credit score and those that were not.

Sandra Braunstein:
So are you, I'm sorry, just to clarify, are you saying that even if the credit score was not used in underwriting, the person's credit score should still be reported?

Arden Shank:
Yes, because I think, not because it, we think it should be reported because the analysis that comes along afterward about who got loans and who didn't, the credit score can help provide that information.

Sandra Braunstein:
Okay, other thoughts.

Will Jordan:
I agree with what Arden said.

Phil Greer:
I think it would be difficult to dictate that those lenders that do not use a credit score in their underwriting have to go out and provide you with one, incurring the additional expense for something that provides them no use day to day in their underwriting of mortgage loans. But yet, they have to incur this expense just to provide HMDA data. And, that said, I also think that the collection that this data is important and can help track discriminatory pattern. But, I think I tend to favor the approach that if the credit score is used in underwriting, in the decisioning on the loan, that it be reported. If it's not used, then there would be no obligation for a lender to have to acquire that data in order to provide the data to the LAR.

Will Loving:
I would agree with Mr. Greer on the reporting of the information. If the credit score is not used in the decision process, I do not believe it should be reported.

Sandra Braunstein:
So, if we, if we did write the rule that way, do you think that would discourage the use of credit scores, because that would --?

Bill Loving:
I'm not sure it'd discourage the use of credit scores, because many institutions have automated approval processes using credit scores. In our particular case and many community banks, we use the traditional approach, as Arden had mentioned, to underwriting. We look at the credit factors, the credit history. Many community banks know their customers. And so, we use the

traditional approach to approval. So, regardless of whether it was written into regulation or not, I do not believe it would, it would skew the use of credit scores.

Arden Shank:
One last comment, and that is I don't think there would be additional cost in gathering the data because credit reports are pulled and most credit reports have the scores on them and it's right there.

Phil Greer:
And, you pay for that score, you do.

Sandra Braunstein:
The one thing I did want to ask is do you have, I want to kind of go back to my original question. So, even if we have credit scores reported, since there are so many different scoring systems, you know, the numbers trying to use that data for those of you who use data. Do you have any suggestions for us on how that data can be meaningful? Because, if you're looking at it, you don't know which system somebody used, the numbers can mean very different things. I was just wondering how to, how do we get past that? How, does it become helpful to the users?

Unidentified male:
I think, for our organization, the issue would be not what kind of credit scoring a particular institution used, because we always look at the HMDA data based upon the institution or the bank, would be was there more than one way that they used it. So, if they had two systems of credit scoring, that would be information that would be very interesting. But if, they were consistent on the way that they collected their credit scores, that information would not be prohibitive to us finding out more information about whether or not the loan was discriminatory. You know, I, the biggest issue was, I don't think it would be a problem because, within an institution, more than likely, the way that they collect the credit score is going to be consistent with that bank.

Sandra Braunstein:
So, it'd become more of a problem comparing institutions. Faith, did you have anything to add to.

Faith Anderson:
We, we just, we pull credit using the, you know, normal third party vendors. And, we underwrite traditionally also. So, I don't have anything to add.

Sandra Braunstein:
Okay. Anybody else on credit scores or anything? Okay. Mr. Chanin.

Leonard Chanin:
Thank you. So, I want to go back to something that Miss Anderson raised and others as well and that is the scope of coverage of HMDA. So, currently, for depository institutions, banks, credit unions, they're generally covered if they make one mortgage loan and they have a, their home or branch office in a metropolitan statistical area. So, my question is whether that coverage test for

depository institutions should be changed and change meaning, should it require institutions to make more loans in order to be covered? And, obviously if they have assets over changing amount 39 million. So, as depository, financial institutions, as well as others, whether that data is useful to you if a bank makes, for example ten loans or 12 loans. So, we can, and if so, what threshold might you suggest? So Faith, we can start with you.

Faith Anderson:
What we would recommend is that, you know the Fed or whichever board sets, you know, whether you do ten mortgage loans or a hundred mortgage loans that, let's say you make it a hundred. Well then, everyone who does a hundred mortgage loans should report to HMDA. I can tell you that, from our data, we rely on a third party to help us analyze the data. And, I know the format right now, it's difficult to determine if there's predatory lending. We just would want to make it fairer across the board because we're so regulated, banks and credit unions, where non-depository lenders, they're, we don't believe they're regulated to the same extent as financial institutions. So, you know, we would like them to join the party.

[Laughter]

Leonard Chanin:
It's nice of you to.

[Laughter] Mr. Greer, any thoughts?

Phil Greer:
Well I can't state that reporting one mortgage loan, if that's all you originate and you have an office in a metropolitan statistical area, I can't say that that's a tremendous burden to report one. I think it doesn't provide meaningful information however. I tend to think that the limit should be based on either the number of loans or the dollar volume of loans as opposed to the asset size. I very much believe that any lender originating loans, regardless of whether they are a depository institution or not, should be reporting the data. If I'm not badly mistaken, within the last couple of years, mortgage brokers were originating around 50 to 60% of all mortgage loans in the country. And, their data should very much be included in the Home Mortgage Disclosure Act.

Leonard Chanin:
Thank you. Mr. Jordan.

Will Jordan:
And, I completely go with what Phil said. It should be based upon the amount of some, you know, the amount of mortgage loans and that, that way we have the opportunity to see those mortgage lenders who are originating loans.

Leonard Chanin:
Let me follow up if I can Mr. Jordan. Suppose the institution passes its threshold and originates 15 loans in a year. Is that data that's useful to you in a variety of loans, home purchase, home improvement, refinancing etcetera?

Will Jordan:
Yes, yes.

Leonard Chanin:
And, for what purposes, discriminatory lending purposes or seeing if they're serving the community in which they reside or --?

Will Jordan:
I think it has more of an opportunity for us to see how persons in the metropolitan area are accessing credit. For example, if you have an institution that works with another institution and they're referring certain people to other places to get loans and other people are not being referred to those places. So, you've got a subsidiary of one particular bank that's originating so many loans. And, but they're not really doing a whole lot themselves. We'd like to know that kind of information because we can make those connections as to, you know, whether or not people are being referred by asking questions, you know, if they're a referral when are we doing our testing if they're being referred to other places to get loans?

Unidentified male:
I would agree. I think any threshold should be based upon number loans and not merely assets, size, and looking at the data.

Leonard Chanin:
Okay. Mr. Shank?

Arden Shank:
I agree.

Leonard Chanin:
We should stop now. We seem to have agreement on one thing.

[Laughter] We can't do better than that. So, let me shift a little bit, a few more questions. Currently, in terms on data that's being reported, institutions have to report the rate spread for higher cost loans. And this question's for the financial institutions. Should reporting of that rate spread be required for all loans and not just for so-called higher cost loans? And, what's the burden of adding that data development to the HMDA report?

Faith Anderson:
I don't know if it would be that helpful. We could capture it. But, I really don't know if it would be that helpful in finding discrimination, I --.

Leonard Chanin:
Okay.

Unidentified male:
I think there would be some burden to reporting it on all loans. I question whether or not the additional data is going to be conclusive in regard to discrimination. With Fannie and Freddie

risk-base pricing their loans, characteristics that they have and the multiple combinations of delivery fees that they now impose, I think it would be difficult to have meaningful analysis of that data because there clearly could be very similar loans with different rates based on Fannie and Freddie even delivering out of pocket.

Leonard Chanin:
Okay. Mr. Loving:

Bill Loving:
Obviously, additional collection is going to be from a manual perspective, more time involved. And so, I'm not sure that the additional information would benefit the desired results of HMDA, although it would provide additional data, obviously, on pricing. If I may speak to the benchmark itself and how that rate is determined, I have some concerns in that it is not clearly defined or refined all mortgage loans across the spectrum as one particular type of mortgage. And, community banks, traditional lenders, when you look at cost of funding, there is some disparity there between the two. And so, for the most part, community bank lending, it does appear we're doing higher priced mortgages when in fact it's based upon our cost of funding and not the bench, well I should say the benchmark itself.

Leonard Chanin:
And that is something we're aware of and looking at. Thank you. Let me talk about some, ask some questions about some current data that's reported, see if it's useful and particularly Mr. Jordan and Mr. Shank. So, preapprovals or certain types of preapprovals are required to be reported under HMDA. It's not clear to me, from talking with a variety of folks, whether that data is currently used by anyone or by many folks. So, should we retain the reporting of preapprovals or simply not continue reporting requiring that we report it?

Unidentified male:
I don't recall us utilizing any data with respect to preapproval. And, I don't, I don't see, currently, how it really will be useful for us. And, we don't currently look at that data.

Unidentified male:
We found that often preapproval letters are as available as junk mail. And so, how accurate they are to start with is a serious question. But, the issue that I raised in my initial comments, in the broader industry that includes both lending and real estate, there's a major difference that has somehow has to get resolved. And, since my organization is both a licensed lender and a licensed real estate brokerage company, we see both sides of the problem. But, it must get resolved. Borrowers are caught in between. And, while public subsidies from cities and counties for home buyers is gone down tremendously in the last year, there still is some available. And often those municipalities will ask for a preapproval letter before the public subsidy is committed. And, that creates a problem as well. And, the additional problem is that now, in the last few months, a number of lenders are charging the potential customer for getting the preapproval letter that may be meaningless to start with.

Leonard Chanin:
Okay.

Unidentified male:
I also want to just reemphasize that it seems to us that the preapproval letter really depends on who wants it. We've seen some pretty snaky preapprovals, more like pre-preapproval letters. And, you know, you start talking about the legal definition of a preapproval letter, what has to be in there, we've seen some pretty nothing in there, preapproval letters, so.

Leonard Chanin:
Any other thoughts, comments on preapprovals? Okay. Another actually optional HMDA reporting element is home equity lines of credit. If lenders report, the report not the entire amount of the line but the amount of the line used for home improvement type purposes. So, again, similar question, one, should home equity lines, should reporting home equity lines be eliminated, that is, not even allow optional, should it be mandatory? If mandatory, should it be the entire amount of the line or leave the test as is or simply the home improvement type of aspects of it? For all the panelists.

Faith Anderson:
Well, I think I can speak for institutions that, if you, we would prefer that we don't have to report it. I know we report it because it's just easier to report. For home improvement we would still recommend that you still report secured home improvements. And, I only want to bring this up again because for unsecured home improvement there's multiple reasons why a borrower would want, you know, that type of a personal loan. And also, not a lot of systems track that it's used for home improvement. I'm just letting you know that. And you don't have sophisticated systems sometimes. And so, to the extent that we don't need to report home equity lines of credit, don't. But, if you need home improvements that's secured, go ahead.

Leonard Chanin:
Okay.

Phil Greer:
It would be my preference that we not report it. We do not currently report home equities. It would be my preference that we not be required to. I'm not positive that the home equity data is going to be conclusive in regard to discriminatory practices to start with. If we are required to report it, I would prefer that we report the ceiling, the maximum amount of credit as opposed to trying to pinpoint how much of the line of credit, how much of the borrowing is designated toward home improvement. That's a bear to keep track of.

Leonard Chanin:
Okay.

Will Jordan:
I'm looking at my expert I the audience again. I'm not certain how important the home improvement. Is it, is it, it's good? It's good. So, actually, that bit of information could be very helpful for the way that we collect our data.

[Laughter]

Thank you, I wanted to.

Leonard Chanin:
Okay, Mr. Loving.

Mr. Loving:
Our institution, and I imagine many other community banks, do not report the home equity piece. And, our, and my preference would be that it not be reportable. I have a concern I trying to differentiate between home improvement and non-home improvement particularly in automated systems where consumers have the ability to draw against their, you know, home equity by check or other means. And very simply, a phone call by a consumer in our market that wants to transfer from their home equity, if I have to ask them the purpose of the draw, it would not be a welcomed question. And so, I have some real concerns in differentiating between the two. So, preference would be that it's not reportable. If it is reportable, then like the other panelists, I would agree that it'd have to be on the total amount rather than differentiating the amounts.

Leonard Chanin:
Okay, thank you. Mr. Chaney.

Mr. Shank:
One of the major concerns in the South Florida market is that there is a lot of older homes that need repair. And, with the way the whole market and the whole economy is, I think there's going to be more homeowners that are going to try to stay put and not be moving. And, our concern is that getting credit for homeowners who want to make repairs to their home is becoming a major issue. And, I believe that that would be the case in many other urban communities around the country. And so, in terms of how that relates to what gets reported, we're interested in knowing that homeowners have access to credit for that purpose.

Leonard Chanin:
Okay, thank you. One final question related to home equity lines is, currently lenders have to report unsecured home improvement loans. And so this question on whether that data is useful in terms of the analyses, in essence that could simply be an installment loan or any other type of loan where the consumer indicates is for home improvement purpose. And, you run into difficulties of the surviving percentages of that loan. But, do folks, Mr. Jordan, Mr. Shank, use that data, use it as heavily as other data? And, any other panelists views as well.

Unidentified male:
Yes we use that data and it would be very helpful for us to know about unsecured home equity lines of credit.

Arden Shank:
I agree. I don't have more to add.

Leonard Chanin:
Other views.

Faith Anderson:
From our shop, you, we ask the borrower, well if you ask the borrower, you know, they could have multiple reasons when they take an unsecured loan. And so, sometimes it gets to the point that it's very subjective on what is the purpose. And so, really, your data is as good as what you get. And so, I don't know if you're getting that great of a data because our systems don't, you know, say, oh that's a home improvement loan. I mean, not all systems do that.

Leonard Chanin:
Mr. Greer, any thoughts?

Phil Greer:
I derive no benefit from having that information to be reported.

Leonard Chanin:
Okay, Mr. Levin.

Bill Loving:
I would agree and also echo, often times, the information may not be accurate, the percentage of the loan that's used for home improvement and what's used for other purposes so.

Leonard Chanin:
Okay, thank you.