Home Mortgage Disclosure Act Public Hearings, September 24, 2010
Panel Three: Allison Brown

ALLISON BROWN:
I’m Allison Brown, acting assistant director of the division of financial practices at the Federal Trade Commission. I am speaking for myself today, and my statements do not necessarily reflect the views of the Commission or any individual Commissioner.

[Laughter]

My comments today are base based on the Commission's experience in enforcing the ECOA as to non-bank and financial institutions.

First, I'll provide background data on the HMDA, then make several recommendations for amendments to Regulation C, including expanding coverage, expanding the data reported, and ensuring consumer privacy.

The Commission has an active law enforcement program directed at discrimination and mortgage lending. The Commission uses HMDA data as a screening tool. As the variables contained in current HMDA data alone are not sufficient to establish a law violation. In a fair lending investigation, the staff obtains the target's loan underwriting and pricing data and its underwriting and pricing policies, particularly the extent to which the lender allows discretion in loan approvals and pricing terms. The staff tests the accuracy and integrity of the HMDA data and carefully analyzes the additional data, employing rigorous statistical analyses to determine if disparities can be legally explained as warranted by the lender's particular statistics, by loan characteristics, geographic variations, or other relevant factors.

On Monday, the Commission announced a settlement with Golden Empire Mortgage and its owner. The Commission had alleged that defendants violated the E COA by charging Hispanic borrowers higher prices for mortgage loans than similarly situated non-Hispanic white borrowers. In the settlement, defendants agreed to limit discretionary approvals, to implement a fair lending monitoring program, conduct employee fair lending training, ensure data integrity and conduct regular compliance reporting. The settlement imposes a $5.5 million judgment, all but which -- $1.5 million of which is suspended based on defendant's financial situation. The $1.5 million will be distributed to redress consumers who are harmed by defendant's pricing policy.

In my view, changes to HMDA's coverage and reporting requirements are needed to facilitate fair lending analyses. First, the Board should consider expanding HMDA's coverage. Under current regulations, many nondepository institutions are not required to report data under HMDA at all. I recommend expanding HMDA's coverage to require mortgage lenders to report if they receive a minimum number of applications in a year, not based on asset size or number of actual originations. This would ensure that all nondepositories that make significant numbers of mortgage decisions report these essential data, providing the government and the public an accurate, timely picture of mortgage lending activity.

Furthermore, I recommend expanding HMDA's reach to rural area, as it is unlikely that all discrimination occurs in metropolitan areas.

The Board should also consider different types of loans to regulate. Reverse mortgages and home equity lines of credit are particularly important in this regard.

Second, the Board should consider requiring lenders to report additional data points pursuant to HMDA. In addition to the underwriting criteria require by the Dodd-Frank Act, I recommend board requires mortgage lenders to report combined loan to value ratio and debt to loan ratio, crucial determinants of underwriting pricing. In implementing the changes required by the Dodd-Frank act, I recommend that the Board, with respect to credit score, require lenders to report the name of the credit score being used and if it's a proprietary scoring system, the scale used in addition to the score itself.

Moreover, I recommend that lenders be required to report any results they obtain from automated underwriting systems. This information is often crucial to isolating and examining discretion in a lender's loan approval and denial statistics. In order to enable a more complete fair lending screen, the Board should also require lenders to report first whether the lender made more than one loan against the property and, if so, means to identify any second lien loans. Second, loan type or purpose, so, in addition to the current categories, including categories for reverse mortgage, home equity line of credit, and cash-out refinance to the extent the Board requires those to be reported. Also whether the loan is a fixed rate or an adjustable rate mortgage.

Institutions must make HMDA data available to the public with certain fields redacted to preserve applicants' privacy. In many cases, sophisticated researchers can match the loans in the HMDA data with individual consumers. Thus, I recommend that the Board find a way to report the data so that it can't be matched to individuals or even a small group of individuals. If the board can't achieve in a way that allows academics and researchers use the data, I recommend sensitive fields be redacted and made available solely for law enforcement.