Home Mortgage Disclosure Act Public Hearings, September 24, 2010
Panel Three: Michael Byslma

MICHAEL BYSLMA:
Governor Duke, my name is Mike Bylsma. I'm the director for Community and Consumer Law in the Office of the Comptroller of the Currency.

As Governor Duke has noted at these hearings, HMDA data generally serve three purposes. I plan to focus my remarks on the third purpose listed, which is to promote fair lending and to assist in enforcement of the fair lending laws. HMDA has been valuable over the years as a tool the banking agencies use to screen institutions for fair lending compliance risks. Nonetheless, the data elements currently required to be reported have never been sufficient to permit the agencies or the public to draw reasoned conclusions about fair lending compliance. The additional data elements required by the Dodd-Frank amendments to HMDA will go a long way toward addressing the current limitations that have led to false positives, suggesting that a particular lender may be engaged in unlawful discrimination.

You asked for comment on whether the Board should add data elements to HMDA reporting requirements. As part of my answer to that question, I'd like to first discuss the OCC's experience in using HMDA data and describe what we've done to augment these data for preexamination screening purposes. Beginning in the 2008, the OCC started a pilot program at six large national banks to use HMDA data plus elements not captured by HMDA data in our initial fair lending risk screens of these banks. The initial data elements we reviewed included the business line of the bank that originated the loan, product identification code, whether income was documented and verified, loan-to-value ratio, the applicant's debt-to-income ratio and credit score, the annual percentage rate, the term of the loan, and whether the loan is fixed or variable rate. We call these data elements HMDA plus.

We found that the augmented data used in the pilot helped us to better target our fair lending examination work, and the OCC has since expanded the use of HMDA plus information to our fair lending screening of all HMDA reporters in our large bank supervision program.

We recommend that you consider the OCC's HMDA plus elements as part of your review. Some of these data elements are included in the amendments to HMDA contained in the Dodd-Frank legislation, but not all. For example, the recent statutory amendments do not specifically require reporting on debt-to-income ratios, the APR, or whether the loan is fixed or variable rate. We found these to be valuable screening factors.

Now, as the Board suggested in its hearing notice, requiring collection of any additional information will result in additional compliance costs, even though it could benefit lenders by reducing the frequency of false positives in the public data. One way to address these cost benefit considerations would be to require more detailed levels of reporting beyond those mandated by the statutory amendments only for HMDA reporters who exceed certain origination threshold levels.

You also asked for comment on other aspects of the Reg C review, and I would like to offer a couple suggestions. First, lender coverage rules should be reevaluated. The current rules for coverage differ depending on whether the lender is a depository institution or a nonbank mortgage lender and can have anomalous results. They can cover depository institutions that just originate one mortgage loan but exempt nonbank lenders that originate substantial number of mortgage loans. And based on language in the HMDA statute, the rules also exempt rural lenders that do not have offices in a metropolitan area, even if those lenders have substantial assets and significant mortgage origination volume. Mortgage brokers and nonlender loan purchasers also are currently exempt.

We recommend that the Board review whether its rule-making authority would permit it to expand HMDA coverage to these additional types of lenders in appropriate circumstances.

And reporting on the parent company, such as the name of the bank holding company, could be very useful in identifying lending patterns across an organization. While this would not directly affect fair lending supervision and enforcement by the banking agencies, it could provide valuable information about how affiliated companies under a single corporate umbrella are serving local mortgage lending needs.

And again, I thank you for this opportunity to testify. Look forward to your questions.