Home Mortgage Disclosure Act Public Hearings, August 5, 2010
Panel Two: Keith Ernst

Keith Ernst:
The Center for Responsible Lending thanks the Federal Reserve for its timely review of Regulation C and for the invitation to appear today.

While reviews of HMDA are always prudent, the financial crisis has certainly heightened appreciation of HMDA's fundamental purposes and of the need for better home lending. As a baseline, I note CRL wholly supports the recent statutory amendments. Those advances are substantial and will require thoughtful implementation. Setting that technical complication aside for the time being, CRL suggests that HMDA should be further strengthened by revisions to required fields, reportable transactions, and covered reporters.

First, to better assess the fairness of any given loan, regulators and others need information beyond the fields that are explicitly mandated by Congress. We strongly support adding basic underwriting and pricing information, such as debt-to-income ratio, combined loan-to-value ratios, and reporting on escrow status.

Second, we believe loan coverage should be expanded to include virtually all types of loans lended. One lesson for the subprime prices was the unscrupulous lenders were heavily "incented" to encourage borrowers to extract home equity. Today, it is easy to imagine such a lender training their sights on open-ended home equity loans, for example.

In a revision that expanded the scope of reported loans, it may be advisable to preserve certain narrow exceptions and to add one for loans that create only a remote interest in a home through cross-default provisions. In addition, the paucity of mortgage-modification data has greatly complicated efforts to address the foreclosure crisis, and particularly in HMDA terms, for policymakers to understand where additional public indictment may be necessary. Consequently, we believe the Federal Reserve should require institutions to report data on mortgage modifications and related applications. Such reporting could include information that would allow the modification or application to be linked back to the original HMDA-reported loan, where possible.

Third, in terms of reporting institutions, we believe that HMDA's data collection should reflect the key role played by the secondary market, and to this end, we support extending the reporting to the full range of secondary-market participants that purchase the loans. Finally, we believe that HMDA reporting requirements for nondepository institutions should be updated. One challenge with current reporting requirements is that they potentially allow “low road” lenders to evade detection while nevertheless affecting many families. We believe a for-profit, nondepository lender should be required to report HMDA data if it originates or purchases more than 25 mortgages during the course of a year.

Incorporating new information into HMDA will doubtless present choices and challenges. We also want to take advantage of this opportunity to offer three principles as a guide for the revision process. First, HMDA should remain an application- and loan-level database which is broadly available to the public. The present database structure and availability has enabled users with diverse perspective to draw important lessons. While a "trusted researcher" model should be established to supplement the content of public releases of HMDA data where necessary, its existence should not serve as a rationale for constricting access to reported information.

Second, especially to assist in detecting potential discrimination, HMDA should include key variables that lenders generally use to underwrite loans. These variables could be construed to ensure internal consistency within lenders and promote external consistency of measurements among lenders. While balancing the costs and benefits of adding variables, we believe it makes sense to distinguish ongoing marginal costs from implementation costs.

In addition, while privacy protections are important, thoughtful procedures should eliminate the need to choose between protecting privacy and collecting important variables. Time prevents me from elaborating on this point now, but I hope we can have some discussion of how multiple and layered measures can be used.

Third, regulators should seek opportunities to enhance HMDA's usefulness. For example, we recommend exploring steps to release the data more quickly. This could be accomplished both by decreasing time from submission to release or by increasing the frequency of releases; however, increases in frequency should be evaluated carefully for potential privacy implications.

In addition, staff should explore opportunities to enhance the data's usefulness by, for example, taking advantage of new fields to identify piggyback loans, prepare a fine-grained set of housing price indices, or even add information that would allow for the parsing of first-lien loan transitions within and between annual data sets.

I know we'll have a lot more discussion of the specifics and some of the technical details. I'll look forward to that in our discussion.