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

ELIZABETH DUKE:
Thank you very much. With this panel, I want to go back to the point we explored a little bit with panel one, and that is this idea of a broader database on mortgages and mortgage finance and the linking of various databases and the linking used for a number of different purposes and and number of you have brought up the standardization of the data and the definition of the fields. So let let me start, if I could with the American Securitization Forum's protect restart and ask you just just from having worked on that project, where are the the overlaps and the places where it would be very easy to have the same definition for data and where are the potential problems in trying to match up all of this?

TOM DEUTSCH:
Just a brief bit of background. What project restart produced within the RMBS sphere was approximately 150 origination fields, which could be anywhere from 20 to 150 depending on the type of loan. It could only be 20 data fields if it's a prime loan with, you know, effectively be TBLA eligible.

If you have an option ARM with lots of bells and whistles, that gets into hundreds of fields where the borrower -- I'm sorry, the investor in those mortgages and mortgage backed securities want to see all of those different characteristics. So one very good example of what investors want to see that they historically have not seen is the level of verification on income. Historically there were a lot of variation among lenders as to the definition of what was a full documentation loan, what was a sort of documentation loan and what was a no document loan. I think throughout the financial crisis, some of the large financial institutions had very good definitions of a full doc loan, some of the lenders that are no longer with us had, let's say very weak definitions of what a full documentation loan is.

So there are areas like that, where there could be, I think, some good standardization between what the secondary market would like to see, and potentially what the HMDA users would like to see as well. But I think that there's a broad spectrum in there, where it sort of has to be defined what is going to be useful for HMDA purposes and then what could be pulled from that.

I have to emphasize again that Project Restart and the SEC only applied to private labeled mortgage backed securities. 90 percent are not going into private label or will not go into private label securities. They are being either portfolio or going through a GSE process that does not require loan level information.

ELIZABETH DUKE:
And that brings up a couple of questions. One, and we talked in different contexts, the need to if you don't have information about all loans then you don't have a complete data set and it's very hard to use. So regardless of what the expected channel would be, it would seem that there's a good argument to be made for collecting the same data so that you can get a universe definition. So that brings me to the question of optional data. And in some of the other hearings we've had

discussions of the usefulness of optional data. And so for those of you who use this information, can I ask you, you know, how extense sieve your use of optional fields and how useful are they?

PATRICIA McCOY:
Well, you know, the problem with optional reporting is -- is that you are not going to have full coverage, and it seems to me in a way it -- it punts. If it's important enough to report, we should probably require reporting and not make it optional.

In the data analysis that I have done, we have not looked to optional fields because the -- the number of observations is lower. The standardization of the reporting is more casual, and it's much more helpful to look at mandatory fields.

MARK PEARCE:
I guess I would go back to the notion that -- or I think implicit in your question is that optional data might allow some additional reporting but not creating burdens on people who don't have loans with those characteristics. I would agree with Pat and in some ways encourage the board to take a more is less approach in that by requiring more data fields, I think there's the technology that can be built into the origination system to collect that data and populate those fields. And so if a loan didn't have a particular feature, then, you know, there would be a blank in that or a zero in that but we would ask the question, does your loan have an interest only feature or something along those lines.

And by asking that question, we can get a full database, and I don't think it actually adds additional reporting burdens if you build it into the loan origination system, which I think is pretty straight forward at this point.

JANNEKE RATCLIFFE:
And I would add, I think it's obvious from the conversation with the last panel as well, so these optional fields, this is a self fulfilling prophecy. You don't use them because they are not robust and you can't draw the conclusion they are not good fields to collect.

ELIZABETH DUKE:
Let me move to the ultimate optional field which is the reporting of race and ethnicity at the very at the time of origination, which for the borrower is an optional answer. For the lender, it's, you know, it can be done by observation but certainly for an Internet application, that gets very difficult to do.

So can you -- can you talk a little bit about that field, in particular?

PATRICIA McCOY:
Well, first of all, HMDA mandates the reporting of the fields. It doesn't mandate borrowers to disclose it, but it does mandate the reporting and it -- it shows a real public value in the reporting of this. So our task is to strengthen the reporting.

My concern and I have seen this actually in my own loan applications, are loan officers or brokers saying when they get to that box on the mortgage application, well, you know, you don't have to tell us. My concern is -- is loan officers counseling essentially applicants not to reveal and we should take that as a serious concern and try to obviate the counseling that would suppress reporting of those data fields.

MARK PEARCE:
Yeah, I would chime in that, you know, the purposes of HMDA are identifying discrimination or at least that's one of the purposes and in the last few years in the mortgage market, no matter the additional data that we've gotten into HMDA, there's still disparities among different racial and ethnic groups and what kinds of mortgage loans they get. And so I think it's really vital to the core of HMDA to collect that data and to -- as Pat said, go back and make sure the people are encouraged to report that are not trying to evade it.

In some ways, some of these additional fields we are talking about on pricing and underwriting may really be helpful by having more data. We could actually maybe get a better handle on what the actual disparity rates are between different ethnic or racial groups and from talking to some lenders, I think there's a sense that, you know, if we actually told you a little bit more, we could reduce that unidentified disparity down to a much smaller number, which I think a lot of folks would be interested to see and might soothe some concerns around discrimination in the market place.

PAUL HANCOCK:
If I could add to, that it's crucial in fair lending, in knowing the ethnicity or the race. Agencies have been able to do, it even in some cases there are a high number of borrowers who don't report. I guess one issue to consider is what a lender should do if -- if it's by Internet or by phone and when they meet with them in person they see what their race is, should they put it down or shouldn't they put it down? As I understand the guidance to date, they can do it. They are not required to do it. They can do it, but, I mean, the fact -- if that can be tightened up, it certainly would be helpful. But it's a very sensitive issue. If someone doesn't want to say what their race is, you record it or don't force it? And it's -- you know, it's in an area where this is the only area in business where we ask somebody their race. In consumer lending, it's not only not required, it's unlawful to do it. So it's -- it's difficult issue.

JANNEKE RATCLIFFE:
You know no matter how much financial resources or access you have to data, HMDA is really the only place you can get the race data. It's very important that it gets tightened up. I think in the spirit that HMDA is designed to shed light on areas so that therefore the practices -- it's more of a deterrent, just than an exposure. It prevents bad behaviors and sends them to the places where the shadows are that insisting on better and continually improving the race collection -- the race data collection is key.

ELIZABETH DUKE:
And given your comments, what were your thoughts about requiring the borrower to answer the question, to select?

PAUL HANCOCK:

I would say that's very difficult. I mean, race is so sensitive in asking someone telling someone they have to reveal their race. I don't know that we need that to do the analysis that we are doing. We have been able to do it without requiring that. Yes, if we can tight ten up some. There are a number of situations where lenders do learn the race even if someone didn't disclose it. Should they put it down if the person refuses to disclose it. That would be a step that would get more information, but telling someone today that they have to say what their race is, I -- I would be troubled by that.

ELIZABETH DUKE:
Okay. Thank you.

Ms. Braunstein.

SANDRA BRAUNSTEIN:
Yeah, thank you very much. I have a question, one question, first of all, for Lance about the rural reporting. I think, you know, that's an issue that hasn't come up much in the other panels and by the way, it's good to have you here to represent that view point.

A lot of the institutions -- you know, the institutions that are excluded are very small, as you noted, and so, you know, part of the reasoning I'm assuming for doing that had to do with burden, and also low number of loans that they might make. But I understand this is a hole especially for groups like yours that work in rural areas. So I just want to know if it was required, as you said, that everybody report, do you have any concerns about, you know, what the burden might do to smaller institutions, possibly credit access? Would it -- would it, you know, possibly make them rethink whether they are going to offer mortgage loans if they had to be HMDA reporters?

LANCE GEORGE:
That's an excellent question, and I really don't know. We have seen both sides of the estimates on the burden and we see higher estimates and lower estimates and we really don't know, but we do believe that there's just a fundamental gap in HMDA coverage with rural reporting and it's been a systemic, you know, kind of a long term systemic gap that we simply don't know.

And, you know, I would fall back on a lot of the discussion in the earlier panel on this, but it's elemental, but it -- you know, it's a large gap within HMDA reporting that, I think the burden would be worth the cost.

SANDRA BRAUNSTEIN:
Anybody else have thoughts on that issue? That work with the data? Any of the users of the data? No? Pat? Mark?

MARK PEARCE:
I can't resist answering a question. I guess this gets a little bit to some of the exemptions from HMDA reporting overall which is the fact that we're determining which loans get reported based on whether you have a branch in an MSA or what your asset size is or what percentage of mortgage loans you make and which category, it just seems like -- which were for all good

purposes and well thought out, but it in some ways make HMDA more confusing challenging in the front end. As we just said, as Josh mentioned in the last panel, why don't we have a minimum threshold, whether it's 100 loans a year or 50 loans a year, pick a number and if you are over that threshold report.

From the banks that I have talked to and the mortgage lenders I talked to of smaller size, HMDA reporting is actually not that challenging compared to the question of can they make money in the mortgage business. There's a lot of price competition in mortgage lending and maybe they can get a better rate down the street. Those are the economics driving whether you are in the mortgage business or not and community banks for a long time have been a little less present in the mortgage market than they were historically and that's been driven by price competition, not by complexity of data reporting, in my view.

PATRICIA McCOY:
If I might add, I come from Kansas where it's mostly smaller banks, and there are great spots in the Midwest and the far west that have very little HMDA reporting because they are relatively rural. So I think we have to remember that the really large geographies that are inadvertently left out, and I would expand it.

I would also say it becomes easier for the smaller institutions to report with software, first of all, but secondly, going back to Mr. Noto's point, let's do it all at once and not keep changing HMDA. So let's not put on training wheels in terms of optional fields. Let's figure out what the fields are. Make it as comprehensive as it needs to be. Get that software in place and automate the process.

LANCE GEORGE:
If I could build on Patricia point and some of the statements about advancements it technology and reducing burden but the important point about geography. In rural areas we are only one fifth of the population, but we are usually 80 to 90 percent of the land mass and some of our analysis has -- or I mean has confirmed their indications that there are large swaths, particularly in the plains states that are completely uncovered by HMDA and that's where the majority of these smaller institutions are located.

SANDRA BRAUNSTEIN:
Okay. Thank you very much. That's helpful.

I want to ask one other question because also I promised during the break that I would do so, and that's that Pat asked me if they could talk a little bit about the credit score issue that the first panel discussed in terms of the difficulty of reporting that score in some way, where you can make comparisons across institutions, because people use different models and different systems. And some don't use credit scores at all. So should they have to report it if they are not even using it in the underwriting?

PATRICIA McCOY:
I for better or for worse have looked at a whole lot of individual loan files across all sorts of lenders in the past few years and one -- one thing that I see invariably are -- are the use of credit

scores from FICO, Experian and Transunion and so for those credit scores, I would report the actual credit score to the fed of FFIEC in what sounded like the MISMO format that Mr. Brinkmann talked about earlier for -- for an internal credit scoring system at a bank or a lender, I might consider using percentile buckets instead.

But I would urge that when the credit score is reported for the outside credit score, that they record the actual credits. It's hard to determine what happens right at 620, right below it and right above it for the FICO score and if you are only reporting buckets, you can't analyze those types of problems.

However, when credit scores are made publicly available, let's say in my full access tier one system, at that point, you could aggregate them in buckets and that will give substantial privacy safeguards to people, but the Fed needs to know the individual score.

TOM DEUTSCH:
If I could jump in on the bucketing issue versus the actual credit score.

In dialogue we had internally, the bucketing -- although there's some preference, you would like to see the actual credit score, but particularly for institutional investors who are looking and analyzing the performance over time, knowing somebody's 621 versus 622 doesn't really help you a whole lot. 620 versus 720, absolutely. There's a material difference there. But creating those buckets can effectively hide the actual score that could trigger some privacy related concerns versus some narrow or less narrow depending on the appropriateness by creating that band or bucketing, you can help obfuscate a little bit better the borrower privacy.

JANNEKE RATCLIFFE:
I want to reemphasize Pat's point, the big difference, the distinction between the data that the fed takes in and the data that gets reported on the loan level record. There could be many variations of the way you manipulate the credit score data but if you could start with the raw data and the provider and maybe some relative information about percentiles to begin with and then let the fed determine how it gets released publicly.

SANDRA BRAUNSTEIN:
Okay. Thank you. Mr. Chanin.

LEONARD CHANIN:
Thank you. So I want to ask a couple of questions about specific data that have been raised either at other hearings or by other folks. So the Dodd-Frank bill would require the channel to be disclosed or collected, that is, wholesale versus retail. So presumably if a loan is -- I'm not sure if I want to say originated but started by a broker, then you have to have what's been called a broker flag. Someone suggested that brokers should report information. So I want to ask the panelists their view of whether brokers should independently have to report information and if so, what information?

MARK PEARCE:

I will jump in on that. Having been a regulator for mortgage brokers for the last several years, I have a great trepidation about relying on mortgage brokers to accurately report data. We've had a lot of challenges in our review of loan files and other submissions from mortgage brokers across the board and in some ways I would think -- I would encourage the board to focus in on the lender level and including broker flags and back to the NMLS unique identifier, so that if you actually could track who the broker was, you could accomplish the purpose of knowing what was going on in the brokerage channel. You know who the broker was, but you wouldn't -- you wouldn't jeopardize the integrity of the HMDA database and all the challenges of matching data which you can do with the universal loan number, sure, but what happens if the data doesn't match? Did the broker make the mistake or did the lender make the mistake? It would be much better to focus in at the lender, the funder level rather than at the broker level.

LEONARD CHANIN:
Okay. Other views.

PATRICIA McCOY:
Yes -- oh, please, Paul.

PAUL HANCOCK:
I think this is an important issue. The question is, who is responsible for the data that's being reported and if – if -- I mean, HMDA has relied on the data being reported by the entity that makes the credit decision, that might not be the entity that made the pricing decision and particularly with investors being involved in underwriting today, it could be the investor that made the credit decision, not the lender.

In wholesale lending, I mean disparities that we see in wholesale lending that correlated with race or national origin are driven by differences in broker pricing. So if you want to get to the bottom of that, there needs to be some way to identify where that's arising, and it might be that brokers are discriminating.

It might be that brokers’ reason discriminating and the problem you have is that you -- you have a lot of very small brokers out there. So if you are going to require the brokers to report, where do you draw the line? And a lender might draw the line against thousands of brokers all charging what they believe is an appropriate cost for their services.

I would strongly support some way of identifying that, whether it be, like Mark says, with an identification for broker, but some idea of what the broker fees are so that if someone wants to look at whether the pricing of a lender or different -- correlated with different factors can see what's causing that. I think it would go a long way to address some of the things that we have, both on the enforcement side and the industry side.

LEONARD CHANIN:
Okay.

PATRICIA McCOY:

This information is in the possession of the lender, and I think in addition to all the difficulties these gentlemen have identified, trying to enforce HMDA reporting requirements against so many brokers, including guys operating out of their car, I think is going to overwhelm the bureau and I -- I would say, let's just stick to the lender level.

LEONARD CHANIN:
Mm hmm. Okay. Other views?

So let me ask you another data point that's been raised, at least I think earlier this hearing and that is adverse action reasons. So whether a loan is denied or not has to be reported but not the specific reasons, at least under HMDA. Other agencies do require that to be reported. Should the board consider requiring the specific reason for an adverse action? How would that be helpful, if it is required? Would it be helpful?

PAUL HANCOCK:
Well, it's helpful in doing file reviews because if you have that information electronically, the question becomes how accurate is it. I go back to saying these HMDA codes reflect a business model that's not in operation anymore. And lenders often don't know what to put down in the feel, they don't know what to put down as the reason for the denial if it's a denial. Again, if you get a loan approval with several pages of conditions, you know, how do you decide what's the reason for the denial?

I think in practice, it just it's worthy if we could get accurate information on it, I think it would be helpful. The question is, can we do it in a way that we can get accurate information?

LEONARD CHANIN:
Other views?

JANNEKE RATCLIFFE:
I agree that it's an important field to get right. It goes to the core of what HMDA is supposed to help identify and I was just going to throw in, in improving the coding, there might be something that came up earlier today, especially given the situation we're in now, a potential action about if somebody is turned down for a loan because of some recent default on a prior mortgage.

PAUL HANCOCK: Yeah, and I have looked at a lot of loan files and I have seen often that you will see that loan officers or whoever is making the decision is putting down the reason for the denial is we don't extend credit on the terms and considered condition requests. That's the reason, and that could mean anything.

LEONARD CHANIN: You don't find that very helpful?

[Laughter]

Okay. Just one further question. So there's been a lot of discussion, I will call it about postconsumation disclosures, whether it's a loss mitigation, default and delinquency and it seems to be basically two approaches. One is to try and link HMDA data to those either new or soon to be created databases that deal with delinquency and default and the other is to require HMDA reporters to report that information. Would the first on having the link be sufficient, adequate, or is it appropriate to require HMDA to pull in all of this data?

PATRICIA McCOY:
I would prefer the latter. I would prefer that HMDA pull it in, and in a way, this may be low hanging fruit. Ultimately the consumer protection financial -- the financial protection bureau will administer both HMDA and the new foreclosure and default database and will be in the position to integrate the two. It will be much easier for the federal government to analyze a big set of research questions if those are integrated and I think that is administratively possible. I would -- I would at least aspire to that.

JANNEKE RATCLIFFE:
I really applaud Pat's proposal because I think it looks outside the box of where we find ourselves. The piecemeal data seems like a piecemeal regulatory structure, but that's no reason to feel locked in by it. But I will answer it in a baby step way.

In many ways a loan modification is a refinance. I'm not sure if there's a huge distinction, the loan is being restructured. It's similar to a streamlined refinance. It certainly seems like there's a case to be made for treating loan modifications and giving them the HMDA requirements.

LEONARD CHANIN:
Okay. Other views?

TOM DEUTSCH:
As we developed the reporting fields that investors would like to see, this was a real challenges in getting that information. It's not nearly as easy as it seems, because there are so many variables. We came up with over 200 fields. We started up with 6 or 700 potential fields in loan mitigation, loss mitigation. There is sort of some easy fields, is the loan performing? Are they not performing? Once they are not performing or there's some delinquency or loss mitigation, then it opens up an entire box of possible options. HAMP or non HAMP. If it's HAMP, how much was the reduction, you know the 31 percent DTE – that’s an easy target – and then you look at back end DTI. Although there may somebody fields within the loan modification and loss mitigation field that may be appropriate or easily produced, there is so many different optional fields or possible fields that it creates a real challenge to develop exactly what those fields look like and I think that will be, you know, a hard discussion.

LEONARD CHANIN:
Thank you.

MARK PEARCE:
And I guess I would say that it's important to do it all at one time, to get all the regulators on the same page and if you can do that by linking, that would be wonderful. If you can't do it by linking, then HMDA ought to take a step forward to have the data because it's critical, because otherwise, HMDA may, in fact, be misleading because it says a lender is making a lot of loans in

communities but those loans, if they are not sustainable and they will lead to foreclosure, I don't know that that's serving the needs of those communities.

So I think for HMDA to really achieve its purposes, it has to be able to look life cycle on whether these loans are sustainable and sort of what the best mechanism to do that, probably you know better than I do.

LEONARD CHANIN:
Okay. I'm still stuck on the phrase of getting the regulators on the same page, Mark. You don't spend much time in Washington, I guess.

[Laughter]

With that, I will turn it over to Michael.

MICHAEL CALHOUN:
First, thank you, Gov. Duke and the Federal Reserve staff for the leadership on this and so many other issues and for the impressive panels that you have assembled not only today, but at the other hearings as well.

I want to start first with a couple of coverage issues that have been touched on. In our experience, two areas of lending that have not been captured have been the HELOC loans and then also mobile homes and we saw in our review of the past years and in of the worst lending that HELOCs were often used as seconds in either the refinancing or even the home purchase, and given their key role in that, as well as the fact that a lot of Reg Z and other requirements do not apply to HELOCs, we fear that a lot of the worst lending can get pushed in there. On the other hand, HELOCs also are a standard bank product run out of, as has been discussed, the consumer lending division, which is a different product.

I have concerns with excluding them completely, and I would appreciate some further comments from the panel about are you advocating a total exclusion of HELOCs even if they are used, for example, as a second at the time of loan closing? If it's a partial exclusion, where would you draw that line? Pat, can you start us with that?

PATRICIA McCOY:
Yes, I'm worried about excluding HELOCs. I have seen the use of HELOCs as -- basically piggyback mortgages in the purchase mortgage market, and if you exclude HELOCs, are you then inadvertently encouraging abuses to go into that market? I have become worried about that.

Also, especially if you have a universal loan and property identifier, combined with HELOCs, you can track the expansion of a consumer's debt load over time, at least with respect to their mortgage debt and that is something that we probably want to understand.

PAUL HANCOCK:

Well, I haven't seen a problem with HELOCs. I mean, HMDA amendments over the years have generally come when the government has identified problems that required addressing, like loan denial disparities, the OTS required that to be submitted before it was HMDA.

And there were a number of cases challenging discrimination in pricing. I'm not aware of any challenge to HELOC practices. I can understand the concern and maybe something will come up in the future but it isn't required now. Perhaps there could be abused in the future. We certainly you know, credit card debt was a major cause of the issue as well, and we don't you know, again, as I said before, not only do we not require that, we -- it's unlawful to even -- even ask for the same kind of information.

So, you know, while HMDA has proved to be invaluable to enforcement in obtaining compliance, I just haven't seen in my own experience in both sides as HELOCs of presenting an issue.

MICHAEL CALHOUN:
We saw in our work, several signature subprime lenders who structured the majority of their loans as HELOCs as the loan, not a piggyback second.

PAUL HANCOCK:
Well, I don't I mean, I don't -- I don't challenge you in what you found. I mean, HELOCs have generally been by depository institutions rather than private mortgage companies, but -- I just haven't seen it, Mike. I haven't seen it.

JANNEKE RATCLIFFE:
So I think it is true that private -- I'm sorry, that depository institutions often offered HELOCs at the point of purchase as part of the 80/10/10 structure or just as here you go, you might as well get this while you are here. They could securitize the first loan but still keep the HELOCs on their books and as we know the second liens, or the home equity lines of credit or closing line credits has been an issue in the foreclosure market. I think that's enough of a sign, combining the facts that I made about that HMDA shines light and you will be focused on the area where the light is shining and focused on the shadows where the light is shining. And if you don't look at the HELOCs that leads to the potential that their abuses will occur there.

And second, the -- the idea of waiting too long to recognize a problem before you start looking at it, we seem to have some early indicators. Mark mentioned it's been 20 months since -- until recently since the, you know, the 2008 data was the last information we had. Think about how many years it will be after the real abuses in the subprime market, the information that would have pinpointed that. Think about how many years it will be before that actually becomes available in a public law or disclosure. So I think there's a danger in waiting too long when there's something already showing up as a problem, potential problem area.

MARK PEARCE:
Yeah, I guess I would piggyback on --

[Laughter]

-- on that. Regulator rumor. So -- obviously foreclosures have been a problem, right? So if we are looking, Paul, for the problem that's out there and where HELOCs have an important play, you know, they do affect whether a loan may go into foreclosure, whether the borrower has the ability to tap additional resources to get out of a loan when they are struggling to pay financially and I think part of HMDA's purposes are to look at how mortgage credit is being distributed across the country, and the fair lending is obviously a big piece of that but not the only piece. Looking at mortgage credit availability and how it's distributed across the country, and especially when you get into the loan modification standpoint, we've had three years where we have the persistent problem of whether you could modify or do something with a first mortgage and whether the second   whoever owns the second lien, whether it was a piggyback second at the time of origination or a HELOC, and that lender has subordinate in circumstance states and whether they are willing to do that and at what cost has thrown a lot of sand in the gears of foreclosure prevention. I think there's a lot of reasons you would want to know that HELOCs are in there.

PAUL HANCOCK:
The only thing I would add to that -- I can understand that. I think today, though, is where we are headed, you know, the more important issue may be whether credit standards have gone too far the other way to affect lending to low and moderate income borrowers to reach minorities. The most recent HMDA data for the 2009 year shows that 80% of black home purchasers got government insured loans. I mean, that's a pretty astonishing figures. Only 20% of black home purchasers in 2009 receive what we would consider to be conventional loans.

It's not a HELOC problem. It's an issue of just whether -- what credit standards have become. Maybe they are good. Maybe we need to go that far, but maybe we don't. And if we want to keep opportunities available for minorities, we have to take a close look at that.

TOM DEUTSCH:
I think from a secondary market investor, by far the number one concern for programs like HAMP is not the front-end DTI; it's the back-end DTI. It shows and the redefault rates, I think, for many of the redefaults are driven not by the front-end debt but by the back-end debt that creates a tremendous amount of redefault.

So there is a tremendous focus on this back-end debt, credit card, auto, student loan, HELOC, home equity loans as to a driver of performance of the first lien. The difficulty and challenge is first dividing it between a simultaneous second or simultaneous HELOC and, of course, the subsequent second.

The tracking of those subsequent seconds, we have taken about as deep a dive as we possibly could and still have not figured out a great way. We've come one some ideas to through using the credit bureaus and AFS link to try to create that linkages because investors and mortgages would love to know if a -- if a subsequent second or a HELOC has been made, because that certainly impairs the performance of that first lien. Now, a person has more debt over time, so they would like to see that. But the difficulty of tracking that, even for people who are really moving billions of dollars into this industry have still not found a good way to track that.

So it may be interesting to know HELOC information, but it's only as valuable as trying to link it up with the first lien, which particularly for subsequent seconds or subsequent HELOCs is extremely difficult.

MICHAEL CALHOUN:
Any other comment on that? I have a related question about mobile homes because I know in a state like North Carolina --

SANDRA BRAUNSTEIN:
Can I -- Excuse me, Mike.

MICHAEL CALHOUN:
Did I go over time?

SANDRA BRAUNSTEIN:
No. Tom, I wanted to ask you one while you were on that. The information that the investors are looking for, is it the fact that somebody has a HELOC or are they more concerned about what kind of draws they have taken on of it, because that's two levels of reporting?

TOM DEUTSCH:
Both. Both. They would like to know the HELOC exists because then it shows a propensity for the investor to take some more risk over time, but obviously the draws create that higher back end DTI, which creates, you know, on a relative margin a higher probability of default or redefault.

SANDRA BRAUNSTEIN:
Which complicates the reporting.

TOM DEUTSCH:
Right.

SANDRA BRAUNSTEIN:
Sorry.

MICHAEL CALHOUN:
Regarding the mobile homes, in a state like North Carolina, where mobile homes are about 25 percent of the market, and I know that's the issue with many. I would like the idea of the institutionalizing exclusions of mobile homes. I appreciate the comments on mobile homes, especially in how different states treat them. Some are chattel. Some are land secured. Some states treat them as real property. So where should the lines be drawn there on inclusion of -- of any or all of mobile home purchases and refinances?

LANCE GEORGE:
I think it's -- I would like to reiterate one issue about manufactured housing that it is, you know, largely left out of the shadows. We applaud the Federal Reserve for placing this in HMDA in

2002. You know this type of housing has traditionally been maligned and kind of set to the back side and more so than I think, personally than the type of structure it is or how it's constructed. It's more so the type of people would live in these -- or live in manufactured housing is predominantly been low and moderate income households.

And in that respect, manufactured housing is in many respects gone into parallel worlds where the structures themselves have improved markedly, largely due to the HUD code, the 1975 HUD code, but the parallel worlds in how they are sold, financed, appraised, all of these issues are really kind of a remnant of the old automobile industry, and the industry has really fallen behind in that respect. That's where we see this schism where the homes have improved largely themselves and they are much more home-like, but all the peripheral elements seem to drag this industry behind and one of the key issues is how this home is financed. It's difficult to determine, but we believe a large number of them are through personal property or chattel loans and you are correct in that, in some states, you can’t title a manufactured home as real estate. There are a few exceptions.

I think those loans are trying to be changed, but it's our understanding in still a few states you can't. So those are issues that need to be worked out but for the most point we would like to reiterate our focus on specific reporting of whether a loan is a personal property loan or a real mortgage loan.

PATRICIA McCOY:
I think if we are going to be faithful to HMDA's purposes in -- in understanding what's happening in low and moderate income communities, we have to continue the reporting of -- of manufactured housing loans.

I am not at all deterred by this question of how states treat it, because HMDA is federal law, and as -- as a matter of federal law, the Federal Reserve can define any loan secured by a manufactured home as -- as secured by real estate. It need not be deterred by what the states are doing.

PAUL HANCOCK:
I guess I'm a little confused by this because it is reported now. Are you talking about expanding that or the question is should it be eliminated?

MICHAEL CALHOUN:
Should there be any distinction about whether it's a chattel mortgage or a real property mortgage?

PAUL HANCOCK:
Yes, I think when the Fed imposed that the last time to identify those, it's very helpful to do analysis of practices because those are subject to different conditions and lending and you would have different denial rates. You have different pricing standards. So anyone wanting to analyze that will want to know if it's for a manufactured house or is not.

MICHAEL CALHOUN:

But all should be included in the reporting?

PAUL HANCOCK:
Well, they are now. I'm not suggesting they shouldn't be. I'm not suggesting eliminating them. I don't know the extent, if there's some that aren't being captured now. I haven't heard of, that but to the extent they are, I'm not suggesting that they not be. My only suggestion is we just need to make sure we identify those and the data so that the proper analysis can be conducted.

LANCE GEORGE:
I think this is a question we had. We have a question on what how much of the personal property market are we capturing? Because we simply don't know because of that question. So it's difficult. We can't determine whether a loan is a real estate mortgage. We think that the you know, the -- some other census figures estimate that currently two thirds of all manufactured homes are financed with personal property or chattel loans but we simply can't discern that from HMDA. So we really don't know what the market is.

MICHAEL CALHOUN:
Mm hmm. Okay. Those are good points.

MARK PEARCE:
The states from a licensing standpoint, the SAFE act requires that if you are making a loan secured by a manufactured home, whether it's chattel or real estate, those originators have to be licensed in the various states, and so they will you have the NMLS unique identifier so it's making sure that we are capturing all the loans that are originating to those folks regardless of whether a state catalogs it as real estate or chattel.

MICHAEL CALHOUN:
I don't want to use too much time. I have some more, but I will save them.

ELIZABETH DUKE:
I will tell you what, since this is your first panel, I will kick it back to you. I did have one question though. In the continuing search for a single piece of data that's absolute historically not necessary.

TOM DEUTSCH:
Just one? A unicorn search?

ELIZABETH DUKE:
One nomination that's gotten the most votes is the unsecured loan for home improvement and so my question would be, you know, is -- is that potentially something that is of lesser value that could be left out? And it has all the same issues of being tracked and reported on different systems. Any?

MARK PEARCE:
If you add all the other fields we are asking for, then yes, you can drop that one.

From the way I look at HMDA and this gets back to the HELOC question. Can you lose your house is in some ways should you report a loan? Can you lose your house? Unsecured debt, I think is one place where you can make a distinction and say, well, you won't lose your house for that particular loan. Well, there may be some lien on it, but that's a contractor's lien or something like that, but that might be worth taking out.

ELIZABETH DUKE:
Okay. I'm encouraged by that progress. If we had debt to income, and some of the underwriting factors, could you live without the reasons for denial? And I just -- I remember my days as a lender, if it was a debt to income issue, it was whether it's what limited income or excessive obligations. You didn't know which was causing that. Again

PAUL HANCOCK:
Well, if you can get accurate data on it, generally lenders will look at DTI to see whether the loan can be made. I don't know that they are as precise with the data in determining precisely what it is, if the loan if it will support the loan. It is an important factor, of course. But I guess the question is what would you require reporting in? Debt to income can change a lot during the loan application process.

So you would have to be pretty careful about how you define it, is it -- I guess it would be the debt to income you relied on in making the loan, but many lenders look to that and if it -- if it supports the loan, there's no need to drill down further. So you are not going to get the same kind of data like you would with credit scores because you will get someone's credit score

ELIZABETH DUKE:
What I'm going for is the reason for denial.

JANNEKE RATCLIFFE:
I think we talked here about the difference -- there's a difference between a field not being useful because it's just not useful, the potential information is not useful or the way it's collected. And I also -- I just -- I don't have an answer for your question, yes or no, but I would recognize all the changes pending in Dodd-Frank about loans and how they are qualified and how they have to be underwritten for ability to repay, and I think before we get ready to throw away that reason for denial, it may actually become much more important in the future and it may become more standardized, so I think it might be worth looking at those requirements before we sort of…

MARK PEARCE:
From a regulatory -- from the way we would look at it, from an examination standpoint, that code is not terribly helpful. We look at HMDA for disparities and then it's as Paul said the starting point. And then we are doing deep dives into loan files to see what were the decisions and why were they made? And, you know, I do worry that the coding isn't terribly relevant or it's not consistent enough to be -- to be useful from -- from a regulatory standpoint or enforcement standpoint.

ELIZABETH DUKE:
Okay. Sandy?

SANDRA BRAUNSTEIN:
Yeah, a quick tag on to what Elizabeth Duke was asking. I wanted to ask you quickly about the multifamily housing fields. Are they -- Jay Brinkmann mentioned it briefly in the first panel, said he didn't think the data was very helpful because there's so much missing. I was just wondering what your thoughts are on that. Is it useful? Do you use it? If not, should it be improved and how? Just kind of a sense of that.

JANNEKE RATCLIFFE:
I just -- again, looking forward and with the inflection in the market and rental housing, affordable rental housing market becoming available, I would be reluctant to reduce the amount of data or the emphasis on that. Maybe I would move in the opposite direction.

SANDRA BRAUNSTEIN:
Right now, do you use it or --

PATRICIA McCOY:
In New England we do.

SANDRA BRAUNSTEIN:
Oh, okay.

PATRICIA McCOY:
You certainly have the long New England tradition of the triple decker, and that is so ubiquitous in New England that it's an important thing to look at.

SANDRA BRAUNSTEIN:
Okay. And then one other quick one, what about reverse mortgages? Is that something that should be added? The data?

PATRICIA McCOY:
You know, I am worried as our demographics change in this country, and a greater proportion of us become gray haired, that reverse mortgages is a sleeper issue. And -- and the underwriting on reverse mortgages probably is not as rigorous because you are drawing down equity, essentially.

So at the same time, I find the -- the real interest rate on those loans very difficult to unpack. And so I would like to start tracking reverse mortgages before they become a real problem.

MARK PEARCE:
Yeah, I don't think it's a sleeper issue. I think it's here. It's a burgeoning part of the market. There are a lot of ways to lose your home or be taken advantage of in that market place. We need to start selecting information on that sooner rather than later.

SANDRA BRAUNSTEIN:
Thank you.

LEONARD CHANIN:
Just a quick follow-up. In your opening statement, you were mentioning experiences of other agencies and you mentioned the Census Bureau and then I think social security and then you stopped. Can you -- can you finish that, take you back there?

PATRICIA McCOY:
Yes, absolutely. So, of course, the Department of Health and Human Services with HIPAA has has had to come up with very stringent medical privacy protocols that do allow lots of outside researchers to work with this data without disclosing the names of patients.

And in the last footnote -- law professors love footnotes -- in my last footnote of my written testimony, I list all the federal agencies I was able to find that have come up with privacy protocols to allow outside researchers under really controlled circumstances to work with the data.

And I -- the last thing I was going to say, but ran out of time to say, is I would urge the board to survey other agencies that have actually been doing this for a long time, because there really are a lot of protocols. Census may be the right one. It may not be the right one, and that would be well worth doing.

LEONARD CHANIN:
Okay. Great. Thank you.

PATRICIA McCOY:
You're welcome.

ELIZABETH DUKE:
All right, Mike, you can have all the rest of the time until 12:30.

MICHAEL CALHOUN:
But it's prelunch.

I want to follow up on some discussion about the challenges of one of the key data fields and that's race, ethnicity. And a two part question, first, a technical one is in -- I will toss 'em both out at the same time, given the short time, so we can wrap up more quickly there.

So what extent do researchers use census track as a surrogate for the race, ethnicity data, particularly given how often it's missing?

And then an overall question about the general integrity of the data that populates the fields in HMDA. Do you have ideas, suggestions on how do -- to better test or improve the reliability of the data overall? So anyone willing to take on one or both of those?

MARK PEARCE:
I will just do on the last point, in -- I really encourage the board to go to quarterly data and I think having regular submissions of data will help to improve the integrity of data across the

board. So I'm not particularly on any specific fields but another way of regular reporting will make easier rather than lenders who are supposed to be keeping it quarterly but then they wait until the end of the year to do all of their scrubbing, and so the more frequent reporting may improve the quality of the data.

PATRICIA McCOY:
On the first question, researchers have at least two techniques for navigating that, and sometimes they simply go ahead and use the individual loan level observation, and if there's no observation, of race or ethnicity, they drop that loan from the analysis.

Another way to do it is -- is within the census tract to run the analysis according to the proportion of people of different races and ethnicities that populate that Census. So there are a variety of ways. Or you could aggregate up to the county level if you need to do that.

PAUL HANCOCK:
Well, I haven't seen an issue where the underreporting of race has proved to be a problem in analysis, and by that I mean I don't think I've ever seen a suggestion that it's disproportionately affecting a certain racial group. And as you say, you usually analyze the data that's available, and I haven't seen a concern arise that we are missing something by doing that. Geocoding has not been used in my experience very much in home mortgage lending because we have HMDA. It's used more in consumer lending like some of the auto cases where you didn't know the race of the borrower and then you have to go to geo coding or even address -- or surname lists, the Census Bureau publishes surname lists that have varying levels of validity. The Justice Department, for example, had a case dismissed recently in California that was -- that was based on an Asian surname list with the court thinking it was not sufficiently reliable. So HMDA is really pretty remarkable in that it gives us this information. It maybe isn't perfect, but for the most part, it gives us enough information that I think the enforcement officials have thought that they could rely on it to determine the -- the number of borrowers by different races and ethnicity and gender who were impacted by different loans.

LANCE GEORGE:
Quickly from the rural perspective, we’ve traditionally used the county as the primary unit of analysis but we are increasingly moving to track and subcounty unit of analysis for various reasons with geography.

MICHAEL CALHOUN:
Thank you.

ELIZABETH DUKE:
You have two more minutes.

[Laughter]

All right, with that, let me thank this panel. This has been really very, very helpful. Thank you very much.

[Applause]

And we will now break for lunch and we will resume at 1:10 for the third panel. Lunch is right over here.