Home Mortgage Disclosure Act Public Hearing, July 15, 2010
Panel Two: Q & A part 1

Governor Duke:
Thank you, and thanks to all of the panelists. I apologize that I missed the first several of the panelists, but I did actually have statements in advance so I've been able to read them. If I could start just with a few questions, the first one, since I've been at Federal Reserve I've worked with a lot of researchers and none of them have ever seen a data element that they didn't like.

[laughter]

So, my question to you would be is there any data either currently collected or proposed that you think might be of less importance and that could be eliminated?

Stella Adams:
Well, as I have discovered today, I am probably the only person on the planet who actually uses the pre-approval data set.

[laughter]

And I use it in a limited fashion. I use it as a scoping tool. It helps me decide where I'm going to look. It's part of the examination of the data that I used to then say, wow, here are all these pre-approvals, but they don't have, but they were not accepted. So, then that triggers to me, why? Does that mean that the terms and conditions of those loans were onerous, and therefore the person didn't want them and found a better product? And so that is not in information right now. It will be when we add loan-to-value DTI and the other elements, but it's not there now. And, so now what I use it to do is scope out, I need to test that lender to see what the terms are. Or, I need to examine if I'm involved in an actual complaint against that lender, then that’s a set of questions that I want to ask in the investigation, I want to get at why are those things there. And, again, I use HMDA in my fair lending investigations as a scoping tool, because it doesn't tell me all the things that I need it to tell me. But, it does lead me in the right path. It is a guide star. And, so even the pre-approval is important, at least, to me.

Governor Duke: OK, that's one vote for pre-approval.

[laughter]

Steven Antonakas:
Well, Governor Duke, there's a great deal of information required already, which I think is very relevant. There's some new data fields that have been suggest that would be very relevant as well, specifically credit score and the ratios that have been discussed. I do think there is a danger in making it so great a data set that it becomes noise at a certain point. I think that is a possibility if we get introductory rate duration, or prepayment penalty, negative amortization features, and so forth. What use are providing at the end of the day? It's very important to have the mortgage

market be transparent, to provide this data to consumer groups and others to be able to ask thoughtful questions, but at the end of the day our final determination of disparate treatment is not possible, unless you were looking at the actual loan application files and taking into account everything else beyond issues that are even contemplated by the Dodd-Frank Bill.

Jeffery Dillman:
As Stella sort of eluded, we don't do any work with the pre-approval aspects of HMDA, although I would hate to say anything that would make it hard for her to continue doing that work, but most of the other data elements we look at, at some level in our research.

Adam Rust:
OK, so I would add that I have never used the pre-app data, I suppose in six years. And, I've never had anyone ask me, or say, we've got some amazing pre-app data.

[laughter]

It doesn't happen. At the end of the column, the last column, I think is number one to four family units, and again, I've never used that. It's a little bit curious to me whenever I see the race data. There's an indicator for the borrower, and then if there's a partner, there's another indicator, but then there are four more categories, as if, so I think that's there, but it's never filled out. And, I don't quite see why it's there. It's a little just, it's just too much noise. Then I think there are some variables where we get it in a very continuous form, but we don't use it that way. We transform it to nominal data right away. The rates spread indicator, sure, there's some loans where it's at 14% rate spread, and we notice that. But most of them it's just we say, is it high cost or not? And, that information, in a way, isn't that useful because we don't really know the base. The base changes every month. We just don't know, so we can't really make too much out of it. We do a lot of work with that data, but we don't need it that exact.

Susan Wachter:
I don't think it's feasible to collect property identifiers. I don't think it's necessary either.

Governor Duke:
OK. Second question, we've been through a lot of turmoil in the mortgage market in recent years. And so my question, I guess, goes to how have your uses of the HMDA data changed based on what we've been through recently versus what you might have used it for in the past? And, how much of your thoughts about how you might use it in the future are sort of formed by the recent uses of HMDA data versus what you might have done in the past?

Jeffery Dillman:
I guess, I can start. Our organization has done a lot of HMDA research in the last five years or so, so this is sort of in the period when there's a lot of turmoil. Prior to that it was much more sporadic. The greatest difficulty I have in using it is that it's historic, is that it's been nine and eighteen months old. And, so when we're working with community groups who are doing, you know, organizing around a particular lender, or in a particular community and they want to know, what's going on right now? I can tell them what went on two years ago in that community, but I can't tell them what's going on right now. And, I think that, for me, is really key. In thinking

about today's hearing, you know, that became a much larger point as I thought more and more about it, because the uses of it in that way, it's very wonderful historically to see what happened in a particular community, or by a particular lender, but being able to transform that and to be able to have, you know, some reactive and dynamic capabilities, it really needs to be available in a much, much more timely manner. And, really having it on a rolling basis, whether it's quarterly, or ideally monthly, would be much better. And, I don't know how much more work that is for the reporters, and they're all probably going to be shaking their heads saying that I don't know what I'm talking about. But, if the work is mostly saved into a certain time period of the year versus if it's spread out I don't know if there's going to be a huge difference in overall work. And, to have that availability, both for the regulatory agencies as well as for the public and advocacy groups, I think is crucial.

Governor Duke:
I guess that's the corollary to liking more and more data, you want it faster and faster as well. I think the issue there is really scrubbing and editing, and the validity of the data more so than the time it takes to collect. Other thoughts on this?

Stella Adams:
I would disagree, because one of the points I was not able to make earlier is that most of this data is publicly available to investors on monthly or quarterly basis packaged in the mortgage-backed security. They collect the data. They put the prospectus out on the internet. They tell you all of the data sets that we've asked for are provided. All of the information that is HMDA-reportable currently along with the loan level stuff that we're requesting is packaged and put in the perspective by loan number. And Fannie Mae and Freddie Mac, when they purchase it they do a monthly summary, and they do a quarterly summary. So, this information apparently is being given to the SEC in a timely manner that can then be done. And, so there should be no additional costs associated with reporting that data on a quarterly basis through HMDA. We have two regulatory agencies both collecting, they're collecting the data for both. Unless you're keeping it on your books, if you sell it to the secondary market you're collecting that data. And, so merging those two data sets into one that's publicly available in a searchable manner would save me a lot of time, because I do pull both sets. And, I've got to know what the mortgage-backed security was in order to do my comparisons. And so, by providing it, but it's not an undoable task.

Governor Duke:
Well, and I think there are some provisions in this legislation about data to be provided on an ongoing basis on loans that have been securitized. And, so certainly the ability to merge the data and utilize both would be certainly a positive outcome. Yes? I thought you, yeah --

Adam Rust:
I've seen the data that Stella is talking about, and I was shocked. I would have loved to have known about that. But it's true, every single lender, every single loan, it's all there. I think the problem right now is that the lightning struck in September 2008, and we still can't analyze that because we don't know for 2008 data when it's before and after the point in time when that occurred. So, even trying to do a study in 2010 we really can't answer that question. And, that's really frustrating. I think during the crisis, or during the turmoil, the problem was that you couldn't make much of an apples and oranges comparison to a good bank versus a really awful

mortgage company. Because they both came out with, the awful mortgage company was making all these adjustable rate loans, they all came out as low-rate spread, which we use as a proxy for prime.

Steven Antonakas:
Governor, the biggest change for us has been since our state law changed and expanded our CRA stature to cover non-bank mortgage companies. And, since then we've been actively examining for compliance with HMDA for the non-bank mortgage lenders. And what I can tell you is that the data submitted is garbage. It's riddled with errors. So, any universal analysis that's being done is frankly questionable. And, I strongly caution against extending HMDA report requirements to mortgage brokers, because it's going to be worse, absent the federal infrastructure to be regularly reviewing the accuracy of that data.

The other way to get at the issue, and it's an important issue, and I don't want to get away from the importance of tracking loan performance on an individual originary basis, that is a completely valid point and something that should be pursued, the way of getting at that is requiring the lender, be it a bank or a non-bank mortgage lender, if they outsourced their origination channels the third party brokers and originators, is to track the identifying number of that broker and/or originator in their data submission. That's a far more, far more valid means of assuming that you're going to get that information than requiring a broker to fill it out and so forth. And, you know, something that has been lost in this crisis, again, as a regulator that oversees both banks, credit unions, as well as non-bank mortgage companies and non-bank brokers, there were bad practices that existed everywhere, for sure, and we have third of the brokers that we had three years ago because of the number of enforcement actions that we have taken and because of changes in the market, however our primary tenet of bank supervision is that the bank is responsible for the third-party that it does business with.

And they weren't, the brokers were not underwriting the loans. They were pushing this crap, no doubt about it. But, someone else was making the underwriting decision at the end of the day, and a lot of the largest banks in this country have either failed or now dominate the market share, are as deep in this as any non-bank lender that went down as well.

Governor Duke:
Going back to the question I asked the first panel. Talk a little bit about the trade-off of privacy and data availability, and particularly the granularity, and the searchability of these databases. I can see the potential for, depending on how regularly the information gets house-searchable, that not only could you identify individuals through this data, but it could also become like census data and actually used as a marketing tool for lenders to target their marketing. Thoughts on that?

Stella Adams:
It's already available as a marketing tool. I buy it all the time, whenever I can find a funder who will slip me the money where I can get the name of the borrower, the address, the loan, all of the loan terms in a range. Not the exact credit score, but if I say I want loans above 680, I can get names, addresses, phone numbers, date of mortgage, amount of mortgage, when the first loan

was originated and all the data sets. I can buy it, and it's not expensive. It is for a community group, but if you can find a sugar-daddy you can get that data.

[laughter]

And, it's available as a marketing tool, and banks use it all the time.

Governor Duke:
OK, so it does, so presumably at this point then you could append to that debt-to-income and credit score. Would that disturb any of you to have that information out there and available?

Stella Adams:
I mean it's out there, and available for a price. And, what I'm saying it's publicly available data already. You have to put it together to get it. And so the privacy issue, to me, is not a realistic bugaboo, because I can buy it, and I can do marketing. I mean some of the ways I've identified borrowers, I've said, I bought the data set. I sent them a card. If you think you've got a predatory loan call me back. I marketed the same way the predators did, and that's how I gathered a lot of my data.

Governor Duke:
Anybody else?

Susan Wachter:
There are privacy issues. They are real concerns. That's part of the reason why I think it is not desirable at this point to go ahead with property identifiers. Secondly, I do think there needs to be masking of data that's done by other agencies. I think we can, those practices can be adopted here.

Jeffery Dillman:
I guess, also, I mean there's a number of ways, and I don't know most of them probably, to try to deal with the privacy concerns. I mean the couple of ideas that might be considered are, one, is when you get down to a certain level of geography is to limit the data fields that are available so that the fields would be available on a large geography where you could not identify an individual property, for example. But, then when you get down to a census track, or something like that, or if there's only, you know, one house in the census track that's reporting, at that point credit score may not be available. The other idea is that I know some census data is available, some of the micro-data is available, only under certain restrictions. So, you have to submit a, you know, researchers would have to submit a proposal, for example, and sign a non-disclosure, an agreement not to disclose individual level data. And, possibly data could be made available to researchers who would sign non-disclosure agreements, so that the overall conclusions could be revealed, but not individual data about credit scores of a particular property, or in a particular geography that's too identifying.

Adam Rust:
I just think, as someone who would like to use the credit score data, I will acknowledge that I don't need to know if it's 734 or 681. What I need to know is a band, because that's the way that

banks work. If you have a 721 you might get the loan. If you've got a 719 you won't. That's the way they think, and that's the way this LLPA is formulated, and it will have that same function. I think that credit scores change all the time. So, it's kind of a false indicator to say you know the exact credit score. So, to me, it would be fine if it was in a band. I know Vantage score is a band that works that way. So, yeah, I think the privacy part there can be, we can find a middle ground. The same with loan-to-value. I mean, we could have trigger when it went a high loan-to-value indicator and we would be able to make excellent use out of that, as long as it's on a loan level.

Governor Duke:
That leads me to my last question, which I was interested, Susan, in your questions about the quality of the loans, the terms of the loans. If we had had this data as we went into the '70s and '80s, '70s and '80s, oh. If we had had it in the 2008, 2007, that area, we might have been horrified at the terms generally, regardless of whether they indicated discriminatory pricing, but just the terms that were out there. Would you advocate that we use that to really look at practices to ban altogether regardless of who they're being marketed to?

Susan Wachter:
That's a separate issue. Certainly I see three challenges. The first challenge, historically, of coming together, looking for possible opportunities for community banking, which I think we've moved considerably. The second challenge of risk-based pricing and economic discrimination, potentially, also legal discrimination, is an ongoing issue. The third challenge, obviously, has threatened the nation. And, that challenge I do think we need to address with timely provision of data through HMDA, the loan quality of the nation's mortgage fluid portfolio. I think it's possible and I think it's necessary. Thank you.

Governor Duke:
Sandy?

Sandra Braunstein:
OK. I'd like to, since you all are users of data, I'd like to talk a little bit about some of the new data elements that will likely be required in the new, in the legislation. And, you know, some of these are going to be, it's past, it's probably maybe later today, next week, or going to be past the point of whether or not they're included. They're going to be mandated by the legislation. So, what's kind of left to us to sort out at that point will be how they'll be reported and how they can be reported in a way that will make them most useful to people. So, one of the big ones we've already had some discussion of is credit scores. You know, there's a lot of different scoring systems. We had a little discussion of this on the first panel. But, I'd be interested to hear from your perspectives, as users of the data, considering that there are so many different kinds of scoring systems, do you have some advice for us on the best ways to collect that data that would ultimately be useful as information for you when there's so many different systems and different kinds of scores used?

Adam Rust:
Well, you know, I would hesitate to say we should do a percentile, some kind of cumulative figure. I think I've heard that that might be out there. The problem with that is that it's always changing. It's not, is it an 85th percentile credit score. It's is it 720? Or, is it whatever the

particular lender is using. That's a complicated question. I've heard that the Boston Fed Study had its ability to sort of generate an independent regulatory means of developing some sense of credit, and maybe there's some inspiration in that.

Sandra Braunstein:
Others? Stella?

Stella Adams:
I would like to see the information gathered in bands that are relevant to the market, as opposed to is 85% of people have this credit score, or this credit score. But, rather that is banded to things that matter, like, and so that would be the secondary market LLPA trigger for me. You know, what makes it, where is it that you get the best price? What is that price by credit score? Now, even though lenders are using different models, they're all selling the Fannie and Freddie, and so it's being priced at those triggers. And, so what we want to look at is those, maybe, those kind of, but it's some kind of, of, index that you can tag, either the loan-level pricing, which is data. Or, if there's a cutoff for, whatever is being used for a cutoff at the market, at the secondary market level on access to capital, or the cost of capital. That that's where you tag the credit score to. Because what I want to know is if I have that A++ credit score, that one that is supposed to get me the best price, but I ended up paying twice that, I want to be able to see that transparently. And that's what is important to me in doing fair-lending investigations. It is on an equal basis, as a qualified applicant, did I get what I qualified for? Or, did I pay more for it? Even if it was just a point more. Did I pay more for it. And so that's where I'm looking to see the race.

Sandra Braunstein:
And are you looking within the institution itself, or across institutions?

Stella Adams:
That's why I'm saying pick a market out here, pick the Fannie trigger, or the Freddie trigger, or the FHA. Pick a trigger, and then you can look at everybody based on that. You can index it to that.

A. James Elliott:
I agree that the use of credit scores may be a bit helpful, but unless you've got the comparison of the pricing data that goes along with it, I don't know that you've learned a lot. As just as was pointed out, unless I know that someone who had a high credit score, or a low credit score was in a premium pricing loan, then I really don't know whether there was discrimination.

Sandra Braunstein:
And, so, anybody else on credit scores? No? OK. So, along those following up on that, for pricing data, is that something that should be collected across all loans, not just the high-cost loans?

Stella Adams:
Absolutely.

Jeffery Dillman:

Definitely. I mean to make an analogy under HOEPA, I am an attorney and used to litigate predatory lending cases. And, we started at certain point in time seeing a lot of loans that came two cents below the HOEPA trigger. They didn't want to trigger it. And, I think it terms of the pricing data you could see a similar type of thing, where it's just below a trigger. And, so you really need to have that, because the fact that a loan is, you know, a hundred points, whatever, below the trigger, I mean there still could be discrimination going on that's just not being caught because of where that's at.

Adam Rust:
I think we need to come up with a better way, if we're going to have a rate spread indicator for adjustable rate loans, that we need to get rid of the interest rate risk difference and have fixed-rate loans, and, well, the adjustable is all different by the term. I think those TIPS bonds would be an excellent way to compare it. You know, TIPS are in one, three, five, seven-year terms. And, if there was a threshold indicator on an adjustable-rate loan that was in relation to that we'd know more clearly what's going on with adjustable-rate loans. And, Mr. Greer was saying that his bank makes good ARMs. And, so I sort of think that would be valuable for banks that do make good ARMs, if we could have a means of saying when it resets in the 7th year, then it's going to be higher than the seven year TIPS, then it's a high-cost loan. We'd have a way to really understand it better.

Sandra Braunstein:
OK, anybody else on that? One other question, data point, I want to ask about, is this universal loan identification number that's been discussed and is in the legislation. Do people have thoughts on that? On how, what is the best way to come up with that, to assign it, you know, how to track that kind of thing when you're talking about lots of lenders making loans all over the country? Do you have any ideas for us on what would be the best way to do that?

Stella Adams:
I'll give it a try, because I think that, for me, it would be valuable to be able to track a loan when it is sold. It will have value when the loan is sold from servicer to servicer to servicer. It will make my life a lot easier to be able to track with a universal number. So, the way you can do it is similar to the way the census identifies counties with a certain code. So, each lender would have their own little lender code on the front, and then you would have maybe another identifier, like, channel code. And, then you could have a product code, and then you start 0001. So, that could have, like, a unique identifier for that lender, and then the 0001, and then that way you would have a universal system. You could do it in a way that you could actually track the loans. I know you don't like that, Steven. But, that's a way it can be done.

Sandra Braunstein:
Steve?

Steven Antonakes:
No, I don't dislike that at all. I think, what I was getting to before was the unique identifier for the third parties involved in the transaction. But, a unique identifier for a loan is equally important as well if you're going to actually track the performance of that loan, and link it back to the terms in which it was offered. And, that is something that we have lost throughout this

process. And, you know, while I won't turn this into a CRA hearing, that's the subject for our hearing for another date.

Sandra Braunstein:
That's for Monday.

[laughter]

Steven Antonakes:
What was lost, you know, the banks that originated unsustainable loans still got high grade CRA ratings, and that's inexcusable. That's a misapplication. That's not CRA causing the crisis. That's a misapplication of the Community Reinvestment Act. And, the banks that knowingly, whether knowingly or not, made loans that were not sustainable, should have been substantial non-compliance, and the need to improve ratings. And if you can use the unique identifier, again, as a means of taking one data set performance, loan performance ultimately, and migrating it to HMDA, would be a tremendous resource for all of us.

Sandra Braunstein:
Others? Any thoughts on that? OK. Leonard, do you want to --

Leonard Chanin:
Sure. I'm going to follow up Mr. Dillman, a question for you. You had raised three points in terms of the use of the data. One is adding new data. Second, is the accessibility or the access to the data. Well, that was actually the third. I just want to some clarification on your second point, to make sure I understood it. You said there's, I think, a need for data in order to compare lenders, and gave the example of one lender reporting, and then wasn't sure if the lender went out of business, and then another lender reported data for that. Could you just give me a little clarification?

Jeffery Dillman:
Sure, sure. Mr. Leonard, it actually wasn't, the lender didn't go out of business, they just started reporting it under a different name, so it was very hard to track what was going on. And, it took us, you know, quite a while to figure out where those loans were being reported locally, and I think throughout the country as well. We were only looking at it in Ohio. The point, though, that I think I would like to make sort of a little bit more broadly is that it should be -- the HMDA data should make it easy to aggregate and disaggregate the loans by a given lender, with subsidiaries, or parents. So, that if, for example in that case, if National City Bank was the parent and they had a subsidiary National City Bank of Indiana, which had a subsidiary, First Franklin, it should be easy to be able to select all of the National City institutions together, or to take out their particular ones. Because lenders right now can, in a since say, we don't make sub-prime loans. You know, National City, you know, I don't want to pick on just them, although they rightly deserve to be picked on for a lot of their practices. But, a given lender, let's say, could say that they don't make any sub-prime loans and their subsidiary is making all of them. And, it should be easy for end users to be able to figure that out, to be able to, you know, in an ideal world, click a button on the FFIC website to list all subsidiaries and parents, and just click on the ones you

want, you know, aggregate. And, so to be able to aggregate or disaggregate that data, I think would be a big help for a lot of users.

Leonard Chanin:
OK, that's helpful. Thank you. I want to go back a little bit to the data elements, current data elements and ask about the value of some of existing elements. So, we'll leave aside what's now going to be become the new Stella Adam's rule on pre-approvals.

[laughter]

And, talk about a couple of other items. One is home improvement loans, unsecured home improvement loans, and whether you all use that category. If so, kind of how much and what way in the like. So, we can just go through the panelists.

Stella Adams:
I do not use the unsecured home improvement loan category for, for work on, for fair-lending purposes related to mortgages, because it's unsecured.

Leonard Chanin:
OK.

Steven Antonakes:
From a regulatory point of view, we'll probably not focus on that field as much, unless that was preponderance of the business.

Jeffery Dillman:
Yeah, we actually didn't do any research on unsecured home improvement, but I think one point that I do want to make with regard to that is that one thing that we saw in Cleveland, which I assume has happened around the country as well, is the change in the types of loans that were being originated. And, so home improvement loans in general became a very small part of the market, where most lenders and particularly brokers were encouraging people to refinance, do a complete refinancing. So, secondary liens were becoming much less common. And, so I think now the situation is changing, and we're seeing more home improvement loans. And, so I think you want to take into account that as the market changes, you want to have the data to be able to track what's going on. And the market will obviously always change a lot quicker than the reporting. And, so I think that before, you know, something is gotten rid of, to sort of take a look at one of the local, recent trends in regard to that.

Leonard Chanin:
OK, thank you.

Adam Rust:
Right. I don't use it for much. But, his purpose makes a lot of sense to me.

Leonard Chanin:

OK. And, also to the extent a lender reports home equity lines today, do you use that data, would you be more likely to use it in the future if it included the entire amount of the line, was mandatory reporting in the line?

Stella Adams:
Yes, I think it will be much more valuable if it includes the entire amount of the line, because it will show us, it will give a clear indication of when the home equity line of credit is really not a line of credit, but has been maxed out on the front end, but called a HELOC. It will show that, or it will show jumps. And, so I think how much room is really left on that, and I think that's an important, that will be an important field. And, I think it should be reported for all loans.

Leonard Chanin:
OK, other folks?

Jeffery Dillman:
We haven't used that much. I'm not sure in the future whether we will be or not. It will probably depend on sort of what trends we're seeing in the lending.

Leonard Chanin:
OK. And, then finally in terms of data, one of the suggested new data points has been use of age, or reporting of age. Can you tell me if that's reported how you'd use it? Discrimination analysis, other analysis? Just if you have a sense of the usage of that.

Stella Adams:
Age, I think, is going to be a critical piece of new data that we have. There's, for me, I'm already preparing to use it, along with the loan to value piece that I hope will also be included. Because there's a new loan product out there that is going to skirt a lot of the safety nets. It's a securities-based loan that's going to start at $200,000 worth of assets, which can be mutual funds, stocks, bonds. It's going to allow folks to raid their retirements to purchase homes, and maybe get low equity, then they'll have low loan-to-value ratios. That they'll then strip out the reverse mortgage, and then they'll be homeless, old, and broke. And that, I think someone on an earlier panel said that the fraud follows the money. The last reservoir of money for people who are 62 and older is that retirement fund that you couldn't get at any other way. They have figured out a way to do it. So, for me, age is critically important. Loan-to-value is going to be critical important, because then we can watch the reverse mortgage. Remember, sub-prime was never more than 20% of the market. Most people think that reserve mortgages are still really safe, FHA. But 10% of that market is private now. And, when sub-prime died, the number of lenders who went, the number of lenders who did reverse mortgage tripled the day sub-prime died. They went from sub-prime to reserve mortgage. That's why we're terrified. And, with this new product being advertised as the new no-doc to realtors, we have to have those indicators.

Leonard Chanin:
OK.

Steven Antonakes:

I agree with Stella. Age is a metric that we don't have. We can't really determine disparate treatment there, or discriminatory practices. And, reserve mortgages are continuing to grow in popularity. They're being marketing in some quarters incredibly aggressively. It is a complex product, inherently. And, the pricing varies substantially, with some cases exorbitant upfront fees. It is an area that I think we should all be concerned about, and more data would be helpful.

Leonard Chanin:
OK. Other views?

Jeffery Dillman
I'd agree. I don't have anything further to add.

Leonard Chanin:
OK.