Home Mortgage Disclosure Act Public Hearing, July 15, 2010
Panel Two: Steven Antonakes

Steven Antonakes:
Good morning, Director Braunstein, members of the Consumer Advisory Council and staff. My name is Steven Antonakes. I serve as the Commissioner of Banks for the Commonwealth of Massachusetts.

I commend the Federal Reserve board for periodically reviewing Regulation C to ensure it continues to remain relevant giving changes to the mortgage market. Unfortunately, it will take many years for urban communities to recover from the ongoing foreclosure crisis. More so than ever before, access to sustainable home ownership opportunities in low- and moderate-income communities will be essential.

In addition to conducting regular safety and soundness examinations, the Massachusetts Division of Banks also conducts CRA and fair-lending examinations of all state-chartered banks and state-chartered credit unions. Our 2007 landmark foreclosure prevention law extended CRA-like requirements to license non-bank mortgage lenders originating 50 or more mortgage loans a year in the Commonwealth.

Utilization of HMDA data is integral to our CRA and fair-lending examinations of banks, credit unions, and mortgage companies. However, we have found that the HMDA data error rate for non-bank mortgage lenders is high. Since beginning its effort to examine non-bank mortgage lenders for CRA-type requirements, the division has had to suspend several examinations to the HMDA data riddled with so many errors that the determination of compliance with fair lending laws could not be made.

In these instances, the division has issued formal public enforcement actions mandating among other things the resubmission of corrected HMDA data. Most notably, in March 2010, the division and 34 additional state mortgage regulators entered into a settlement agreement with CitiFinancial. The agreement between CitiFinancial and the state mortgage regulators was executed after an examination by our office determined that Citi had failed to include over 91,000 HMDA-reportable residential mortgage loans for the period between 2004 and 2007.

Given its existing limitations, HMDA serves as a starting point to determine whether disparate treatment of mortgage applicants exists. A thorough file review and comparison of similarly situated mortgage applicants is then necessary. The addition of other appropriate data fields will likely provide for a better and more accurate screening process. The inclusion of the credit score relied upon by the mortgage lender as part of the mortgage lender's loan review process would be valuable and better focus examination techniques. In addition, loan devalue and debt-to-income remain the two critical ratios relied upon during the underwriting process. Given the aging of our population, a data field to capture the age of the borrower should be considered. Furthermore, the Board should give considerations requiring the reporting of all reverse mortgage loans. Data and pricing analysis would be greatly enhanced by the inclusion of loan spread information for all loans. Finally, consideration should be given for requiring the reason for a credit denial in HMDA submissions as well.

The addition of several new fields will increase regulatory burden. Community banks and credit unions already generally bear disproportionately higher compliance cost than larger institutions. Accordingly, the Board should consider appropriately risk coping data collection requirements by only mandating the reporting of new data fields for the nation's largest mortgage lenders. After a 2-year period, the Board should then review the cost of reporting and the corresponding value of these additional data fields before determining whether all mortgage providers should collect and report this new data.

The Board also speaks specific comment on whether HMDA data requirements should be extended to mortgage brokers. I recognize the value of potentially pinpointing disparate treatment amongst left third-party mortgage brokers or even individual loan originators. A far more effective solution would be to move in the direction of the proposed financial reform bill and require all mortgage lenders to include the Nationwide Mortgage Licensing System, or NMLS, assign unique identifier of any mortgage broker, licensed non-bank loan originator, or registered loan originator associated with all HMDA reportable loans.

The tremendous opportunity here is for the board to build off the success in foresight of the states in designing the NMLS to protect consumers against harmful business practices. By registering every loan originator with a unique identifier and requiring that that identifier be incorporated with loan origination documents and HMDA reporting, the ability to associate the loan documents and business practices with a company and individual that negotiate the transaction will be greatly improved. Moreover, by requiring this information to be included by mortgage lenders rather than mortgage brokers, it reinforces the core principle that any mortgage lender remains ultimately responsibility for the third parties that they do business with.

I thank you for the opportunity to testify and look forward to your questions.