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Regulation C: Home Mortgage Disclosure Act (HMDA)
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Good Afternoon Governor Duke, Federal Reserve Board staffers, and Consumer Advisory Council members.

Thank you for inviting me to testify regarding potential revisions to the Board's Regulation C, which implements the Home Mortgage Disclosure Act.

This topic is extremely important in light of the current mortgage crisis, which many would agree resulted in large part from a mortgage market that was not sufficiently transparent and lacked appropriate consumer protections.

It is my hope that the lessons we've learned through efforts to stabilize the housing market, will inform our discussions and actions as we move forward with respect to HMDA changes.

HMDA Background

HMDA data represent a comprehensive source of information on primary mortgage originations and secondary market loan purchases.

Since its enactment in 1975, HMDA has provided useful information to the public regarding the relative performance of lenders in serving the needs of their local communities and has been a critical tool in enhancing enforcement of laws prohibiting discrimination in lending.

Unlike many other mortgage market data sources that provide information on a subset of loans or lenders, for communities in metropolitan areas, HMDA represents a virtual "census" of lending activities. Within designated areas, HMDA provides information on borrower and loan characteristics and property location coded to the census tract level, as well as the identity of the institution making the loan.

Non-depository institutions are required to submit HMDA data to HUD and the Department has historically relied on HMDA data for estimates of the number of mortgages originated for low- and moderate-income families and in underserved areas when setting affordable housing goals.

HUD also reviews HMDA data for FHA lenders to insure that they are abiding by fair housing and lending rules. The relatively new HMDA data on loan pricing has been critical to gaining insight into the functioning and evaluation of higher-cost and subprime mortgage markets.

In recognition of the important role that HMDA data has played over the years in enhancing consumer protection and advancing fair lending and fair housing objectives, the Dodd-Frank Wall Street Reform and Consumer Protection Act transferred the responsibility for HMDA data collection to the newly created Bureau of Consumer Financial Protection. In addition, the Dodd-Frank bill made a number of important changes to HMDA including adding a dozen new mandatory and discretionary fields to HMDA data fields that which will provide additional insight into the characteristics and quality of loans originated.

The new mandatory data include:

- age of applicant,
- the difference between the annual percentage rate associated with the loan and a benchmark rates,
- the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal,
- the value of the real property pledged or proposed to be pledged as collateral, actual or proposed term in months of any introductory period after which the rate of interest may change,
- the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term,
- the actual or proposed term in months of the mortgage loan,
- the change through which application was made (including retail or broker),
- the credit score of the mortgage applicant(s), and
- the total points and fees payable at origination in connection with the mortgage.

The following data may be provided if the Bureau determines them to be appropriate:

- a unique identifier that identifies the loan originator as set forth in the SAFE Act,
- a universal loan identifier, and
- the parcel number that corresponds to the real property pledge or proposed to be pledged as collateral.

Establishment of Universal Loan ID in HMDA

Of particular importance to HUD and many in the advocacy community, is section 1094 of Dodd-Frank that gives the Bureau the discretion to require all mortgage loans include a universal loan identifier.

We are very supportive of the concept and encourage the Bureau to implement regulations to make this a reality and ensure that each loan originated in this nation is provided a unique and universal identification number. Such a number would allow regulators and the public to track the performance of the loan over its lifetime.

The identifier is needed to strengthen HMDA in several important ways. First, it will make HMDA data more effective for monitoring the market and enforcing regulation. The ability to trace the performance of loans originated with particular characteristics will enable policymakers, regulators, and the general public to identify which loans are suffering from high defaults and facilitate timely policy responses. Advocates and government agencies repeatedly complained that the opaqueness in the mortgage market significantly constrained their ability to more quickly identify problematic lending practices and products in the years leading up to the current crisis.

Second, it holds the potential to greatly enhance our enforcement of consumer protection and fair lending laws. There is currently no comprehensive government database that tracks the performance of mortgage loan, and thus no way for the public, government policymakers, and fair lending enforcement agencies to easily flag and trace bad loans back to a particular lenders or brokers. Inclusion of an identifier would make such tracing more straightforward.

Third, it will help improve research in this area and enhance our understanding of market dynamics. Currently policymakers and housing researchers generally must rely on limited or incomplete loan performance data purchased from proprietary lender databases. A comprehensive government supported database on loan performance, which would be possible if an identifier was introduced, would dramatically expand research into, and knowledge about, our nation's mortgage markets.

Finally, it will make HMDA a powerful complement to other databases authorized under Dodd-Frank. Including identifiers that allow regulators to match defaulted loans with origination and application data from HMDA will vastly improve the utility of the default and foreclosure database that the Bureau and HUD are required to develop pursuant to Sec. 1447 of the legislation.

Some in industry oppose the concept of the universal identifier citing regulatory burden and costs. However, I believe the benefits of the establishing a universal loan identifier are substantial and outweigh the costs. There should be little, if any, impact on borrower privacy. In addition, the creation of the universal identifier could be accomplished without significant additional incremental costs to lenders, since they must already update their systems to accommodate the additional data points mandated by Dodd-Frank.

Reporting of Points and Fees

As discussed above, the Dodd-Frank legislation requires lenders to report the "total points and fees payable at origination." HUD welcomes this innovation. Our experience tells us that discrimination in today's market is often found in the fees lenders charge, making accurate data on fees vital to our screening. As such, we urge the use of this authority to define points and fees in such a manner that that will help promote, rather than compromise, the data for fair lending screening. For instance, we would recommend that lenders not include discount points in their calculation of "total points and fees." If discount points are included there would be no way of knowing whether a certain lender is charging minorities more because they more often buy down their rates or because minorities pay higher fees for the same services.

Expansion of the Number of Mortgages Covered by HMDA

Another important limitation of HMDA is that not all mortgages are required to be reported. Under current regulation, non-MSA lenders are not required to report HMDA data. The absence of data from many non-MSA lenders hampers our ability to screen for fair lending problems. HUD recommends that expanding the number of loans reported in non-MSA census tracts is explored.

Closing

For 35 years, HMDA has provided HUD and other enforcement agencies with critical information on lenders performance in originating loans in their communities. Unfortunately, the currently housing crisis revealed the weaknesses of HMDA which prevented a comprehensive review of lender practices and product performance. Dodd-Frank has taken a significant step toward modernizing HMDA to provide additional consumer protections and fair lending data.