



Neighborhood Economic Development Advocacy Project

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August 20, 2010

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551
Via email: regs.comments@federalreserve.gov

RE: Docket No. OP-1388, Possible HMDA Revisions

Dear Ms. Johnson:

NEDAP is a resource and advocacy center that promotes economic justice in New York's low-income neighborhoods and communities of color. Since NEDAP's founding in 1995, we have worked with hundreds of community organizations to press for fair lending and community reinvestment needed for equitable neighborhood development.

Thank you for the opportunity to comment on possible revisions to Regulation C, which implements the Home Mortgage Disclosure Act (HMDA).

For the past 15 years, NEDAP has used HMDA data effectively to promote fair lending and to press for the elimination of discriminatory practices that harm communities and perpetuate inequality and poverty. NEDAP engages in extensive community education, policy advocacy, and corporate accountability campaigns, and HMDA data have served as an invaluable tool in all of these contexts. We have used HMDA data, for example, to analyze and map mortgage lending patterns by banks and non-bank mortgage companies; to identify community credit needs; and to press for and support enforcement of fair lending and consumer protection laws. NEDAP has also issued a series of HMDA-based reports, "Paying More for the American Dream," in partnership with six other policy and advocacy groups from around the country, that expose racial disparities in mortgage loan access and pricing.

In short, NEDAP is well aware of the tremendous strengths, as well as the limitations, of HMDA, particularly in light of dramatic changes that have occurred in the mortgage lending and broader financial services arenas. These days, the main challenge HMDA users face is the lack of information reported by lenders on their underwriting criteria. Adding underwriting information – such as borrowers' credit scores and cumulative loan-to-value ratios – to HMDA data will better enable regulators and advocates to identify potentially unfair and discriminatory lending practices and violations of fair lending laws.

Recommendations

The Dodd-Frank Act requires mortgage lenders to collect and report vital new data elements under HMDA. The Board should immediately amend Regulation C to institute these changes, and require the data to be made public at the loan level.

NEDAP also urges the Board to widen the scope of HMDA; expand coverage to include a greater number of depository and non-depository mortgage lenders; and prioritize HMDA enforcement. These changes are needed to ensure that HMDA data enables regulators, policymakers and the public to assess whether or not banks are meeting community housing credit needs, identify emerging issues in the mortgage market, and direct public investment effectively.

NEDAP specifically recommends that the Board:

1. Clarify New Data Reporting Requirements under the Dodd-Frank Act.

The Dodd-Frank Act requires that HMDA reporters provide the following data elements, to be publicly reported: total loan points and fees; duration of prepayment penalty; length of introductory rate period; a negative amortization indicator; term to maturity; property value; borrower age; origination channel, and interest rate spread. The Dodd-Frank Act, however, leaves undefined the benchmark rate against which rate spreads will be measured. The rate spread should be consistently based on one comparable maturity, publicly available prime mortgage rate indicator, such as the Freddie Mac Primary Mortgage Market Survey rate or the prime rate.

2. Add Vital Data Elements Missing from the Dodd-Frank Act's Revisions to HMDA.

The Dodd-Frank Act's revisions to HMDA omit key data elements. The Board should also collect:

- I. **Debt-to-income ratios** – Debt-to-income ratios are a key underwriting tool and indicator of loan affordability. If lenders evaluate loan applicants' debt-to-income ratios in their underwriting, they should report those ratios under HMDA. (Debt-to-income ratios do not need to be standardized across lenders.)
- II. **Cumulative loan-to-value ratios** - While including property value in HMDA data is an important step in the right direction, it does not allow HMDA users to identify properties carrying high levels of debt. Cumulative loan-to-value ratios are needed to assess the true level of debt on a property, especially in cases where borrowers have taken out multiple mortgages in different years. Cumulative loan-to-value ratios will help policymakers and advocates identify underwater properties and neighborhoods that may soon face a wave of foreclosures.
- III. **Yield spread premiums** - Some yield spread premiums are banned under the Dodd-Frank Act, but this practice can continue in certain circumstances. The Board should require that

yield spread premiums be reported in the HMDA data to help regulators enforce the Dodd-Frank Act's new rules governing yield spread premiums and give HMDA data users the full picture of fees charged to mortgage borrowers.

- IV. **Escrow status** - For the majority of loan applicants, the true measure of loan affordability is the actual monthly housing payment—including mortgage principal, interest, taxes and insurance. Since the Dodd-Frank Act requires that mortgage payments be affordable, it is vital to know whether or not a lender has included an escrow account with the loan and whether or not the applicant received a payment quote that included the escrow payment.
- V. **Basis for Denial** - Although basis for denial is currently reported by some HMDA reporters at the request of their regulators, it is optional for others. NEDAP's research has shown that prime lending has sharply declined in communities of color across the country, possibly indicating the re-emergence of redlining. It is vital that all lenders report the basis on which a loan application was denied.
- VI. **Applicant's Primary Language** – The Board should require lenders to report each applicant's primary language. New immigrants are often vulnerable to bait and switch tactics when loans are negotiated in a language other than English but all loan documents are provided in English. Including language as a HMDA data element would also allow some disaggregation of race and ethnicity data currently reported under HMDA, especially among Asian loan applicants.

3. Ensure All New Data Released at the Discretion of Regulators under the Dodd-Frank Act Is Made Public at the Loan Level.

The Dodd-Frank Act requires the following data elements to be collected but leaves the form in which they are reported to the public at the discretion of the new Consumer Financial Protection Bureau: a parcel identification number; originator ID number, which should be at the bank holding company or parent company level; universal loan ID; and credit scores. These data should be publicly reported at the loan level to allow regulators, policymakers and the public to meaningfully analyze the data and identify potentially discriminatory or unfair practices, such as steering. To protect borrowers' privacy, the data should be made public as described below:

- I. **Parcel Identifier** - The Board should collect a true parcel identifier, such as Assessor Parcel Number, but should not make that identifier public. Instead, the Board should create a database assigning all parcels a non-geographic alphanumeric code; that code should continue to be associated with the parcel over time and can be reported in the public HMDA data without creating privacy concerns. HMDA data users will be able to use that code to track, for example, piggyback mortgages and property flipping, but will not be able to pinpoint the location of the property beyond the census tract level.
- II. **Credit Scores** – It is vital that lenders report credit scores for all HMDA-reportable loan applications. Credit scores provide crucial information about applicants' ostensible credit-worthiness, and whether borrowers are receiving appropriately-

priced loans. Credit score information should be reported in HMDA data in two ways:

- a. In their HMDA reporting, lenders should report an applicant's actual credit score (for example, 754) and the credit scoring bureau or formula used. The Board then should aggregate across all credit scores submitted by all lenders, normalizing to account for differing scales used by credit scoring bureaus, and report in HMDA data the percentile into which each applicant's credit score falls. The percentiles should be small enough to allow for detailed analysis and reporting 100 percentile ranges (e.g. 0-1st, 1-2nd....99-100th) would be ideal. This data element would provide a standard, comparable measure of an applicant's credit score in relation to all loan applicants among all lenders.
- b. Each lender should report where an applicant's credit score falls relative to the lender's own credit scoring categories. For example, let's assume a lender uses FICO scores and divides the range of possible scores into six underwriting categories: below 500, 500-620, 620-680, 680-720, 720-780 and 780 or above. If a loan applicant has a credit score of 754, the lender would report that applicant's credit score as "5/6," indicating that the loan applicant falls into the fifth of six possible credit score categories. This information may be useful in comparing outcomes (e.g. approvals, denials, interest rate spreads) for similarly situated loan applicants within one lender's applicant pool.

Some commenters have suggested that, in lieu of the above, lenders be required to report only the percentile into which loan applicants' credit scores fall, within their own applicant pools. This reporting method would not provide meaningful information about a borrower's credit worthiness, as it would reflect the idiosyncratic applicant pool of that particular lender (for example, a lender that specializes in subprime loans may solicit applications only from borrowers with lower than average credit scores).

4. The Board should expand the scope of HMDA by:

- I. **Improving Multi-Family Lending Reporting Requirements** - Access to meaningful data on banks' multi-family lending is absolutely crucial in a city like New York, where most of the housing stock, for all income levels, consists of multi-family rental housing. Multi-family lending in New York and other cities is a fundamental component of meeting community credit needs. Yet HMDA data on multi-family housing have been problematic as banks' commercial lending areas sometimes fail to report multi-family loans. Construction loans, vital for new housing stock, are not included in the data because they are short-term loans. The Board should require banks to report both permanent and construction multi-family loans, whether or not the loans fall within the banks' Community Reinvestment Act assessment areas.

- II. **Including Loan Modifications in HMDA Data** - The Board should expand HMDA to include data on loan modifications, particularly applications to the Home Affordable Modification Program. Making public data on loan modification applications, approvals, terms, and applicant characteristics would shed light on possible disparities in mortgage servicers' loan modification decisions and give policymakers important information to develop and evaluate responses to the foreclosure crisis. This data should be linked to existing HMDA data, using a universal loan identifier, to enhance the usefulness of both data sets.
- III. **Linking HMDA Data to the Default Database Created under the Dodd-Frank Act** - We urge the Board to work in partnership with HUD to ensure that all loans in the new default database created under the Dodd-Frank Act are identified with universal loan identifiers and originator ID numbers. Tracking loans in default at the loan level and including identifiers that allow regulators to match defaulted loans with origination and application data from HMDA will vastly improve the utility of the default database. Regulators and policymakers will be able to determine which loans, borrowers and lenders are suffering from defaults, enabling timely policy responses and strong enforcement of consumer protection and fair lending laws.
- IV. **Including All Home-Secured Loans in HMDA Data** - The Board should expand the scope of HMDA by requiring lenders to report on all loans secured by a home, including reverse mortgages and home equity lines of credit. NEDAP is concerned that vulnerable seniors with substantial home equity are frequently targeted for high-fee, high-interest rate reverse mortgages – in much the same way that lenders targeted many long-time homeowners for equity-stripping refinancing loans. Lenders should report reverse mortgages and make public the interest rates and fees associated with these loans. All home equity lines of credit should be included in HMDA, along with the loan's purpose.

5. The Board should expand HMDA coverage to include more mortgage lenders.

Expanding HMDA coverage to include more mortgage lenders will strengthen HMDA data and better serve the Act's stated purpose. All non-depository lenders should be required to report home-secured loans, particularly as they included some of the most notorious and abusive subprime lenders leading up to the foreclosure crisis and are not subject to CRA. HMDA data's utility as a CRA and fair lending evaluation tool suggests that the Board should also require reporting from as many depository institutions as possible.

6. The Board must prioritize HMDA enforcement.

Effective enforcement is vital if HMDA is to serve its stated purpose. We urge the Board to investigate possible HMDA reporting omissions and inaccuracies, and to enlist the other regulatory agencies responsible for HMDA compliance to take quick corrective action wherever violations are found. The recent 35-state settlement agreement with CitiFinancial for its failure to accurately report loans under HMDA is a stark illustration of the need for strong enforcement.

Our own research at NEDAP has shown that some lenders routinely omit critical information, particularly borrower characteristics, in as many as 80% of loans reported.

Conclusion

HMDA data are a critical tool for community groups, researchers, policy-makers, and the general public. The Dodd-Frank Act's revisions to HMDA are important improvements that address critical developments in the mortgage lending arena; however, the changes do not go far enough. Given the urgency of the mortgage lending and foreclosure crises, we urge the Board to improve on the Dodd-Frank Act and expand the scope and coverage of HMDA without delay. We thank the Board for its consideration of our comments, and we would be happy to answer any questions the Board may have.

Sincerely,

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